

**CITY OF KENOSHA/TOWN OF SOMERS  
COOPERATIVE PLAN  
UNDER SECTION 66.0307, WISCONSIN STATUTES**

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The City of Kenosha, Wisconsin, a Wisconsin municipality with offices at 625 – 52<sup>nd</sup> Street, Kenosha, Wisconsin 53140 (hereinafter “City”), and the Town of Somers, a Wisconsin municipality with offices at 7511 – 12<sup>th</sup> Street, Somers, Wisconsin 53171 (hereinafter “Town”), enter into this Cooperative Plan (hereinafter “Cooperative Plan”), subject to the approval of the State Department of Administration, under the authority of Section 66.0307 Wisconsin Statutes.

**WHEREAS**, Section 66.0307, Wisconsin Statutes, authorizes municipalities to determine the boundary lines between themselves upon approval of a Cooperative Plan by the State Department of Administration; and,

**WHEREAS**, the purpose of the Cooperative Plan is cited in Section 66.0307(3)(b), Wisconsin Statutes as follows:

(b) Purpose of Plan. The Cooperative Plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the Plan which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as the efficiency and economy in the process of development.

and,

**WHEREAS**, Section 66.0307(2)(a through d) of the Wisconsin Statutes requires that Cooperative Plans be organized around “options” for future boundary changes. These options, listed below, specify how boundary changes will occur over the “boundary plan” term:

- (a) That specified boundary line changes shall occur during the planning period and the approximate date by which such changes shall occur.
- (b) That specified boundary line changes may occur during the planning period and the approximate dates on which the changes occur.
- (c) That required boundary line changes under Paragraph (a) or an option boundary line change under Paragraph (b) shall be subject to the

occurrence of conditions as set forth in the Cooperative Plan.

(d) That specified boundary lines may not be changed during the planning period.

This Cooperative Plan is organized around option "c"; and,

**WHEREAS**, annexation of Town land in the City Growth Area by City places the Town at the mercy of the annexing property owner with respect to the timing, location, provision of public services, size and shape of annexed territory; and,

**WHEREAS**, the City and the Town enter into this Cooperative Plan to determine their respective boundaries and to guide and accomplish a coordinated, adjusted, and harmonious development of the territory covered by the Cooperative Plan; and,

**WHEREAS**, the City and the Town have cooperated in the establishment of sewer and water service areas which the City and the Town understand to be a designation of orderly service and development. Agreements date back to 1974 commencing with "agreement between the City of Kenosha, City of Kenosha Water Utility, and Town of Somers for sewerage service". The agreement designated a border and established a City Growth and a Town Growth Area; and,

**WHEREAS**, various supplemental agreements have been negotiated between the Town and the City including:

1985 – Agreement between the City of Kenosha, City of Kenosha Water Utility and Town of Somers for Sanitary Sewer Service within the Town of Somers.

1988 – Agreement between the City of Kenosha Municipal Water Utility and the Town of Somers.

1988 – Agreement between the City of Kenosha, Kenosha Water Utility and Town of Somers for sanitary sewer service within the Town of Somers.

1989 – Amendment to 1985 Agreement.

1990 – Agreement between the City of Kenosha, Town of Somers and City of Kenosha Water Utility to provide for orderly land development and for sanitary sewer service within the Town of Somers.

1993 – Agreement for the construction of a portion of the Parkside Sanitary Sewer interceptor.

[All of the above, including the 1974 Agreement, hereinafter referred to as “Preexisting Intergovernmental Agreements”].

**WHEREAS**, the City and the Town enter into this Cooperative Plan for the purposes of establishing permanent boundaries, assuring orderly development, and limiting extraterritorial zoning, land division, condominium platting, and official mapping controls in the Town Growth Area outside the City Growth Area; and

**WHEREAS**, this Cooperative Plan does not adversely affect the exercise of Kenosha County zoning, platting, and the general powers of Kenosha County in the Town Growth Area which is not subject to attachment to the City; and,

**WHEREAS**, this Cooperative Plan was developed following a review of existing regional, county and local plans; and,

**WHEREAS**, the City and Town have held a joint public hearing on the Cooperative Plan noticed under Wisconsin Statutes 66.0307(4)(b) on January 18, 2005, in which comments were received and which comments are either reflected in this Cooperative Plan or addressed in Attachment “A”, which consists of an analysis of public hearing comments; and

**THEREFORE**, it is the intention of the City and the Town that this Cooperative Plan be a binding and enforceable contract.

#### **WITNESSETH:**

The City of Kenosha and Town of Somers enter into this Cooperative Plan under the authority of Section 66.0307, Wisconsin Statutes and Petition of the State of Wisconsin, Department of Administration for approval, in accordance with statutory procedures and time frames.

### **SECTION 1 PARTICIPATING MUNICIPALITIES**

This Cooperative Plan applies to the City of Kenosha and the Town of Somers located in Southeastern Wisconsin, which respective municipal boundaries on the date of approval of this Cooperative Plan by the Parties are shown on the map found in Attachment B.

## SECTION 2 CONTACT PERSON/NOTICES

The following person is empowered to give and receive notices and speak for their municipality respecting this Cooperative Plan: For the City of Kenosha: The City Administrator; For the Town of Somers: The Town Administrator.

## SECTION 3 TERRITORY SUBJECT TO THE COOPERATIVE PLAN

The Planning Area subject to this Cooperative Plan is the territorial limits of the Town shown on Attachment B, less the City Growth Area, which is described on Attachment C. (Legal Description found in C-1; Map found in C-2.)

## SECTION 4 ISSUES, PROBLEMS, OPPORTUNITIES

This Cooperative Plan will address issues and problems and create opportunities as noted in the following areas below:

**4.01 Establish Permanent Boundaries Between the City and the Town, Thereby Eliminating Annexation Disputes.** Like many towns located next to incorporated municipalities, the Town has been subjected to the loss of territory to the City by multiple annexations over an extended period of time. Because of the lack of control over the annexation process, the losses of territory from the Town created, from a municipal services standpoint, an irrational boundary which was difficult for both parties to service. Not only was the border between the City and the Town irregular, the annexations had resulted in over two dozen functional "town islands" where small portions of the Town were completely surrounded by the City except for narrow connecting corridors. The permanent boundaries sought by this Cooperative Plan will recognize the need of the City of Kenosha to grow and the need of the Town of Somers to maintain secure boundaries and to engage in meaningful planning. A permanent border will allow both municipalities to engage in land use planning and for both to avoid disputes, as well as for both to properly plan for infrastructure improvements for sewer, water and other urban amenities. The permanent boundary to be established by this Cooperative Plan is shown on Attachment C.

**4.02 Assure Orderly Development of the City Within the City Growth Area and of the Town Within the Town Growth Area.** Capital infrastructure improvements require a planning horizon which may be from one to five years in length. Under normal annexation dynamics, annexations may occur well in advance of the planning for infrastructure improvements. Because of the capital infrastructure improvement planning horizons, the infrastructure may not be extended into the annexed territory for one to five years. The orderly phasing of growth and development will be enhanced by this Cooperative Plan.

**4.03 Provide Town With City Water and Sanitary Sewer Service in Town Growth Area.** The City and the Town have entered into the 2005 Intergovernmental Agreement for Orderly Development by and between City of Kenosha and Kenosha Water Utility, and Town of Somers, Somers Water Utility and Somers Sewer Utility District respecting sanitary sewer and water service within the City Growth Area and Town Growth Area, a copy of which is attached hereto as Attachment "D", and incorporated herein (hereinafter "2005 Intergovernmental Agreement"). The 2005 Intergovernmental Agreement will only become effective upon the State of Wisconsin, Department of Administration approving this Cooperative Plan. In the event this Cooperative Plan does not become effective, the Preexisting Intergovernmental Agreements which are in effect shall remain in full force and effect.

**4.04 Control Urban Sprawl.** Absent the urban services of municipal sewer and water, new building in the Town could result in non-compact and "leap frog" development. The Town believes that the economics and public health enhancement resulting from the provision of municipal sewer and water will greatly reduce the prospect of "urban sprawl" and allow for continued sound long range planning within the Town.

**4.05 Increase the Level of Public Safety Services Available to Areas of the Town Attached to the City.** Public safety amenities of urban living will enhance the quality of life within the City Growth Area. The provision of sanitary sewer and water service in the Town Growth Area, outside the City Growth Area will similarly enhance public health quality and the protection of ground and surface waters. This Cooperative Plan will also enhance transportation planning through predictable and controlled growth.

## **SECTION 5 CITY GROWTH AREA/BOUNDARY ADJUSTMENT AREA OF TOWN**

The area of the Town subject to boundary adjustments over the term of this Cooperative Plan and reserved for City Growth (hereinafter "City Growth Area"), is legally described and shown on the scale map on Attachment C.

## **SECTION 6 CURRENT LAND USE AND PHYSIOGRAPHIC CONDITIONS OF THE CITY GROWTH AREA TERRITORY INCLUDED IN COOPERATIVE PLAN**

The current land use and physiographic conditions of the City Growth Area territory included in the Cooperative Plan are identified on Attachment E.

## **SECTION 7 TERM OF THE BOUNDARY ADJUSTMENT PERIOD**

The term of this Cooperative Plan shall be permanent. The term of the boundary adjustment period shall be thirty (30) years (following approval of the governing bodies

of the City and the Town) from the date of approval of the State Department of Administration. Notwithstanding the term of the boundary adjustment period, the boundaries between the City and the Town specified in this Cooperative Plan shall be permanent.

The basis for the thirty (30) year boundary adjustment period is that such a time period is anticipated to be the time required for the City to assimilate the territory in the City Growth Area in an orderly basis and in a cost effective manner.

## **SECTION 8 CITY GROWTH AREA AS PERMANENT BOUNDARY BETWEEN THE CITY OF KENOSHA AND THE TOWN OF SOMERS**

The limits of the City bordering the Town as expanded through the attachment of the City Growth Area under this Cooperative Plan, as depicted on Attachment C, shall constitute the permanent boundary line between the City and the Town. The City may attach areas within the City Growth Area as provided by this Cooperative Plan, but will not attach and hereby forever waives its right to attach portions of the Town outside the City Growth Area. The City shall not accept any annexation petition nor pass any ordinance of annexation which annexes property in the Town to the City which lies outside the City Growth Area without Town approval. The City and Town may amend the permanent boundary by mutual consent, but only upon approval of any affected property owner and the State of Wisconsin Department of Administration. The City Common Council and Town Board of Supervisors shall act only upon the publication of a Class III Notice and the holding of a public hearing.

The City and the Town have determined that the permanent boundary established by this Cooperative Plan best promotes public health, safety, order, convenience, prosperity and general welfare, as well as efficiency and economy of development between the City and the Town.

## **SECTION 9 SANITARY SEWER AND WATER SERVICE**

The City and the Town have entered into the Preexisting Intergovernmental Agreements, some of which were in effect upon the date of approval of this Cooperative Plan by the Parties. The City and the Town have operated and will continue to operate under the terms and conditions of those agreements which are in effect until such time as this Cooperative Plan is approved by the State of Wisconsin, Department of Administration. Following the approval of the State of Wisconsin, Department of Administration, the 2005 Intergovernmental Agreement shall become effective between the Parties and supersede all the Preexisting Intergovernmental Agreements. The 2005 Intergovernmental Agreement will become a part of this Cooperative Plan. However, the 2005 Intergovernmental Agreement may be amended from time to time by mutual agreement of the parties outside of the Cooperative Plan review and approval process.

Section 11.1 of this Cooperative Plan addresses existing annexation agreements by property owners in the City Growth Area.

**SECTION 10**  
**SANITARY SEWER AND WELL PERMITS,**  
**BUILDING PERMITS, LAND USE REVIEWS AND PERMITS,**  
**REZONINGS, LAND DIVISIONS,**  
**SANITARY SEWER AND WATER MAIN CONNECTIONS,**  
**SPECIAL ASSESSMENTS AND CHARGES,**  
**PARCELS OF LAND LOCATED IN BOTH CITY AND TOWN GROWTH AREAS,**  
**NONCONFORMING USES, AND AIRPORT APPROACH PROTECTION**  
**WITHIN THE CITY GROWTH AREA**

**10.01 Restrictions On Exercise of Town Authority.** In the City Growth Area, the Town will not have or exercise any power or authority to accept, process, review or recommend applications, or approve any of the following:

- 10.011** Sanitary Sewer and Well Permits for new buildings and structures.
- 10.012** Building Permits for new buildings and structures, except as permitted in Sections 10.021 through 10.023 of this Cooperative Plan.
- 10.013** Land use reviews and any other development permits for new buildings and structures.
- 10.014** Land Divisions, as defined in Chapter 17 of the City Code of General Ordinances.
- 10.015** Rezoning.
- 10.016** Connections to Kenosha Water Utility sanitary sewer and water mains.

**10.02 Exercise of Town Authority.** In the City Growth Area, the Town shall have the power and authority to accept, process, review, recommend and approve the following applications subject to written notice to and advance written approval by the City. The City shall have twenty-one (21) business days following receipt of such notice to approve or disapprove. A dispute arising from disapproval shall be subject to the dispute resolution provision of Section 30.02 of this Cooperative Plan.

- 10.021** Building Permits for additions to existing single and two family residential buildings, not in excess of twenty (20%) percent of the size of the existing building, or five hundred (500) square feet, whichever is greater.
- 10.022** Building Permits for accessory buildings for single, two family residential and agricultural buildings which do not have sanitary sewer or water service.
- 10.023** Building Permits for single, two family residential and agricultural buildings of equivalent size to buildings that were destroyed by catastrophe or act of God.
- 10.024** Temporary uses permitted under the County Zoning Ordinance.
- 10.025** Variances authorized under the County Zoning Ordinance.

**10.03 Attachment To City Required.** The City requires property in the City Growth Area to be attached to the City as a pre-condition to City exercising its



power and authority to accept, process, review, recommend and approve any of the following:

**10.031** Building Permits for new buildings and structures, and additions thereto, except as provided in Sections 10.021 through 10.023.

**10.032** Site Plan and Conditional Use reviews and approvals for new buildings and structures, except as provided in Sections 10.021 through 10.023.

**10.033** Land Divisions, as defined in Chapter 17 of the City Code of General Ordinances.

**10.034** Rezoning.

**10.035** Connections to Kenosha Water Utility sanitary sewer and water mains.

**10.04 Parcels in Both City and Town Growth Areas.** Parcels of land in both the City and Town Growth Areas, upon attachment, shall have both a City and Town parcel number.

**10.05 NonConforming Uses.** Parcels of land attached to the City shall have and/or retain any nonconforming use status available to such parcels under State Law as established by Section 62.23(7), Wisconsin Statutes, and Section 7 of the City Zoning Ordinance, subject to amendments and court interpretations thereof.

**10.06 Airport Approach Protection.** This Cooperative Plan shall have no effect upon City rights to Airport Approach Protection under State Law.

## SECTION 11

### ATTACHMENT OF TERRITORY IN CITY GROWTH AREA OF TOWN TO CITY

Territory in the City Growth Area of the Town shall be attached to the City during the thirty (30) year boundary adjustment period of this Cooperative Plan as follows:

#### **11.01 Initial Attachment of City Land To Town.**

**11.011 Public Right-of-Way.** At any time following the Effective Date, the City owned public right-of-way on boundary streets shown on Attachment C shall be included within and made a part of the limits of the Town without further action by the Parties.

**11.012 Parcels of Land.** At any time following the Effective Date, parcels of land numbered 08-222-34-201-055, 08-222-34-201-060, and 08-222-34-201-065 shown on Attachment C shall be included in and made part of the Town without further action of the Parties.

**11.013 Procedure For Attachment.** The City shall give ten (10) days advance, written notice to the Town Clerk/Treasurer, and without review and recommendation by the City Plan Commission or any other subunit of the City, and without further review and approval of the Town, adopt ordinances from time to time attaching the territory constituting the Initial Attachment. The City Clerk/Treasurer shall file immediately with the Secretary of State a certified copy of the Attachment Ordinance, certificate and plat, and shall send one (1) copy to each company that provides any utility service to the

area that is attached. The Attachment Ordinance that is filed or sent shall describe the attached territory and the associate population. The City Clerk/Treasurer shall record the Attachment Ordinance with the Kenosha County Register of Deeds and file a signed copy of the Attachment Ordinance with the Clerk of any affected school district. The Attachment Ordinance that is filed, recorded or sent shall describe the attached territory and the associated population. Failure to file, record or send shall not invalidate the attachment and the duty to file, record or send shall be a continuing one.

**11.02 Intermediate Attachments.** There may be intermediate attachments of the territory of the City Growth Area of the Town to the City until the final attachment hereinafter provided has become effective. The City has sole discretion as to the time Intermediate Attachments will be attached to the City. The procedure for intermediate attachments recognizes a political compromise respecting the desire of single and two family zoned or lawfully used residential properties which are occupied by the owners: ("Residential Property") in the City Growth Area to remain Town residents for the term of this Cooperative Plan subject to the required Final Attachment in thirty (30) years. Real Estate sales statistics show that very few Residential Property owners retain title to a given parcel of real estate for more than thirty (30) years. This means that the Residential Property owners who do attach to the City will likely be those who bought their property knowing that attachment to the City is required. This limitation, in effect, grandfathers Residential Property owners as Town residents for a period which could extend for thirty (30) years unless those property owners petition the City for earlier attachment. This limitation further permits the sale from one owner to another of Residential Property, without attachment, until the Final Attachment is required. Notwithstanding the above, property owners who, prior to the effective date of this Cooperative Plan, have entered into Annexation Agreements with the City and/or the Kenosha Water Utility to annex their property to the City upon the occurrence of condition precedents, shall abide by those agreements. The City shall attach said properties in accordance with said Annexation Agreements. No Residential Property shall be attached to the City as an Intermediate Attachment without the consent of the owner(s).

**11.03 Final Attachment.** There shall be a final attachment of territory in the City Growth Area of the Town to the City, including all territory remaining in the City Growth Area of the Town, irrespective of the occupancy, use or any other factors, effective on the Thirtieth (30) Anniversary of the effective date of this Cooperative Plan.

**11.04 Parcels of Land To Be Attached.** Except for the Final Attachment, and except for parcels of land which are located in both the City Growth Area and Town Growth Area as identified in Attachment C, only entire parcels of land in the City Growth Area of the Town will be attached to the City.

## **SECTION 12 PROCEDURE FOR ATTACHMENT**

### **12.01 Procedure for Intermediate Attachments.**

- (a) Upon written petition for attachment filed with the City Clerk/Treasurer on City forms by the owners of one-half of the land petitioned to be attached, in either area or assessed value, the City Common Council shall, within ten (10) days, give advance, written notice to the Town Clerk and without review and recommendation by the City Plan Commission or any other subunit of the City, and without further review and approval of the Town, adopt ordinances from time to time attaching the territory constituting the Intermediate Attachment. Attachments based upon non-unanimous petitions for attachment shall not be accepted by the City unless the parcels of land being attached are contiguous to each other, but not necessarily to the City. The City Clerk/Treasurer shall file immediately with the Secretary of State a certified copy of the Attachment Ordinance, certificate and plat, and shall send one (1) copy to each company that provides any utility service to the area that is attached. The Attachment Ordinance that is filed or sent shall describe the attached territory and the associated population. The City Clerk/Treasurer shall record the attachment ordinance with the Kenosha County Register of Deeds and file a signed copy of the attachment ordinance with the Clerk of any affected school district. The attachment ordinance that is filed, recorded or sent shall describe the attached territory and the associated population. Failure to file, record or send shall not invalidate the attachment and the duty to file, record or send shall be a continuing one.
- (b) Notwithstanding Subsection 12.01(a), no Residential Property shall be attached to the City as an Intermediate Attachment without the consent of the owner(s).
- (c) Notwithstanding Section 12.01(a), no parcel of land may be divided so as to be part in the City and part in the Town by an Intermediate Attachment without the consent of the owner(s), except where the Cooperative Plan permanent boundary line, shown on Attachment C, divides a parcel of land.
- (d) Where a petition for attachment involves Residential Property occupied by electors other than the owner(s) (or land contract vendee), only the owner(s) have the right to consent to the attachment.
- (e) Territory may be attached to the City, under this Cooperative Plan, subject to all of the provisions of this Section 12.01, irrespective of size, shape, or contiguousness of the territory covered by the petition. The City, however, may reject any petition to attach territory which is either not contiguous, or not configured in a manner which will enable City to provide adequate and timely service until such time as the City and the Kenosha Water Utility are able to provide adequate and timely service, or until the Final Attachment. Sanitary sewer and water service shall be made available to Intermediate Attachments within two (2) years of attachment as provided in the 2005

Intergovernmental Agreement. The City is authorized to confer with land owners interested in a petition for attachment to recommend the size, shape and contiguity of the territory to be covered by the petition.

(f) Any territory not attached to the City as an Intermediate Attachment shall be attached to the City as a final attachment in accordance with the time frames and procedures governing final attachments.

**12.02 Procedure for Final Attachment.** The final attachment shall be effective as provided in Section 11.03 without further notice, hearing or action. The Common Council may adopt an attachment ordinance for the purpose of memorializing the attachment. The City Clerk/Treasurer shall file, record or send the attachment ordinances in the same manner as described under Subsection 12.01.

**12.03 Public Right-of-Ways.** Public right-of-way attachments in the City Growth Area will occur as identified on Attachment C. Upon the Effective Date, the right-of-way of any boundary street identified in Attachment C which was in the City prior to the Effective Date, shall become part of the Town Growth Area.

Where Intermediate Attachments abut a public right-of-way, the City shall have discretion as to whether or not to attach said public right-of-way to the City at any time prior to the Final Attachment or at the Final Attachment.

**12.04 Effective Date of Attachment.** The Town territory in the City Growth Area constituting an Intermediate Attachment shall be attached to the City effective on the date after the day of publication of the Attachment Ordinance unless another date is provided in the Attachment Ordinance. The Final Attachment shall be effective as provided in Section 12.03.

**12.05 Zoning of Attached Parcels.** Attached parcels shall come into the City under the most restrictive classification in the City Zoning Ordinance, subject to the provisions of Section 10.05 of this Cooperative Plan respecting nonconforming use.

**12.06 I-94 Right-of-Way.** The right-of-way for I-94 in the City Growth Area, at the option of the City, shall be attached to the City under 12.01 or 12.02 of this Cooperative Plan.

## **SECTION 13 LOCAL ORDINANCES AFFECTING CITY GROWTH AREA**

The City Growth Area, during the term of this Cooperative Plan, shall be governed by City, County, and Town General Ordinances, and by City and County (as applicable) Zoning Ordinances as hereinafter provided.

**13.01 Attached Territory.** The Town territory, upon attachment to the City under this Cooperative Plan, shall become City territory subject to the City Zoning and

Code of General Ordinances, subject to the provisions of Section 10.05 of this Cooperative Plan respecting nonconforming uses.

**13.02 Town Territory in The City Growth Area.** Town territory in the City Growth Area, prior to attachment, shall be subject to the County Zoning Ordinances, and the restrictions set forth in Section 10 of this Cooperative Plan.

**SECTION 14  
LOCAL ORDINANCES, COUNTY ORDINANCES AND  
MUTUAL AGREEMENTS AFFECTING TOWN AREAS  
OUTSIDE CITY GROWTH AREA**

The Town territory not included in the City Growth Area shall continue to be governed by the General Ordinances of the Town and the County of Kenosha relating to zoning.

The Town has not enacted zoning regulations and has relied upon the County to provide for said zoning regulations pursuant to 59.69, Wisconsin Statutes. The County regulations and the enforcement thereof are to remain with the County subject to change only in accordance with the provisions of the statute or incorporation to a village or city.

**SECTION 15  
POLICE, FIRE AND RESCUE SERVICE**

**15.01 University of Wisconsin-Parkside.** The University of Wisconsin – Parkside property and facilities shall remain in the Town. The Town agrees, and certification will be provided to the State of Wisconsin by the Town, that the City shall provide police, fire and rescue services to the University of Wisconsin – Parkside.

The City shall be entitled to all State aid payable for municipal police, fire and rescue services under Section 70.119, Wisconsin Statutes, which are relevant to the University of Wisconsin – Parkside. All such funds shall be payable directly by the State to the City through the office of the City Clerk/Treasurer. If for some reason this cannot be done by the State, the Town shall receive such payments and immediately pay said entire amount to the City through the office of the City Clerk/Treasurer.

The Town shall provide back-up fire and rescue services in this regard for the City and for such assistance, City will pay Town, through the office of Town Clerk, ten percent (10%) of the payment for municipal services received by the City from the State. The City shall make such payment to the Town within thirty (30) days of its receipt thereof.

In the event that said State payments for police, fire and rescue services are eliminated in full or in part by the State and in the event the Town does not receive a direct disbursement of such funds and therefore cannot pay them to the City, the City has the option of discontinuing such service upon giving the Town sixty (60) days written notice

thereof. The Town would then be responsible for providing fire and rescue services to the University of Wisconsin – Parkside and the Sheriff's Department would resume the provision of police services.

The Town, should it receive an alternate form of direct cash payment for providing any such services, shall pay such amount to the City for so long as the City provides this service.

In accordance with Section 66.30 and Section 66.305, Wisconsin Statutes, the City Police Department is authorized to exercise police powers at the University of Wisconsin – Parkside, it being understood that the City Ordinances are not enforceable upon said non-City property.

Due to the fact that the Town is not supervising said City services, and due to the fact that the City is being compensated by the State for said services, it is understood that the Town, and officers, and employees thereof, shall not be liable for any act or omission of the City in providing said services or for Worker's Compensation payments to any City employee making a Worker's Compensation claim arising out of the provision of such services.

The City agrees to defend, indemnify and hold harmless the Town and officers and employees thereof from and against any and all claims, liabilities, cost, expenses, judgments, or attorney fees which any of them may incur or be required to pay, should any person or party suffer or sustain death, personal injury or property loss or damage arising out of any act, error or omission of the City providing, police, fire or rescue services to the University of Wisconsin – Parkside. The City, however, shall not defend, indemnify or hold harmless the Town, or officers or employees thereof, from and against an act, error or omission of any officer, employee or agent of the Town.

The City also agrees that no person receiving fire rescue services upon University of Wisconsin – Parkside property shall be charged any non-resident fee therefor which may otherwise be applicable.

**15.02 City/Town Cooperation.** The City and Town agree to meet from time to time, to discuss police, fire and rescue services for the purpose of considering ways and means of enhancing response time and providing cost effective services.

## **SECTION 16 STORM WATER MANAGEMENT AND CONTROL**

The Town and the City Growth Areas subject to this Cooperative Plan are located within two drainage basins known as the Pike Creek/Pike River Basin/Lake Michigan watershed and the Kilbourn Ditch/DesPlaines River Basin. The parties understand that as development occurs it will be necessary to implement storm/surface water controls in the future through mutual cooperation which may include the creation of a utility with authority over multiple jurisdictions including jurisdictions not party to this

Cooperative Plan.

Town shall be responsible for maintenance and repair of facilities related to storm water management and control in City Growth Area prior to attachment of Town territory to City. Town shall apply City standards, as they may exist from time to time, to the construction and installation of new storm water control and conveyance facilities within such area. Town shall also apply City standards, as they may exist from time to time, to construction and installation of new storm water control and conveyance facilities in Town territory outside the City Growth Area which, when developed, will discharge storm water into the City Growth Area.

The City and Town agree to negotiate in good faith for the creation, management and cost allocations for a drainage district within the City Growth Area and Town Growth Area through a separate Section 66.0301 Cooperative Agreement.

**SECTION 17**  
**DESIGN AND CONSTRUCTION OF PUBLIC STREETS, SIDEWALKS,**  
**IMPROVEMENTS AND PLACEMENT OF PUBLIC UTILITIES IN STREET**  
**RIGHT-OF-WAY IN CITY GROWTH AREA PRIOR TO ATTACHMENT OF TOWN**  
**TERRITORY TO THE CITY**

The Town, within sixty (60) days of the Effective Date, shall adopt and apply City standards in the City Growth Area with respect to the design and construction of public streets, sidewalks, improvements generally placed in right-of-ways (trees, signs, etc.), and the placement of public utilities (including, but not limited to; sanitary sewers, water, electric, gas, telephone, and cable television) in the street right-of-way.

Within the City Growth Area prior to attachment of Town territory to the City, when a party to this Cooperative Plan having jurisdiction over a street or highway which is situated on a City/Town boundary line improves such street or highway, or when either the Kenosha Water Utility or the Town install sanitary sewers or water mains within such boundary street or highway, and the territory of the other party is benefited by such improvements, the benefited party at the request of the party installing such improvements shall pay for its pro rata share of the cost of such improvement based upon the benefits received. Where the benefits received are specially assessable benefits to individual property owners, the parties mutually agree to assist in the levy and collection of said special assessments as provided by Wisconsin Statutes.

The party intending to perform such work in or upon a boundary street right-of-way is required to give notice to the other party not less than sixty (60) days before commencement of the work.

Any dispute regarding the appropriate allocation of costs shall be determined by a joint report promptly prepared and issued by the engineers for the Kenosha Water Utility or City (as to street improvements), as appropriate, and the Town. If and to the extent the engineers reach agreement, the issues shall be deemed to be finally

resolved. If the engineers are not able to resolve disputed issues, and the Kenosha Water Utility General Manager or the City Administrator (as to street improvements), as appropriate, and the Town Administrator or Designee are not able to resolve such issues after meeting at least twice within thirty (30) days following the issuance of the engineers' joint report or within such additional time as they may agree to in writing, a mutually satisfactory arbitrator shall be selected by the General Manager of Kenosha Water Utility or the City Administrator (as to street improvements), as appropriate, and the Town Administrator or Designee within the next thirty (30) days or within such additional time as they may agree to in writing. The remaining disputed issues shall then be determined by binding arbitration. The Kenosha Water Utility or City, as appropriate, and the Town shall equally share in the costs of arbitration. Alternatively, the Kenosha Water Utility General Manager or the City Administrator (as to street improvements), as appropriate, and the Town Administrator or Designee may agree in writing to litigate such issues in court, and such issues shall be litigated in court if they fail to reach timely agreement on the selection of an arbitrator. In either of which events the prevailing party shall have the right to recover from the other party its reasonable litigation expenses, including reasonable attorneys' fees.

#### **SECTION 18 TOWN INCORPORATION AND AFFECT OF TOWN INCORPORATION ON CITY GROWTH AREA**

It is further understood that at some time in the future a portion or all of the Town outside the City Growth Area may be the subject of a petition to the State for incorporation into a village or city. The City agrees that it shall not oppose any future incorporation petition filed by the Town or residents thereof under the standards for incorporation in Sections 66.0201 through 66.0211, Wisconsin Statutes, as said statutes exist on the effective date of this Cooperative Plan. A copy of said statutes are attached hereto as Attachment F.

The consolidation of the Town with a bordering Town, or the incorporation of the Town as a City or Village, will not affect the implementation of this Cooperative Plan, the boundary changes provided for, or the obligations of the Town and the City under this Cooperative Plan. In the event of consolidation or incorporation of the Town, the ordinance for consolidation or order for incorporation shall include a provision obligating the surviving municipality to implement this Cooperative Plan, the boundary changes provided for, and to otherwise carry out the obligations of the Town and City under this Cooperative Plan.

#### **SECTION 19 ENVIRONMENTAL EVALUATION OF THE COOPERATIVE PLAN**

The City and the Town have evaluated the environmental consequences of this Cooperative Plan, including air and water pollution impacts, energy use, and effect on urban sprawl and expect minimum impacts. This Cooperative Plan facilitates consistent and coherent Town planning for infrastructure and other development in the Town



territory. This Cooperative Plan is consistent with all applicable state and federal laws, municipal regulations, shore land zoning ordinances and administrative rules.

Because intensive manufacturing development is not anticipated by this Cooperative Plan, there are no potential adverse environmental consequences (including air and water pollution) related to manufacturing development. The Master Plan for the City Growth Area reduces the potential impact of urban sprawl by providing for open space while concentrating the location of residential and commercial development. The reservation of all natural areas, wetlands, floodplains and upland woods will allow for the continuation of natural vegetation absorbing air pollutants and preventing soil erosion.

On the Effective Date, the Kenosha Water Production Plant and the Wastewater Treatment Plant have adequate capacity to serve the City Growth Area and the Town Service Area existing on the Effective Date.

Construction site maintenance and erosion control for new construction shall be regulated in the City Growth Area by Chapter XXXIII of the City's Code of General Ordinances.

Section 16 of this Plan provides for storm water management and control in the City Growth Area and in the Town as it relates to the development of storm water management plans and cooperative efforts to manage storm water.

The development of the City Growth Area will be in compliance with State and Federal environmental laws and regulations. Sanitary sewer and water extensions will be subject to the Department of Natural Resources approvals. No major development is expected in the City Growth Area which would require Federal or State air pollution control permits or waivers. Private wells upon premises served by City water service in the City Growth Area must be maintained under a permit or abandoned under Chapter XXXII of the City Code of General Ordinances.

The Cooperative Plan and the 2005 Intergovernmental Agreement provide for Kenosha Water Utility sanitary sewer and water service to the Town Growth Area. This service will provide for compact development and minimize urban sprawl in the Town Growth Area.

The City Growth Area will be served by City transit services following the attachment and density of population sufficient to support such service. This service will reduce vehicle congestion and improve air quality.

Based upon plans developed at the regional, county and local levels of government for the surrounding communities, the impact of the boundary changes and the development within the City Growth Area affected by this Cooperative Plan will be compatible with, and will have no negative impacts on, the surrounding communities. All surrounding villages and towns are subject to zoning ordinances and land division

control ordinances.

## **SECTION 20 REVENUES – BOUNDARY EXCHANGE**

The City and the Town acknowledge that the City Growth Area will become part of the City, thereby generating municipal revenues to the benefit of the City. However, it is understood and agreed that there shall be no sharing of revenue which Town derives from the City Growth Area up to and until the time that the area is attached to the City either by intermediate or Final Attachment. The City understands the potential for revenues from development within the Town's Growth Area and in lieu of a formulated revenue sharing plan the Town will make a contribution to benefit the City and the Kenosha County communities.

The Town, in recognition of the long term development in the Town Growth Area resulting from the sharing of services, and in lieu of revenue sharing, shall make a one time payment to the City of Kenosha Public Museum in the sum of five million dollars (\$5,000,000.00). In recognition of the need of the Town to fund the payment and alleviate the fiscal impact to the taxpayers through new development in the Town, resulting from this Cooperative Plan, the payment shall not become due until three (3) years from the date of the final approval of this Cooperative Plan by all parties involved, and the State of Wisconsin Department of Administration.

The City, on its part, shall allow Town residents to participate in any museum activity or program at such rates as may be paid by City residents, in the event that there is a disparity between rates or fees paid by City versus non-City residents.

## **SECTION 21 HOUSING NEEDS**

The City prepared The 2005-2009 Consolidated Plan for the Community Development Block Grant and Home Programs. Pages 16 and 17, attached as Attachment G, identify the Acquisition, Rehabilitation, New Construction, Home Buyer Assistance, Rental Assistance, Section 8, Existing, Homeless Assistance and Homeless Prevention Programs in operation in the City. These programs will apply to the City Growth Area of Town. Page 26 of this report, also found in Attachment G, concludes as follows respecting the City's housing goals:

The current public policies relating to housing and, in particular, affordable housing, do not appear to be excessive, exclusionary, or discriminatory nor do they duplicate any other policies. However, the City will continue to monitor those relevant public policies to ensure they do not change in such manner as to constitute a barrier to affordable housing. The City will also continue its pro-active position, regarding affordable housing, by continuing to

provide both financial and technical assistance to affordable housing activities and projects.

The City has continued to maintain neo-traditional development standards for land use planning, neighborhood planning, zoning and subdividing. Neo-traditional standards encourage a variety of sites and housing choices which include affordable housing, and encourage the heterogeneous population distribution pattern by income, race, and ethnic background.

## **SECTION 22 PERIODIC CONFERENCES AND LONG-RANGE PLANNING**

Town and City shall confer from time to time, to review and discuss concerns relating to land use, stormwater management and drainage, boundary streets, capital improvement projects, and other matters of mutual concern.

## **SECTION 23 LAND DEVELOPMENT WITHIN THE CITY GROWTH AREA**

The City regulates land development by requiring, under ordinance, that developers execute land development agreements which require developers to provide, at their own cost and expense, all infrastructure required to serve their developments.

To the extent that there are certain infrastructure costs which must be borne by the City, the City budgets for such expenditures under a five (5) year Capital Improvements Plan funded through borrowing and bonding. At the present time the City has only exercised 67.20 percent of its borrowing capacity, demonstrating that the City has the financial resources to serve the City Growth Area.

## **SECTION 24 EXTRATERRITORIAL ZONING, LAND DIVISION, CONDOMINIUM PLATting, AND OFFICIAL MAPPING CONTROLS IN TOWN OUTSIDE THE CITY GROWTH AREA**

The City will not exercise any extraterritorial zoning, land division, condominium platting, or official mapping controls in the Town outside the City Growth Area.

## **SECTION 25 MASTER PLANNING**

**25.01 Master Plans.** City adopted Master Plans for the City Growth Area shall govern land development until repealed, amended or superseded in accordance with State law governing Master Planning.

**25.02 Mutual Approval.** City has no objection to duly adopted Town Master Plans applicable to Town territory outside the City Growth Area. Town has no objection

to duly adopted City Master Plans applicable to the City Growth Area.

**25.03 New Master Plans and Amendments To Existing Master Plans.** City, at any time, may adopt or amend any master plan for the City Growth Area or any part thereof.

**SECTION 26  
AUTHORIZING RESOLUTIONS, ATTEST BY AFFIDAVIT,  
COOPERATIVE PLAN ADOPTION RESOLUTIONS, AND  
RECORD OF PUBLIC PARTICIPATION**

**26.01 Initial Authorizing Resolutions.** Section 66.0307(4)(a) of the Wisconsin Statutes, requires that initial authorizing resolutions for the preparation of a Cooperative Plan must be approved by each participating municipality (that is, the City and the Town) before Cooperative Plan preparation may commence. Authorizing resolutions must be dated and signed by the chief elected official and attested by the municipal clerk of each municipality participating in the Cooperative Plan. Copies of the City and Town initial authorizing resolutions are found in Attachment H.

**26.02 Attest By Affidavit.** Section 66.0307(4)(a)(1-4) of the Wisconsin Statutes regarding the Cooperative Plan requires an attest by affidavit that authorizing resolutions described under Section 26.01 above were sent to: The Department of Administration, Department of Natural Resources (DNR), Department of Agriculture, Trade, and Consumer Protection (DATCP), and Department of Transportation (DOT); the clerks of any municipality, school district, vocational technical and adult education district, sewer or sanitary district which has any part of its territory within five (5) miles of a participating municipality; the clerk of each county in which a participating municipality is located; and, any county zoning agency or regional planning commission whose jurisdiction includes a participating municipality. The "Attests by Affidavit" is found in Attachment I.

**26.03 Resolutions Indicating Adoption and Authorizing Transmittal of the Cooperative Plan to the State.** Copies of resolutions indicating adoption and authorizing transmittal of the Cooperative Plan to the Wisconsin Department of Administration for review, dated and signed by the chief elected official and attested by the clerk from each participating municipality – the City and the Town – are found in Attachment J.

**26.04 Record of Public Participation and Comment.** The public comment and hearing requirements in Section 66.0307(4)(b) and (c) of the Wisconsin Statutes were met. The public hearing comments are found in Attachment A.

**SECTION 27  
NO THIRD PARTY BENEFICIARY**

This Cooperative Plan is intended to be solely between the City of Kenosha and

the Town of Somers. Nothing in this Cooperative Plan shall be interpreted as giving to any person or entity not party to this Cooperative Plan any legal or equitable rights whatsoever.

## **SECTION 28 ADMINISTRATION OF THIS COOPERATIVE PLAN**

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

## **SECTION 29 ENFORCEMENT**

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

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

**29.03 Limitation on Commencement of Civil Action.** No civil action may be commenced until after thirty (30) days from the effective date of written notice required by this Cooperative Plan, except that a party may commence an action seeking specific performance or injunctive relief in less than thirty (30) days if, in that party's good faith judgment, such an action is necessary to protect the public health, safety or welfare. Except as otherwise provided in this Cooperative Plan, the prevailing party in any action concerning an alleged breach of this Cooperative Plan shall be entitled to recover from the other party its reasonable costs and expenses of litigation, including reasonable actual attorney's fees.

## **SECTION 30 NO CHALLENGES TO THIS COOPERATIVE PLAN**

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

### **SECTION 31 AMENDMENT**

The procedure for amendment of this Cooperative Plan is found in Section 66.0307(8), Wisconsin Statutes. Either party may arbitrarily withhold its consent to any amendment.

### **SECTION 32 GOOD FAITH AND FAIR DEALING**

The parties hereby acknowledge that this Cooperative Plan imposes on them a duty of good faith and fair dealing.

### **SECTION 33 SEVERABILITY**

**33.01** The provisions of this Cooperative Plan, and the individual parts of each such provision, shall be severable. In the event that any provision of this Cooperative Plan, or any part thereof, is held by a court of competent jurisdiction to be invalid or ineffective, the balance of this Cooperative Plan shall survive. In such event, the parties shall promptly meet to discuss how they might satisfy the intent of this Cooperative Plan by alternative means.

**33.02** The parties shall use their best efforts to find, design and implement a means of successfully accomplishing the intent of this Cooperative Plan. If necessary, the parties shall negotiate appropriate amendments of this Cooperative Plan to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Cooperative Plan. In the event the parties are not able to reach agreement in such situation, either party may, by thirty (30) days written notice to the other, require submission of such dispute to an impartial arbitrator, to be mutually selected by the parties during such thirty (30) day period, for binding arbitration. Town and City shall promptly pay on an equal basis all fees and expense of the selected arbitrator.

### **SECTION 34 INVALID OR INEFFECTIVE ORDINANCE**

In the event that any ordinance, including but not limited to Attachment and

Zoning Ordinances, which the parties are required or entitled to enact and/or enforce by this Cooperative Plan is adjudged by any court of competent jurisdiction to be invalid or ineffective, in whole or in part, the parties shall promptly meet to discuss how they might satisfy the intent of this Cooperative Plan by alternative means, including, without limitation, enacting another ordinance designed to satisfy the court's objections. The parties shall use their best efforts to find, design and implement a means of successfully accomplishing the intent of this Cooperative Plan. If necessary, the parties shall negotiate appropriate amendments of this Cooperative Plan to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Cooperative Plan. In the event the parties are not able to reach agreement in such situation, either party may, by thirty (30) days written notice to the other, require submission of such dispute to an impartial arbitrator, to be mutually selected by the parties during such thirty (30) day period, for binding arbitration. Town and City shall promptly pay on an equal basis all fees and expenses of the selected arbitrator.

### **SECTION 35 SUCCESSORS**

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

### **SECTION 36 IMPLEMENTATION**

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

### **SECTION 37 REFERENCES**

Any references in this Cooperative Plan to any particular agency, organization or official shall be interpreted as applying to any successor agency, organization or official or to any other agency, organization or official to which contemplated functions are transferred by statute or ordinance. Any references in this Cooperative Plan to any particular statute or ordinance shall be interpreted as applying to such statute or ordinance as recreated, amended, or renumbered from time to time.

### **SECTION 38 PARAGRAPH TITLES**

Paragraph titles in this Cooperative Plan are provided for convenience only and shall not be used in interpreting this Cooperative Plan.

**SECTION 39  
INTERPRETATION**

This Cooperative Plan shall be interpreted as though jointly drafted by the parties.

**SECTION 40  
NOTICES**

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

**SECTION 41  
APPROVALS AND EFFECTIVE DATE**

**41.01 Town Approval.** This Cooperative Plan was approved by the Board of the Town of Somers at a duly noticed and convened public meeting on the 22<sup>nd</sup> day of February, 2005.

**41.02 City Approval.** This Cooperative Plan was approved by the Common Council of the City of Kenosha, Wisconsin at a duly noticed and convened public meeting on the 7<sup>th</sup> day of March, 2005.

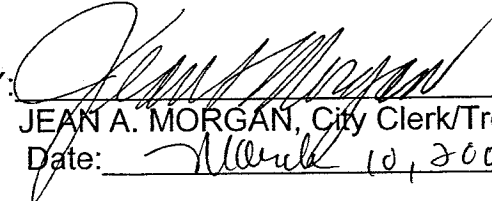
**41.03 Effective Date.** This Cooperative Plan shall only be effective and upon formal written approval by the State of Wisconsin, Department of Administration, under Section 66.0307, Wisconsin Statutes, (the "Effective Date").

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

**THE CITY OF KENOSHA, WISCONSIN,  
A Municipal Corporation**




BY:   
JOHN M. ANTARAMIAN, Mayor  
Date: March 10, 2005

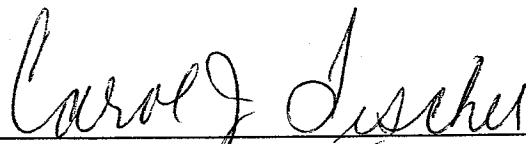
BY:   
JEAN A. MORGAN, City Clerk/Treasurer  
Date: March 10, 2005

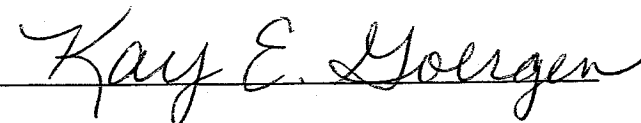
STATE OF WISCONSIN )  
:SS.  
COUNTY OF KENOSHA)

Personally came before me this 10<sup>th</sup> day of March, 2005, JOHN M. ANTARAMIAN, Mayor, and JEAN A. MORGAN, City Clerk/Treasurer, of the CITY OF KENOSHA, WISCONSIN, a Wisconsin municipal corporation, to me known to be such Mayor and City Clerk/Treasurer of said municipal corporation and acknowledged that they executed the foregoing instrument as such officers as the agreement of said corporation, by its authority.

  
Notary Public, Kenosha County, WI.  
My Commission expires/is: 5-13-07

TOWN OF SOMERS

BY:   
CAROL FISCHER, Chairperson  
Date: 3/4/05

BY: 

KAY E. GOERGEN, Clerk/Treasurer

Date: 3-4-05

STATE OF WISCONSIN )

:SS.

COUNTY OF KENOSHA)

Personally came before me this 4 day of March, 2005, **CAROL FISCHER, Chairperson,** and **KAY E. GOERGEN, Clerk/Treasurer,** of the **TOWN OF SOMERS, WISCONSIN,** to me known to be such Chairperson and Clerk/Treasurer of said Township, and acknowledged that they executed the foregoing instrument as such officers as the agreement of said Township, by its authority.

Helen Siferd  
Helen Siferd

Notary Public, Kenosha County, WI.

My Commission expires/is: April 9, 2006

2005 Intergovernmental Agreement  
for Orderly Development  
by and between  
City of Kenosha and  
Kenosha Water Utility,  
and Town of Somers,  
Somers Water Utility and  
Somers Sewer Utility District

**2005 INTERGOVERNMENTAL AGREEMENT FOR ORDERLY  
DEVELOPMENT BY AND BETWEEN CITY OF KENOSHA  
AND KENOSHA WATER UTILITY, AND TOWN OF SOMERS,  
SOMERS WATER UTILITY AND SOMERS SEWER UTILITY DISTRICT**

This 2005 Intergovernmental Agreement For Orderly Development by and between City of Kenosha and Kenosha Water Utility, and Town of Somers, Somers Water Utility and Somers Sewer Utility District (hereinafter referred to as this "2005 Intergovernmental Agreement" or "Agreement") is entered into by and between the City of Kenosha (hereinafter referred to as the "City"), with offices located at 625 52<sup>nd</sup> Street, Kenosha, Wisconsin 53140 and the Kenosha Water Utility (hereinafter referred to as the "Kenosha Water Utility" or "KWU"), with offices located at 4401 Green Bay Road, Kenosha, Wisconsin 53144 (the City and the Kenosha Water Utility, as their interests may appear, being hereinafter collectively referred to as the "City Entities"), and the Town of Somers (hereinafter referred to as the "Town"), with offices located at 7511 12<sup>th</sup> Street, Town of Somers, Wisconsin 53171, the Somers Water Utility (hereinafter referred to as the "Town Water Utility"), the Somers Sewer Utility District (hereinafter referred to as the "Town Sewer District"), all of which have offices at the same address as the Town (the Town, the Town Water Utility, and the Town Sewer District, as their interests may appear, being hereinafter collectively referred to as the "Town Entities", and the City Entities and the Town Entities being hereinafter collectively referred to as the "Parties" or any one of them as a "Party").

WITNESSETH:

WHEREAS, the Town and City expect to enter into a Cooperative Plan pursuant to §66.0307, Wis. Stats. (hereinafter "Cooperative Plan"); and

WHEREAS, the Cooperative Plan will contain provisions which identify the areas of growth for the City, and the Town; and

WHEREAS, the Town desires to purchase wholesale water service and sewer service from Kenosha Water Utility under certain prescribed conditions in certain identified areas which will not be in the growth area for the City, and

WHEREAS, Kenosha Water Utility is willing to provide such wholesale water service and sewer service to the Town Entities under certain prescribed conditions, and

WHEREAS, the City Entities and the Town Entities seek to establish an agreement under the provisions of §66.30, Wis. Stats., for the purpose of establishing the conditions and procedures pursuant to which Kenosha Water Utility will provide water and sewer service to certain parts of the Town, and the Town will purchase Kenosha Water Utility water and sewer service from Kenosha Water Utility;

WHEREAS, the City Entities and the Town Entities are all Parties to the 1974 Agreement Between City of Kenosha, City of Kenosha Water Utility, and Town of Somers for Sewerage Service; 1985 Agreement Between City of Kenosha, City of Kenosha Water Utility, and Town of Somers for Sewerage Service within the Town of Somers; 1988 Agreement between the City of Kenosha Municipal Water Utility and the Town of Somers; 1988 Agreement Between City of Kenosha, City of Kenosha Water Utility, and Town of Somers for Sewerage Service within the Town of Somers; 1989 Agreement Between City of Kenosha, City of Kenosha Water Utility, and Town of Somers for Sewerage Service within the Town of Somers; 1990 Agreement Between City of Kenosha, Town of Somers and City of Kenosha Water Utility to Provide for Orderly Land Development and for Sanitary Sewer Service and Water Service within the Town of Somers; and 1993 Agreement for the Construction of a Portion of the

Parkside Sanitary Sewer Interceptor (hereinafter collectively referred to as the "Cooperative Agreements and Amendments"); which deal with the provision by the City Entities of sewage conveyance and treatment service (hereinafter referred to as "KWU Sewer Service") and water supply, treatment and storage service (hereinafter referred to as "KWU Water Service") to the Town Entities; and

WHEREAS, the Parties to this Agreement recognize the probable need in the future for construction by the Kenosha Water Utility of additional and replacement sewage treatment and conveyance facilities and additional and replacement water supply, treatment, distribution and storage facilities, which will be used by the Town Entities, and the Parties wish to provide for such construction in greater detail than appears in the Cooperative Agreements and Amendments;

NOW, THEREFORE, in consideration of the mutual provisions of this Agreement and other good and valuable consideration, the receipt and sufficiency of which the Parties to this Agreement hereby each acknowledge, the City Entities and the Town Entities each hereby agree as follows:

1. **RELATIONSHIP OF THIS AGREEMENT TO THE COOPERATIVE AGREEMENTS AND AMENDMENTS**

From and after the date on which this Agreement takes effect, this Agreement supersedes all provisions contained in the Cooperative Agreements and Amendments, and said Cooperative Agreements and Amendments shall be null and void.

2. **DEFINITIONS**

a. "Potential Town Service Area" for sanitary sewer and water service shall consist of those portions of the Town, which are outside all of the following areas depicted and referred to on the attached Exhibit "A".

(1) The "City Growth Area" as that area is depicted and referred to on the attached Exhibit "A" (hereinafter "City Growth Area");

(2) The "Racine Service Area" as that area is depicted and referred to on the attached Exhibit "A" (hereinafter "Racine Service Area").

b. "Town Service Area" shall consist of those portions of the Potential Town Service Area, which are within the Kenosha Sewer Service Area as that area is designated and authorized by the Wisconsin Department of Natural Resources ("DNR") and the Southeastern Wisconsin Regional Planning Commission ("SEWRPC"). The parties recognize that the designated Kenosha Sewer Service Area may be revised over time, and the parties affirm that it is their intention that the boundaries of the Town Service Area be automatically revised when the Kenosha Sewer Service Area boundaries are revised.

The Town may request that the Kenosha Water Utility petition SEWRPC to make additions to the "Town Service Area" from the Potential Town Service Area upon the adoption of an approved §66.0307, Wis. Stats., agreement between the Town and the City and the City Entities agree that they shall make such requests to SEWRPC, without modification or objection so long as there is sufficient capacity and/or the Town Entities agree to pay for such additional capacity, as is provided herein.

The Town shall not request and the Kenosha Water Utility shall not approve any water and/or sanitary, sewer extensions in the Town prior to an approved §66.0307, Wis. Stats.,

agreement between the Town and the City, except for those portions of the Town that are within the Kenosha Sewer Service Area as of January 1, 2004.

**3. KWU SEWER SERVICE TO TOWN ENTITIES**

a. Town's Purchase of Sewer Service from the Kenosha Water Utility.

(1) The Town Entities shall obtain and purchase sanitary sewer service exclusively from the Kenosha Water Utility for all wastewater generated within the Town Service Area.

(2) The Town Entities shall not operate or use an alternative sanitary sewer conveyance system or sewage treatment plant, and shall not contract or arrange with any other person or entity for the operation or use of an alternative public sanitary sewer, conveyance system or sewage treatment plant for any wastewater generated within the Potential Town Service Area.

b. Provision of Service; Capacity. The Kenosha Water Utility shall, in accordance with this Agreement, make available to the Town Entities sufficient capacity in Kenosha Water Utility's existing sewer conveyance facilities and sewage treatment plant, and the opportunity for sufficient capacity in future Kenosha Water Utility sewer conveyance facilities and sewage treatment plant, so as to allow for reasonable and orderly development in the Potential Town Service Area. The amount of wastewater flow accepted from the Town Service Area will be limited only by the available capacity of the Kenosha Water Utility's existing sewage treatment plant and/or conveyance facilities, and the Town Entities' reserved capacity in Kenosha Water Utility's future facilities. Existing capacity in the Kenosha Water Utility's existing sewage conveyance system and existing sewage treatment plant shall be available to the City Entities, the Town Entities, and the other municipal customers of the Kenosha Water Utility on a first-



come, first-served basis, based on then-actual usage, and the Kenosha Water Utility shall not reserve any such capacity for the City Entities, the Town Entities or any of the other customers of the Kenosha Water Utility. The Kenosha Water Utility shall annually provide to the Town Entities a copy of the Compliance Maintenance Annual Report (CMAR) required to be submitted to the WDNR.

c. Areas Served. The Kenosha Water Utility shall accept into its sewage treatment plant wastewater generated from areas within the Town Service Area and any expansions thereto.

d. Metering of Sewer Service.

(1) The Town shall prepare plans for and construct the metering and monitoring structures to be installed at the locations shown on Exhibit "A" as "Future Sewer Master Meters." The Kenosha Water Utility shall review and approve the plans for the metering and monitoring structures prior to their construction. All costs for the metering and monitoring structures shall be paid for by the Town Entities.

(2) The Kenosha Water Utility shall provide the sewage meter and monitoring equipment to be installed in the structure, or shall reimburse the Town Entities for the cost of the meter and monitoring equipment.

(3) All KWU Sewer Service provided by Kenosha Water Utility to Town Entities shall be master-metered for flow and monitored for quality of effluent.

e. Rates. The Kenosha Water Utility shall charge wholesale sewer rates as authorized by the City of Kenosha Board of Water Commissioners to the Town Entities for KWU Sewer Service provided within the Town Service Area. Such rates shall not be unreasonable or unjustly discriminatory. The Town Entities shall

pay such rates in accordance with the terms and conditions established by the Kenosha Board of Water Commissioners. Any component of the KWU Sewer Service rates charged to the Town Entities with respect to operation and maintenance of sewage treatment facilities shall consider the Kenosha Water Utility Sewage Treatment Plant, the Future Sewage Treatment Plant and any other additional sewage treatment facilities as one single integrated sewage treatment facility and shall draw no distinction based upon where or by what means particular sewage flows enter such treatment facilities.

- f. Cooperation by Town Entities. Town Entities shall cooperate with Kenosha Water Utility in all respects necessary for Kenosha Water Utility to provide sanitary sewer and water services under this Agreement, including but not limited to permits to place mains and appurtenances in the right-of-way of Town. Such permits shall not be unreasonably withheld, delayed or conditioned. Permit conditions may not include street reconstruction over and above what is necessary to restore to preexisting conditions.

#### 4. SEWER CONVEYANCE FACILITIES

- a. Conveyance Dividing Lines. The lines depicted and referred to on the attached Exhibit "A" as the "Conveyance Dividing Lines" (hereinafter referred to as the "Conveyance Dividing Lines") is generally intended to determine how the sewage of the Town Entities and their customers will be conveyed from the Town Service Area sanitary sewer basins to the Kenosha Water Utility Sewage Treatment Plant.

- b. Connection to Kenosha Water Utility System. Except as is otherwise specifically provided in this Agreement, all Town Entities' sewage conveyance facilities existing on or

constructed after the effective date of this Agreement which serve areas in the Town Service Area shall connect to Kenosha Water Utility's sewer conveyance lines at locations depicted and referred to on the attached Exhibit "A" as "Existing Sewer Master Meters" and "Future Sewer Master Meters" (hereinafter referred to as "Master Sewer Meter Sites"). In the event the Town Entities desire to connect Town Entities' sewage conveyance facilities to Kenosha Water Utility sewage conveyance facilities other than through the Master Sewer Meter Sites such connection must be specially approved in writing by the General Manager of the Kenosha Water Utility (hereinafter referred to as the "Kenosha Water Utility General Manager") based upon the best interests of the Kenosha Water Utility.

The Town Entities shall be allowed up to 10 years from the effective date of this Agreement to connect all existing Town Entities' sewage conveyance facilities to the Kenosha Water Utility's sewer conveyance lines through the Master Sewer Meter Sites, as shown on Exhibit "A".

c. Sewage Conveyance Facilities in the Town. All plans and specifications for sewage conveyance facilities to be located within the Potential Town Service Area, and through which KWU Sewer Service will be provided, must be approved by the Kenosha Water Utility before construction of such facilities. The Town Entities shall not submit such plans to any State regulatory agency prior to Kenosha Water Utility approval of such plans. The Kenosha Water Utility shall only review and approve such plans that have been previously approved by the Town in writing. Kenosha Water Utility approval of plans and specifications for sanitary sewer extensions by the Town Entities shall be based upon a system-level review.

The Kenosha Water Utility shall promptly notify the Town in writing of its approval or disapproval and its reason for any disapproval. Any disapproval must be based upon lack of

downstream or plant capacity or other substantial engineering consideration related to the Town's proposed extension and shall include suggestions for corrections of such deficiencies. If the Town objects to a disapproval, it shall notify the Kenosha Water Utility in writing within 60 days of the Kenosha Water Utility's notice. Representatives of the Kenosha Water Utility and the Town shall meet within the next 14 days to attempt to resolve any disputed issues. If such representatives are not able to resolve the disputed issues, and the Kenosha Water Utility General Manager and the Town Chairperson or Designee are not able to resolve such issues after meeting at least once in the next 30 days or within such additional time as they may agree to in writing, they shall select a mutually satisfactory arbitrator within the next 30 days or within such additional period of time as they may agree to in writing. The remaining disputed issues shall then be determined by binding arbitration. The Kenosha Water Utility and the Town shall equally share in the cost of arbitration. Alternatively, the Kenosha Water Utility General Manager and the Town Chairperson or Designee may agree in writing to litigate such issues in court, and such issues shall be litigated in court if they fail to reach timely agreement on the selection of an arbitrator, in either of which events the prevailing Party shall have the right to recover from the other Party its reasonable litigation expenses, including reasonable attorneys' fees.

d. Joint-Use Sewage Conveyance Facilities. In the event that the Kenosha Water Utility desires the Town Entities to participate in the payment for additional or replacement Kenosha Water Utility sewage conveyance facilities to be jointly used by the City Entities and the Town Entities, which shall be constructed and paid for in the first instance by the Kenosha Water Utility, the Kenosha Water Utility shall give written notice to the Town as early as practical. Such notice shall include, without limitation, appropriate information relating to the

need for additional capacity or replacement, the scope of the project, actual and projected component sewage flow rates, engineering calculations, anticipated project cost and proposed cost allocation. Any such cost allocation shall be made pro rata, and shall be fair and reasonable based upon respective then-actual usage plus respective anticipated future need. If the Town objects for any reason, it shall notify the Kenosha Water Utility in writing of the basis for its objections within 60 days of the Kenosha Water Utility's notice. The disputed issues shall be determined in the first instance by a joint report promptly prepared and issued by the engineers for the Kenosha Water Utility and the Town. If and to the extent the engineers reach agreement, the issues shall be deemed finally resolved. If the engineers are not able to resolve disputed issues, and the Kenosha Water Utility General Manager and the Town Chairperson or Designee are not able to resolve such issues after meeting at least twice within the next 60 days or such additional time as they may agree to in writing, they shall select a mutually satisfactory arbitrator within the next 30 days or within such additional time as they may agree to in writing. The remaining disputed issues shall then be determined by binding arbitration. The Kenosha Water Utility and the Town shall equally share in the cost of arbitration. Alternatively, the Kenosha Water Utility General Manager and the Town Chairperson or Designee may agree in writing to litigate such issues in court, and such issues shall be litigated in court if they fail to reach timely agreement on the selection of an arbitrator, in either of which events the prevailing Party shall have the right to recover from the other Party its reasonable litigation expenses, including reasonable attorneys' fees.

In structuring the method of payment for additional and replacement sewage conveyance facilities, the Kenosha Water Utility shall not be required to subsidize the cost of that portion of such additional or replacement conveyance facilities allocated to and reserved for the Town

Entities and their sewer customers, and the Town Entities shall not be required to subsidize the cost of that portion of the additional or replacement facilities allocated to and reserved for the Kenosha Water Utility and its sewer customers other than the Town Entities.

The pro rata cost attributable to the Town Entities for additional and replacement sewage conveyance facilities shall be paid to the Kenosha Water Utility by the Town, at the option of the Town, by one of the following methods: (1) the Town Entities' allocation shall be paid to the Kenosha Water Utility as a direct cash payment after completion of the construction project, upon not less than 60 days' prior written notice of the amount due; (2) the Town Entities' pro rata share of the Kenosha Water Utility's cost or debt service relating to construction of the additional and replacement sewage conveyance facilities shall be added to and included in the wholesale rate paid by the Town Entities; or (3) some combination of (1) and (2) above.

The Town shall notify the Kenosha Water Utility in writing of the payment method selected by the Town on or before the designated project construction commencement date. The Kenosha Water Utility shall give the Town 60 days prior written notice of the designated construction commencement date and request in such notice that the Town select and notify the Kenosha Water Utility of its payment method on or before the construction commencement date. If the Town does not notify the Kenosha Water Utility of the payment method selected by it on or before the designated project construction commencement date, the Kenosha Water Utility shall determine the payment method and promptly notify the Town in writing of its determination.

The Kenosha Water Utility shall allocate to and reserve for the exclusive use of the Town Entities and their sewer customers any sewage conveyance capacity paid for by the Town

pursuant to paragraph 4 of this Agreement, except as may otherwise be approved in writing by the Town Board.

5. **KENOSHA WATER UTILITY SEWAGE TREATMENT PLANT AND FUTURE SEWAGE TREATMENT PLANT**

a. Existing Capacity. Existing capacity in the Kenosha Water Utility Sewage Treatment Plant shall be available to the City Entities, the Town Entities and the other municipal customers of the Kenosha Water Utility on a first-come, first-served basis, based on then-actual usage as demonstrated by the average daily flow, average daily biochemical oxygen demand (hereinafter referred to as "BOD"), and average daily suspended solids received by the Kenosha Water Utility Sewage Treatment Plant during the past calendar year, and the Kenosha Water Utility shall not reserve any of such treatment capacity for the City Entities, the Town Entities or any of its other customers.

b. Allocation of Future Sewer Treatment Capacity. Additional sewage treatment capacity to augment the Kenosha Water Utility Sewage Treatment Plant for flow, BOD and/or suspended solids (hereinafter referred to as the "Future Sewage Treatment Plant"), shall be constructed by the Kenosha Water Utility on an allocated-design basis, after having determined how much additional sewage treatment capacity for flow, BOD and suspended solids the City Entities, the Town Entities and each of the Kenosha Water Utility's other municipal customers, respectively, desires to have constructed and reserved for its exclusive use, at its own cost. The Kenosha Water Utility shall pay for the Future Sewage Treatment Plant and any other sewage treatment facilities, in the first instance.

c. Time to Construct Future Sewage Treatment Plant. The Kenosha Water Utility shall construct the Future Sewage Treatment Plant when needed, but it shall not commence

construction of the Future Sewage Treatment Plant until such time as the daily average flow, BOD or suspended solids received by the Kenosha Water Utility Sewage Treatment Plant for a calendar year has exceeded (1) 90% of such plant's design flow capacity of 28 million gallons per day, or (2) 90% of such plant's design BOD capacity of 29,700 pounds per day as of the effective date of this Agreement, as modified by the installation of fine-bubble aeration equipment, or (3) 90% of such plant's design suspended solids capacity of 33,750 pounds per day; all as modified by design changes or new equipment added from time to time; provided, however, that the Kenosha Water Utility may advance the construction commencement date of the Future Sewage Treatment Plant upon demonstrating to a reasonable degree of engineering probability that approved development projects tributary to the Kenosha Water Utility Sewage Treatment Plant which are under construction will push the average daily flow, BOD and/or suspended solids, as projected over a calendar year, over the 90% threshold prescribed above, or upon the written consent of the Town Board and all other municipal customers.

d. Preliminary Notification of Desired Capacity in the Future Sewage Treatment Plant. Approximately three and one half years prior to the date on which the Kenosha Water Utility believes in good faith that it will begin construction of the Future Sewage Treatment Plant, it shall request in writing that the Town notify the Kenosha Water Utility of the preliminary range of capacity in the Future Sewage Treatment Plant, for average daily flow, BOD and suspended solids, which the Town Entities anticipate they may need for themselves and their customers. The Town shall comply with this request in writing within six months.

e. Notification of Cost of the Proposed Future Sewage Treatment Plant. Approximately two years and nine months prior to the date on which the Kenosha Water Utility believes in good faith that it will begin construction of the Future Sewage Treatment Plant, it



shall give written notice to the Town. Such notice shall include preliminary information regarding the total cost of the proposed Future Sewage Treatment Plant and the Town Entities' share thereof based upon the nature of the additional sewage treatment facilities that are required and the Town Entities' preliminary estimate of needed capacity.

The Kenosha Water Utility shall cooperate fully with the Town Entities to facilitate a decision by the Town Entities of the amount of treatment capacity for flow, BOD and suspended solids which the Town Entities desire the Kenosha Water Utility to construct for them, and to refine as much as practical, information relating to the anticipated cost of such capacity and the Kenosha Water Utility's anticipated debt service with respect to such capacity.

f. Notification of Actual Treatment Capacity Desired. Within three months after the Kenosha Water Utility's preliminary cost notice, the Town shall notify the Kenosha Water Utility in writing of the amount of treatment capacity in terms of average daily flow, BOD and suspended solids that it desires the Kenosha Water Utility to construct and reserve for the exclusive use of the Town Entities and their customers.

g. Notification of Design Capacity of Future Sewage Treatment Plant and Allocated Share of Cost. Upon completion of a final design of the Future Sewage Treatment Plant, the Kenosha Water Utility shall give written notice to the Town of the design capacity of such plant for average daily flow, BOD and suspended solids, the amount of such capacity allocated to and reserved for the exclusive use of the Kenosha Water Utility, the Town Entities (which shall be the capacity identified by the Town pursuant to the immediately preceding subparagraph) and each other municipal customer of the Kenosha Water Utility, the estimated total cost of such facility and the share of such estimated cost allocated to the Kenosha Water Utility, the Town Entities and each of the Kenosha Water Utility's other municipal customers. The Kenosha Water

Utility shall promptly give the Town written notice of any significant refinements of such estimated costs. The cost allocated to the Town Entities shall be fair and reasonable based on the capacity allocated to and reserved for the exclusive use of the Town Entities and their customers. If and to the extent that any state, federal or other grants are awarded to the Kenosha Water Utility to pay for all or a portion of the cost of constructing the Future Sewage Treatment Plant, such grants shall be credited to the entities participating in the cost of such facility in proportion to their financial participation.

h. Construction Due to Regulation or Public Health or Safety. Nothing in this Agreement shall be construed as prohibiting the Kenosha Water Utility from constructing new or replacement facilities or improvements to existing facilities that may from time to time be required by regulatory agencies or as the Board of Water Commissioners deems to be necessary for the health and safety of its customers, when based upon a reasonable exercise of discretionary powers.

i. No Subsidization of Cost of the Future Sewage Treatment Plant. In structuring the method of payment for the Future Sewage Treatment Plant, the Kenosha Water Utility shall not be required to subsidize the cost of that portion of such plant allocated to and reserved for the Town Entities and their sewer customers, and the Town Entities shall not be required to subsidize the cost of that portion of such plant allocated to and reserved for the Kenosha Water Utility and its sewer customers other than the Town Entities.

j. Pro Rata Share of the Cost of the Future Sewage Treatment Plant. The Town Entities' pro rata share of the cost of the Future Sewage Treatment Plant, based on allocated and reserved capacity, shall be paid to the Kenosha Water Utility by the Town, at the option of the Town, by one of the following methods: (1) the Town Entities' pro rata share shall be paid to the

Kenosha Water Utility as a direct cash payment after completion of the construction project upon not less than 60 days' prior written notice of the amount due; (2) the Town Entities' pro rata share of the Kenosha Water Utility's cost or debt service relating to construction of the Future Sewage Treatment Plant shall be added to and included in the wholesale rate paid by the Town Entities; or (3) some combination of (1) and (2) above.

k. Time for Payment and Payment Method. The Town shall notify the Kenosha Water Utility in writing of the payment method selected by the Town on or before the designated project construction commencement date. The Kenosha Water Utility shall give the Town 60 days prior written notice of the designated construction commencement date and request in such notice that the Town select and notify the Kenosha Water Utility of its payment method on or before the construction commencement date. If the Town does not notify the Kenosha Water Utility of the payment method selected by it on or before the designated project construction commencement date, the Kenosha Water Utility shall determine the payment method and promptly notify the Town in writing of its determination.

1. Payment if Limits on Rates. If for any reason, any state or federal regulatory agency refuses to allow the Town Entities' allocated cost to be included in the Town's wholesale rate, the allocated cost shall then be paid to the Kenosha Water Utility as a direct cash payment after completion of construction of the project, upon not less than 60 days' prior written notice of the amount due.

m. Rights to Buy or Sell Capacity in the Future Sewage Treatment Plant. The City Entities, the Town Entities and any other municipal customer of the Kenosha Water Utility may buy or sell capacity in the Future Sewage Treatment Plant on such terms as they deem

appropriate, upon written notice to all such other participants. No Party shall be obligated to sell any capacity in the Future Sewage Treatment Plant.

n. Permitting and Construction of the Future Sewage Treatment Plant. The Kenosha Water Utility shall use its best efforts to obtain all necessary federal, state and local permits and approvals required to construct the Future Sewage Treatment Plant, and shall use its best efforts to commence and complete the construction of such treatment plant prior to the Kenosha Water Utility Sewage Treatment Plant reaching capacity. The Kenosha Water Utility shall keep the Town Entities informed of all significant new developments, as they occur, relating to the permitting and construction of the Future Sewage Treatment Plant.

o. Additional Sewer Connections. The Town Entities shall not, directly or indirectly, allow any additional sewer connections to its sewage conveyance facilities:

(1) If the Town Entities do not request additional sewage treatment capacity in the Future Sewage Treatment Plant and the existing KWU Sewage Treatment Plant has reached 100% of such plant's design flow capacity, or design BOD capacity (as increased by installation of the fine-bubble aeration equipment), or design suspended solids capacity, all as modified from time to time; or

(2) If the Town Entities have received notice from the Kenosha Water Utility that they have exhausted their allocation-design capacity in the Future Sewage Treatment Plant; unless the Town Entities are able to purchase additional capacity in the Future Sewage Treatment Plant or to take such actions as to reduce their annual average flow and/or loadings below their allocated design capacity.

p. Town Allocated Capacity in Future Treatment Plant. The Kenosha Water Utility agrees to reserve and not use, consume or allow others to use or consume any unused portion of capacity in Future Treatment Plant(s) allocated to the Town Entities.

q. Additional Sewage Treatment Capacity Beyond Future Sewage Treatment Plant. Issues relating to the need for construction of additional sewage treatment capacity after construction of the Future Sewage Treatment Plant shall be negotiated by the Parties to this Agreement as and when the need arises.

r. Cost of Replacement Sewage Treatment Facilities. The cost of any replacement sewage treatment facilities which the Kenosha Water Utility needs to install or construct shall be recovered by the Kenosha Water Utility through its rates.

6. **PROVISION OF KENOSHA WATER UTILITY WATER SERVICE TO TOWN ENTITIES**

a. Town's Purchase of Water from the Kenosha Water Utility. The Town Entities shall obtain and purchase water exclusively from the Kenosha Water Utility for all properties within the Potential Town Service Area. The Town Entities shall not operate or use alternative public water supply source or alternative public water treatment plant, and shall not contract or arrange with any other person or entity for the operation or use of an alternative public water supply source or alternative water treatment plant to provide water to the properties located within Potential Town Service Area.

b. Provision of Service; Capacity. The Kenosha Water Utility shall, in accordance with this Agreement, supply to the Town Entities all of the water that the Town Entities require to serve their customers who are located in the Potential Town Service Area, provided that the Town Entities and those customers have the ability to take such water, subject to the possibility

of a utility-wide water moratorium imposed by the Kenosha Water Utility, because of insufficient water conveyance or treatment capacity. The amount of water provided to the Potential Town Service Area will be limited only by the available capacity of the Kenosha Water Utility's water treatment plant and/or conveyance facilities. Existing capacity in the Kenosha Water Utility's existing water conveyance system and existing water treatment plant shall be available to the City Entities, the Town Entities, and the other municipal customers of the Kenosha Water Utility on a first-come, first-served basis, based on then-actual usage, and the Kenosha Water Utility shall not reserve any such capacity for the City Entities, the Town Entities or any of the other customers of the Kenosha Water Utility.

c. Sewer Service As a Condition for Water Service. Notwithstanding any other provision of this Agreement, the Town Entities shall not supply Kenosha Water Utility water to any property or area, west of the sub-continental divide, unless the wastewater from that property or area is connected to and treated by the Kenosha Water Utility sewer system.

d. Rates. The KWU shall charge wholesale water rates as authorized by the Wisconsin Public Service Commission (hereinafter "PSC") and approved by the City of Kenosha Board of Water Commissioners to the Town Entities for KWU Water Service within the Potential Town Service Area. The Town shall pay such rates in accordance with the terms and condition established by the Kenosha Board of Water Commissioners.

e. KWU Water Service to the Town Entities. The Kenosha Water Utility shall provide KWU Water Service to the Town Entities for use and/or provision to their customers in the Potential Town Service Area, at locations depicted and referred to on the attached Exhibit "A" as "Existing Water Master Meters" (hereinafter referred to as "Water Master Meter Sites") or at any other location that is mutually agreed upon in writing by the Kenosha Water Utility

General Manager and the Town Chairperson or his or her designee, to the extent permitted by the capacity of the Kenosha Water Utility's water distribution and storage facilities.

f. Approval of Plans and Specifications for Water Distribution and Storage Facilities. All plans and specifications for water distribution and storage facilities to be located within the Potential Town Service Area, and through which KWU Water Service will be provided, must be approved by the Kenosha Water Utility before construction of such facilities. The Town Entities shall not submit such plans to any State regulatory agency prior to Kenosha Water Utility approval of such plans. The Kenosha Water Utility shall only review and approve such plans that have been previously approved by the Town in writing. Kenosha Water Utility approval of plans and specifications for water main extensions in the Potential Town Service Area shall be based upon a system-level review. No such plans will be rejected unless such rejection is based upon valid and material engineering considerations related to the Town's proposed extension and any such rejection shall include a suggested remedy for such engineering concerns.

The Kenosha Water Utility shall promptly notify the Town in writing of its approval or disapproval and its reason for any disapproval. If the Town objects to a disapproval, it shall notify the Kenosha Water Utility in writing within 60 days of the Kenosha Water Utility's notice.

Representatives of the Kenosha Water Utility and the Town shall meet within the next 14 days to attempt to resolve any disputed issues. If such representatives are not able to resolve the disputed issues, and the Kenosha Water Utility General Manager and the Town Chairperson or Designee are not able to resolve such issues after meeting at least once in the next 30 days or within such additional time as they may agree to in writing, they shall select a mutually satisfactory arbitrator within the next 30 days or within such additional period of time as they

may agree to in writing. The remaining disputed issues shall then be determined by binding arbitration. The Kenosha Water Utility and the Town shall equally share in the cost of arbitration. Alternatively, the Kenosha Water Utility General Manager and the Town Chairperson or Designee may agree in writing to litigate such issues in court, and such issues shall be litigated in court if they fail to reach timely agreement on the selection of an arbitrator, in either of which events the prevailing Party shall have the right to recover from the other Party its reasonable litigation expenses, including reasonable attorneys' fees.

g. Additional Facilities. If additional capacity in such water distribution and storage facilities is needed by the Town Entities, it shall be provided and paid for in the first instance by the Kenosha Water Utility. Any such additional capacity shall be provided as soon as practical in the most fair, reasonable and cost effective manner possible, to be determined in the first instance by a joint report promptly prepared and issued by the engineers for the Kenosha Water Utility and the Town. (It is understood and agreed that an appropriate issue to be determined by the joint engineering report may be whether additional Town water distribution or storage facilities should be provided by the Town Entities rather than by the Kenosha Water Utility.) If and to the extent that the engineers reach agreement, the issues shall be deemed resolved. If the engineers are not able to resolve disputed issues, and the Kenosha Water Utility General Manager and the Town Chairperson or Designee are not able to resolve such issues after meeting at least twice within the next 60 days or within such additional time as they may agree to in writing, they shall select a mutually satisfactory arbitrator within the next 30 days or within such additional time as they may agree to in writing. As an alternative, the parties may mutually agree to jointly request that the Wisconsin Public Service Commission provide or assign a mediator. The remaining disputed issues shall then be determined by binding arbitration. The Kenosha



Water Utility and the Town shall equally share in the cost of arbitration. Alternatively, the Kenosha Water Utility General Manager and the Town Chairperson or Designee may agree in writing to litigate such issues in court, and such issues shall be litigated in court if they fail to reach timely agreement on the selection of an arbitrator, in either of which events the prevailing Party shall have the right to recover from the other Party its reasonable litigation expenses, including reasonable attorneys' fees.

It is understood and agreed that providing additional water distribution or storage capacity will be a major project, completion of which is likely to require three years from the date of request for such additional capacity from the Town Entities. It is further understood and agreed that the Kenosha Water Utility will need to obtain state regulatory approvals prior to constructing such additional capacity, and the Kenosha Water Utility shall use its best efforts to obtain such approvals in a timely fashion.

The Kenosha Water Utility shall recover the cost of constructing additional water distribution or storage facilities through its rate structure, as approved by the PSC.

h. Reliance on PSC regarding KWU Water Service Provisions. The Parties to this Agreement acknowledge that the provisions of this Agreement relating to KWU Water Service are abbreviated in reliance on the regulatory role played by the PSC as of the effective date of this Agreement, in ensuring that adequate KWU Water Service is provided to the Town Entities in a reasonable and fair manner and at a reasonable and fair price. In the event that the responsibilities or methodology of the PSC with respect to such matters changes materially, or in the event that the level of the PSC involvement in such matters changes materially as a result of funding, cuts or otherwise, or in the event that the PSC ceases to exist without its responsibilities with respect to such matters being transferred to a successor agency, the Parties to this

Agreement shall negotiate amendments to the provisions of this Agreement relating to KWU Water Service to provide an equivalent level of assurance to the Town Entities that adequate KWU water Service shall be provided by the Kenosha Water Utility, in a fair and reasonable manner and at a fair and reasonable price. In the event that the Parties are unable to reach agreement on such mutually satisfactory amendments to this Agreement, the Kenosha Water Utility General Manager and the Town Chairperson or Designee or his or her successor shall select a mutually satisfactory arbitrator within the next 30 days or such additional period of time as they may agree to in writing, and the disputed issues shall be determined by binding arbitration. The Kenosha Water Utility and the Town shall share equally in the cost of arbitration.

In structuring the amendments contemplated by this paragraph, the Kenosha Water Utility shall not be required to subsidize the cost of improvements to serve the Town Entities or their customers, or the cost of operating and maintaining facilities to serve the Town Entities or their customers; and the Town Entities shall not be required to subsidize the cost of improvements to serve the Kenosha Water Utility or its customers other than the Town Entities, or the cost of operating and maintaining facilities to serve the Kenosha Water Utility or its customers other than the Town Entities.

i. Participation in or Challenging PSC Decisions. Nothing in this Agreement shall prevent any of the Parties to this Agreement from participating in any PSC proceedings relating to KWU Water Service or from challenging any decision of the PSC relating to KWU Water Service.

j. KWU Retail Customers within the Town. KWU retail customers within the Town on the effective date of this Agreement shall remain such unless agreed otherwise by the

KWU General Manager and no additional customers located within the Town shall become KWU retail customers unless agreed otherwise by KWU General Manager and Town Water Utility.

7. **KENOSHA WATER UTILITY WATER TREATMENT FACILITIES**

The Kenosha Water Utility, when necessary, shall be responsible for constructing water supply and treatment facilities, and shall pay for such facilities in the first instance. The cost shall be recovered through rates, in a manner approved by the PSC.

8. **CITY GROWTH AREA**

- a. No Sanitary Sewer or Well Permits. No on-site sanitary sewer permits or well permits shall be issued or approved by the Town for any land within the City Growth Area.
- b. KWU Water Service. The Kenosha Water Utility shall only provide retail water service to properties within the City Growth Area that have been annexed or otherwise attached to the City. Customers within the City Growth Area which obtain retail water service directly from the Kenosha Water Utility shall be charged and pay the retail rates of the Kenosha Water Utility as authorized by the PSC and approved by the City of Kenosha Board of Water Commissioners.
- c. KWU Sewer Service. The Kenosha Water Utility shall only provide retail sewer service to properties within the City Growth Area that have been annexed or otherwise attached to the City. Customers within the City Growth Area shall obtain sewer service directly from the Kenosha Water Utility and shall be charged and pay the retail rates of the Kenosha Water Utility as authorized by the City of Kenosha Board of Water Commissioners.
- d. Transfer of Conveyance Facilities. All Town sewage conveyance facilities existing on the effective date of this Agreement, which serve the City Growth

Area, shall, upon attachment to the City and acceptance by KWU General Manager be transferred to the Kenosha Water Utility.

- e. Adequate and Timely Sanitary Sewer and Water Service. The Kenosha Water Utility shall provide adequate and timely sanitary sewer and water service in the City Growth Area to attached parcels (“Adequate Service”). Adequate Service shall mean sanitary sewer and water service available to Intermediate Attachments (as defined in Section 11 of the Cooperative Plan) within two (2) years of the attachment, unless otherwise agreed by the owner of the attached parcel of land.

9. **LIMITATION ON LIABILITY OF THE KENOSHA WATER UTILITY**

The Kenosha Water Utility shall not be liable for lost revenue of the Town Entities resulting from the Kenosha Water Utility's inability to provide Kenosha Water Utility Sewer Service or Kenosha Water Utility Water Service due to any Act of God or any breakdown or malfunction of facilities; provided, however, that the Kenosha Water Utility shall have the duty to reasonably maintain its facilities and in emergencies to restore Kenosha Water Utility Water Service and Kenosha Water Utility Sewer Service as rapidly as possible.

10. **PERIODIC CONFERENCES AND LONG RANGE PLANNING**

- a. Periodic Conferences. Town Entities and the Kenosha Water Utility shall confer from time to time, but at least once each 6 months, to review and discuss concerns relating to sewer service, water service, and other matters of mutual concern. The Town Entities shall be responsible for scheduling and holding a spring meeting and the Kenosha Water Utility shall be responsible for scheduling and holding a fall meeting. Kenosha will allow a representative of the Town Utility to attend Board of Water Commissioner meeting and speak on any issue which is

Town related.

b. Long Range Planning. As an aid to long-range planning by the Kenosha Water Utility, the Town Entities shall by January 1, 2006 provide the Kenosha Water Utility at Town Entities' sole cost and expense, a water and sewer facilities plan for the Potential Town Service Area to allow the Kenosha Water Utility to plan for the extension of KWU Sewer Service and KWU Water Service. The engineering plan shall cover a 20-year planning period and shall be updated with respect to growth, flows and loadings by the Town Entities at its sole cost and expense at 5-year intervals beginning on January 1, 2006.

#### 11. **EXTENSION OF KENOSHA SEWER SERVICE AREA BOUNDARY**

Once a §66.0307, Wis. Stats., agreement has been approved between the Town and the City, the City Entities shall fully support and cooperate in good faith with the Town Entities in extending the Kenosha Sewer Service Area boundary to include the Potential Town Service Area as the Town Entities may choose to provide with KWU Sewer Service.

Once a §66.0307, Wis. Stats., agreement has been approved between the Town and the City, the Town Entities shall fully support and cooperate in good faith with the City Entities in extending the Kenosha Sewer Service Area boundary to include the City Growth Area.

#### 12. **LAWS, RULES AND REGULATIONS**

The Town Entities shall provide KWU Water Service and KWU Sewer Service to their customers in conformance with applicable Federal and State laws, rules and regulations as they now exist and as they may be amended from time to time, and shall provide KWU Sewer Service in accordance with Section 32.08 of the City of Kenosha Code of General Ordinances, as it now exists and as it may be amended from time to time. The Kenosha Water Utility shall give prompt

written notice to the Town of any amendment of Section 32.08 of the City of Kenosha Code of General Ordinances and of any amendment to applicable Federal and State laws, rules and regulations as appropriate. The Town shall adopt and enforce an ordinance regulating KWU Sewer Service within the Town in substantial conformity with Section 32.08 of the City of Kenosha Code of General Ordinances, as it now exists and as it may be amended from time to time. The Town shall provide the Kenosha Water Utility with a certified copy of its ordinance.

**13. LIMITATION ON TOWN ACTIONS REGARDING CITY ANNEXATIONS**

The Town Entities shall not contest, challenge or oppose annexations by the City, or other transfers of territory to the City, from within the City Growth Area. The City shall oppose any proposed annexations of property in the Town which is not included in the City Growth Area.

**14. NEW CITY ENTITIES OR TOWN ENTITIES**

In the event that any of the City Entities or the Town Entities create new or different entities for the purpose of providing or administering municipal sewer service or municipal water service within the City corporate limits or within the Town, respectively, they shall make the necessary internal arrangements to subject such new or different entities to this Agreement, and such new or different entities, to the extent that they are geographically included in the scope of this Agreement and, if only partially included, to the extent of such inclusion, shall thereafter be automatically included within the "City Entities" or the "Town Entities" as defined by this Agreement, respectively, and shall be subject to this Agreement. Specifically, for example only, if the Town creates a new sewer utility district, such new sewer district shall be included in the "Town Entities" and shall be subject to this Agreement. In the event that functions relating to the provision or administration of municipal sewage service or municipal water service within the

City corporate limits or within the Town, respectively, are transferred by any of the City Entities or any of the Town Entities to new or different entities, they shall make the necessary internal arrangements to subject such new or different entities to this Agreement, and such new or different entities shall thereafter be automatically included within in the "City Entities" or the "Town Entities" as defined by this Agreement, respectively, and shall be subject to this Agreement. Specifically, for example only, if the City ever assumes from the Kenosha Water Utility responsibility for the provision or administration of KWU Sewer Service, the City shall thereafter be bound by all of the provisions of this Agreement relating to the provision of KWU Sewer Service by the Kenosha Water Utility. Any Party to this Agreement which creates a new or different entity or transfers any functions within the contemplation of this paragraph shall promptly give written notice of such creation or transfer to the other Parties to this Agreement.

**15. NO CHALLENGES TO THIS AGREEMENT**

The City Entities and the Town Entities hereby waive any right each may have to commence or maintain any civil action or other proceeding to contest or challenge the adoption or the validity of this Agreement. This paragraph shall not be construed to prevent a Party to this Agreement from commencing a declaratory judgment action regarding the interpretation of this Agreement.

**16. NO THIRD-PARTY BENEFICIARY**

This Agreement is intended to be solely between and for the benefit of the City Entities and the Town Entities. Nothing in this Agreement shall be interpreted as giving to any person or entity not a Party to this Agreement any legal or equitable rights whatsoever.

**17. ADMINISTRATION OF THIS AGREEMENT**

This Agreement shall be administered on behalf of the Town Entities by the Town Chairman or designee, on behalf of City by the City Administrator or designee, and on behalf of the Kenosha Water Utility by the Kenosha Water Utility General Manager or designee. The other Parties to this Agreement shall be promptly notified in writing of the appointment of any designee pursuant to this paragraph.

**18. ENFORCEMENT**

a. Remedies. This Agreement is intended to provide each Party with the right and standing to challenge in court any act or omission of any other Party which violates this Agreement. This Agreement is intended to provide each Party with the right and standing to seek any available legal or equitable remedy to enforce this Agreement and to seek damages for the breach of this Agreement.

b. Notice of Breach/Dispute Resolution. If a Party to this Agreement believes that any other Party is in breach of this Agreement, the aggrieved Party shall promptly serve written notice of said breach upon the other Party. Representatives of the Parties shall meet promptly thereafter and shall endeavor in good faith to resolve any dispute amicably. If the initial meeting fails to resolve the dispute, the City Administrator or the Kenosha Water Utility General Manager and the Town Chairperson or designee shall meet within 30 days after service of the written notice. Failure or refusal of a Party to meet promptly and attempt in good faith to resolve any dispute shall be deemed a waiver by such Party of any right to recover any litigation expenses or attorney fees other than statutory costs; provided, however, that good faith shall not require an amendment of this Agreement. This subparagraph is intended by the Parties to this Agreement to waive their respective statutory right to any further notice §893.80(1) (a), Wis. Stats., to the extent such subsection is applicable.



c. Limitation on Commencement of Civil Action. No civil action regarding a breach of this Agreement may be commenced until after 30 days from the effective date of written notice required by this paragraph, except that a Party to this Agreement may commence an action seeking specific performance or injunctive relief in less than 30 days if, in that Party's good faith judgment, such an action is necessary to protect the public health, safety or welfare.

d. Recovery of Attorneys' Fees and Litigation Expenses. Except as otherwise provided in this Agreement, the prevailing Party in any court action concerning an alleged breach of this Agreement, or the interpretation of this Agreement, or any action which is commenced as an alternative to arbitration or as a result of the failure to select a mutually satisfactory arbitrator, shall be entitled to recover from the other Party its reasonable litigation expenses, including reasonable attorneys' fees.

## 19. **COMPLETE AGREEMENT**

This Agreement represents the entire integrated agreement between the Parties and supersedes all past agreements and all negotiations, representations, promises or agreements, either written or oral, made during the course of negotiations leading up to this Agreement.

## 20. **TERM**

The term of this Agreement is indefinite and permanent. No breach or violation of any of the terms of this Agreement by any Party shall operate to void or terminate or provide grounds for termination of this Agreement, it being the intent of the Parties that the provisions of this Agreement shall be subject to specific performance, that injunctive relief shall be provided to cure any breaches prospectively, and that damages shall be awarded to redress any harm occasioned by a breach; provided, however, that if a Party cannot or will not conform to the

requirements of this Agreement, as evidenced by a pattern of violations, and if such violations pose a serious threat to the public health, safety or welfare, this restriction on termination of this Agreement shall be deemed to be terminated.

**21. AMENDMENT**

This Agreement may be amended by mutual agreement approved by the governing bodies of the Parties to this Agreement and signed by appropriate and duly authorized officers of the Parties. Except as is specifically provided to the contrary in this Agreement, any Party to this Agreement may withhold its consent to any amendment for any reason.

**22. GOOD FAITH**

The Parties to this Agreement hereby acknowledge that this Agreement imposes on them a duty of good faith and fair dealing.

**23. SEVERABILITY**

The provisions of this Agreement, and the individual parts of each such provision, shall be severable. In the event that any provision of this Agreement, or any part thereof, is held by a court of competent jurisdiction to be invalid or ineffective, the balance of this Agreement shall survive. In such event, the Parties shall promptly meet to discuss how they might satisfy the intent of this Agreement by alternative means. The Parties shall use their best efforts to find, design and implement a means of successfully accomplishing the intent of this Agreement. If necessary, the Parties shall negotiate appropriate amendments of this Agreement to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Agreement. In the event the Parties are not able to reach agreement in such situation, any party may, by 90 day written notice to the others, require submission of such dispute to an impartial arbitrator, to be mutually selected by the General Manager of Kenosha Water Utility and the

Town Chairperson or Designee during such 90 day period, for binding arbitration. The Kenosha Water Utility or the City, as appropriate, and the Town shall equally share in the cost of arbitration.

**24. INVALID OR INEFFECTIVE ORDINANCE OR DECISION**

In the event that any ordinance which the Town is required to enact and/or enforce by this Agreement is adjudged by any court of competent jurisdiction to be invalid or ineffective, in whole or in part, the Parties shall promptly meet to discuss how the Town might satisfy the intent of this Agreement by alternative means, including, without limitation, enacting another ordinance designed to satisfy the court's objections. The Town shall use its best efforts to find, design and implement a means of successfully accomplishing the intent of this Agreement. If necessary, the Parties shall negotiate appropriate amendments of this Agreement to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Agreement. In the event the Parties are not able to reach agreement in such situation, either Party may, by 90 day written notice to the other, require submission of such dispute to a arbitrator, to be mutually selected by the City Administrator or Kenosha Water Utility General Manager, as applicable, and the Town Chairperson or Designee during such 90 day period, for binding arbitration. The City or the Kenosha Water Utility, as appropriate, and the Town shall share equally in the cost of arbitration.

**25. SUCCESSORS**

This Agreement shall benefit and be binding upon the successors of the Town Entities and the City Entities.

**26. IMPLEMENTATION**

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

**27. REFERENCES**

Any references in this Agreement to any particular agency, organization or official shall be interpreted as applying to any successor agency, organization or official or to any other agency, organization or official to which contemplated functions are transferred by statute or ordinance. Any references in this Agreement to any particular statute or ordinance shall be interpreted as applying to such statute or ordinance as amended from time to time.

**28. PARAGRAPH TITLES**

Paragraph titles in this Agreement are provided for convenience only and shall not be used in interpreting this Agreement.

**29. INTERPRETATION**

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

**30. NOTICES**

All notices required by or relating to this Agreement shall be in writing. Each notice shall specifically refer to this Agreement by name (a reference to the "2005 Intergovernmental Agreement" is sufficient) and shall refer specifically to the number of the paragraph(s) or subparagraph(s) to which the notice relates. Any such notice shall be delivered in person during normal business hours to the person(s) authorized by this Agreement to receive notice for a Party to this Agreement, or to the person apparently in charge of the such person's office during normal business hours, or shall be mailed to such person(s) by certified mail, return receipt requested, or shall be transmitted by facsimile to such person(s) during normal business hours (and whenever a notice is transmitted by facsimile it shall also be mailed by first class mail on the same day).

Each notice to the Town (notice to the Town shall be notice to all of the Town Entities) shall be addressed as follows: Town Chairperson or Designee, Town of Somers, 7511 12<sup>th</sup> Street, Somers, Wisconsin 53171, with a copy to the Town Clerk/Treasurer at the same address, fax number (262) 859-2331. Each notice to the City shall be addressed as follows: City Administrator, City of Kenosha, 625 52nd Street, Kenosha, Wisconsin 53140, with a copy to the City Clerk at the same address, fax number (262) 653-4023. Each notice to the Kenosha Water Utility shall be addressed as follows: General Manager, Kenosha Water Utility, 4401 Green Bay Road, Kenosha, Wisconsin 53144, fax number (262) 653-4303. Each Party may change its address (or add addresses for electronic mail or other communications media), for purposes of this Agreement, by written notice to the other Parties pursuant to this paragraph. Each notice shall be effective upon delivery in person during normal business hours (or at the beginning of the next normal business day if after normal business hours, or three days after mailing, or upon confirmed transmission by facsimile during normal business hours (or at the beginning of the next normal business day if after normal business hours), or upon actual receipt without regard to the method of delivery whichever occurs first.

**31. EFFECTIVE DATE/APPROVAL**

Contemporaneous with the execution of this Agreement, the Town and the City have entered into a Cooperative Plan under §66.0307, Wis. Stats., which will be submitted to the State of Wisconsin Department of Administration for approval. The Cooperative Plan is incorporated into this Agreement by reference. This Agreement shall not become effective unless and until the Cooperative Plan is approved by said Department of Administration. In the event that the Cooperative Plan is not approved by the State of Wisconsin Department of Administration and the Cooperative Plan and this Agreement



The foregoing Agreement was acknowledged before me this 16<sup>th</sup> day of March, 2005,  
by John M. Antaramian, Mayor and Jean A. Morgan, Clerk, of the City of Kenosha.

Dileen J Salas  
Notary Public; State of Wisconsin  
My commission expires: 5-13-07

KENOSHA WATER UTILITY

By: Charles W. Bradley  
Charles W. Bradley, Chairman  
Board of Water Commissioners  
Date: 2-28-05

Attest: Edward St. Peter  
Edward St. Peter, Clerk and General Manager  
Date: 2/28/05

STATE OF WISCONSIN    )  
                                  ) SS.  
COUNTY OF KENOSHA    )

The foregoing Agreement was acknowledged before me this 28<sup>th</sup> day of February, 2005, by Charles W. Bradley, Chairman, Board of Water Commissioners, and Edward St. Peter, Clerk and General Manager of the City of Kenosha Water Utility.

Sandra A. Masterson  
Notary Public; State of Wisconsin  
My commission expires: April 13, 2008



TOWN OF SOMERS

By: Carol J Fischer  
Carol Fischer, Chairperson  
Date: 2/28/05

Attest: Kay E. Goergen  
Kay E. Goergen, Clerk/Treasurer  
Date: 2/28/05

STATE OF WISCONSIN    )  
                                  ) SS.  
COUNTY OF KENOSHA    )

The foregoing Agreement was acknowledged before me this 28 day of Feb, 2005,  
by Carol Fischer, Chairperson and Kay E. Goergen, Clerk/Treasurer, of the Town of Somers.

Helen Siperd  
Notary Public; State of Wisconsin  
My commission expires: April 9 2006

SOMERS WATER UTILITY

By: Carol J Fischer  
Carol Fischer, Chairperson  
Date: 2/28/05

Attest: Kay E. Goergen  
Kay E. Goergen, Clerk/Treasurer  
Date: 2/28/05

STATE OF WISCONSIN    )  
                                  ) SS.  
COUNTY OF KENOSHA    )

The foregoing Agreement was acknowledged before me this 28 day of Feb, 2005,  
by Carol Fischer, Chairperson and Kay E. Goergen, Clerk/Treasurer, of the Somers Water  
Utility.

Helen Siford  
Notary Public; State of Wisconsin  
My commission expires: April 9 2006

SOMERS SEWER UTILITY DISTRICT

By: Carol J. Fischer  
Carol Fischer, Chairperson  
Date: 2/28/05

Attest: Kay E. Goergen  
Kay E. Goergen, Clerk/Treasurer  
Date: 2/28/05

STATE OF WISCONSIN    )  
                                  ) SS.  
COUNTY OF KENOSHA    )

The foregoing Agreement was acknowledged before me this 28 day of Feb, 2005, by Carol Fischer, Chairperson and Kay E. Goergen, Clerk/Treasurer, of the Somers Sewer Utility District.

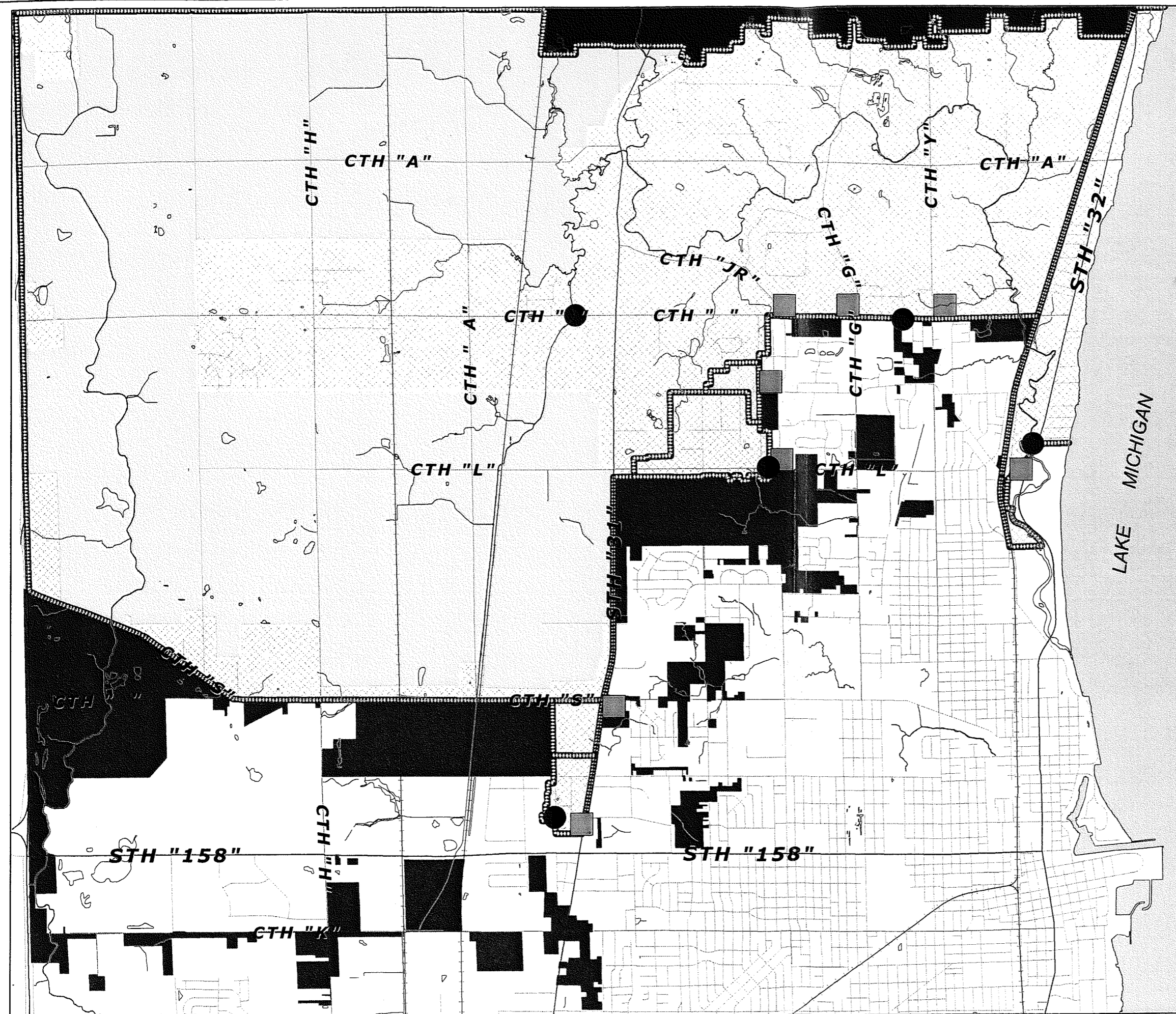
Helen Siford  
Notary Public; State of Wisconsin  
My commission expires: April 9 2006

# Town of Somers & City of Kenosha

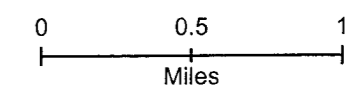
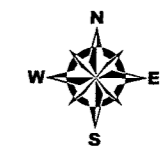
2005 Intergovernmental Agreement

## Exhibit A - Page 1

2005 INTERGOVERNMENTAL AGREEMENT FOR ORDERLY DEVELOPMENT BY AND BETWEEN CITY OF KENOSHA AND KENOSHA WATER UTILITY, AND TOWN OF SOMERS, SOMERS WATER UTILITY AND SOMERS SEWER UTILITY DISTRICT



- Existing Wastewater Master Meter
- Future Wastewater Master Meter
- Existing Water Master Meter
- ⌚ Conveyance Dividing Lines
- Racine Service Area
- ▨ Existing Town Service Area
- City Growth Area
- City of Kenosha
- Unmetered Wastewater Areas
- Potential Town Service Area







Part of the Northeast and Northwest Quarters of Section 3; part of the Northeast and Northwest Quarters of Section 4; part of the Northeast and Northwest Quarters of Section 5; part of the Northeast and Northwest Quarters of Section 6; the aforesaid lying and being in Town 1 North, Range 22 East of the Fourth Principal Meridian; ALSO,

Part of the Northeast, Northwest, Southeast and Southwest Quarters of Section 13; part of the Northeast and Southeast Quarters of Section 14; part of the Southeast and Southwest Quarters of Section 19; part of the Northeast and Southeast Quarters of Section 22; part of the Northeast, Northwest, Southeast and Southwest Quarters of Section 23; part of the Northeast, Northwest and Southwest Quarters of Section 24; part of the Northeast, Northwest, Southeast and Southwest Quarters of Section 26; part of the Northeast, Southeast and Southwest Quarters of Section 27; part of the Southeast and Southwest Quarters of Section 28; part of the Northwest, Southeast and Southwest Quarters of Section 29; part of the Northeast, Northwest, Southeast and Southwest Quarters of Section 30; part of the Northwest and Southwest Quarters of Section 31; part of the Southeast and Southwest Quarters of Section 32; part of the Southeast and Southwest Quarters of Section 33; part of the Northeast, Northwest, Southeast and Southwest Quarters of Section 34; and part of the Northeast and Northwest Quarters of Section 35; the aforesaid lying and being in Town 2 North, Range 22 East of the Fourth Principal Meridian; ALSO,

Part of the Northeast, Northwest, Southeast and Southwest Quarters of Section 18; part of the Northeast and Northwest Quarters of Section 19; the aforesaid lying and being in Town 2 North, Range 23 East of the Fourth Principal Meridian, and all, lying and being in the Town of Somers, County of Kenosha, State of Wisconsin, AND BEING FURTHER DESCRIBED AS ALL THAT PART OF SAID TOWN OF SOMERS WHICH LIES SOUTH OF THE FOLLOWING LINE:

Beginning at a point on the shoreline of Lake Michigan, which is 1,766.82 feet south of the north line of the Southeast Quarter of Section 18, Town 2 North, Range 23 East of the Fourth Principal Meridian, said point being also the intersection of the north line of Sunset Beach Subdivision, a subdivision of record with the Kenosha County Register of Deeds Office, and the shore of Lake Michigan; thence west along said north line of Sunset Beach Subdivision 1,241.13 feet, (recorded also as 1,246.89 feet) to the northwest corner of Lot 1 of said subdivision; thence continuing west along the westerly extension of said north line, 45.41 feet (recorded also as 44.76 feet), to the centerline of State Trunk Highway "32"; thence southerly along said centerline, 10.00 feet; thence North 55°09'10" West, 33.16 feet to the west line of said state trunk highway; thence North 29°17'00" East along said west line, 275.84 feet to an angle point in said west line as shown on an August 1965 plat of survey for "The Valley Inc.", by (former) Kenosha County Surveyor Robert L. Smith and filed with the Kenosha County Land Information Office; thence North 19°05'00" East along said west line 386.30 feet; thence continuing North 19°05'00" East along said west line, 248.43 feet; thence North 14°30'00" East along said west line, 253.04 feet; thence North 88°20'00" West along the north line of a parcel of land owned by Carthage College and annexed into said City of Kenosha by City of Kenosha Common Council Ordinance 50-99, a distance of 237.90 feet; thence North 01°40'00" East along the north line of the parcel of land owned by Carthage College, 300.00 feet; thence North 88°20'00" West along the north line of the parcel of land owned by Carthage College, 195.59 feet; thence North 86°08'31" West along the north line of the parcel of land owned by Carthage College, 450.58 feet to a point which is South 83°37'30" East, 207.00 feet from the northwest corner of Lot 49 of Riverview Subdivision, as shown on said August 1965 plat of survey; thence South 09°46'30" West along the north line of the parcel of land owned by Carthage College, 16.12 feet to the center of the Pike River; thence southeasterly, southwesterly and southeasterly along the center of Pike River as shown on said plat of survey, to a point on the northerly extension of the east line of Sheridan Road (formerly known and shown on Riverview Subdivision plat as Lake Shore Drive); thence South 47°26'00" West (bearing per said Riverview Subdivision plat), along and upon the said easterly line, and said northerly extension, of Sheridan Road

604.13 feet; thence continuing South 45°22'00" West (bearing per said Riverview Subdivision plat), along and upon said easterly line of Sheridan Road, 450.41 feet to the northeast corner of the parcel of land transferred to the Town of Somers and recorded in Document 1309995, on February 10, 2003 with said land registry; thence South 47°26'00" West along the northeast line of said parcel of land, 73.23 feet; thence South 47°26'00" West along the southeast line of said parcel of land, 71.47 feet to the east line of said Sheridan Road; thence southwesterly along said east line of Sheridan Road, 741.33 feet to the north line of Parcel 1 of Certified Survey Map 1958 recorded with said land registry; thence continuing southwesterly along said east line of Sheridan Road, 150.30 feet to the south line of Parcel 2 of said certified survey map; thence east along said south line, and its extension easterly, 220.3 feet, more or less, to the center line of Pike River; thence southerly along and upon the said center line of Pike River to the south line of the Northeast Quarter of Section 19, Town 2 North, Range 23 East; thence west along and upon the south line of said Quarter Section, and along the south line of the Northwest Quarter of said Section 19, a distance of 1,098 feet to the west line of the Chicago and Northwestern Railway right-of-way; thence North along the west line of said Chicago and Northwestern Railway right-of-way, 1,551.90 feet, more or less, to an angle point in said right-of-way line; thence east along the west line of said Chicago and Northwestern Railway right-of-way 8.32 feet; thence north along the west line of said Chicago and Northwestern Railway right-of-way 1,173.87 feet to the north line of Birch Road; thence North 36°50'00" West along said north line, 93.72 feet to the east line of land owned by Roy W. Watring, and described and recorded as Parcel 2, in Volume 1686, Pages 810-811, Document 965130 with said land registry; thence North 9°25'00" East, 496.69 feet along the east line of said parcel of land, as shown on a November 1962 plat of survey by (former) Kenosha County Surveyor Robert L. Smith, and filed with said Kenosha County Land Information Office; thence North 21°11'10" East along the north line of a parcel of land owned by the (former) Chicago & Northwestern Railroad, 338.79 feet, as shown on said November 1962 plat of survey, to a point which is South 9°30'00" West, 17.40 feet from the southeast corner of Lot 94 of Villa Capri Alta – Unit B, a subdivision of record; thence North 09°30'30" East, along the west line of the aforesaid (former) Chicago and Northwestern Railway right-of-way, being here also along the east line of Lots 94 thru 120 of said subdivision, 1,552.75 feet to a point of curvature; thence continuing northeasterly along the east line of Lots 120 thru 123 of said subdivision, and along the west line of said railroad right-of-way, said west line being here the arc of a circular curve, 280.39 feet to a point in the south line of the Northeast Quarter of Section 18, Town 2 North, Range 23 East; said curve having a radius of 5,757.65 feet, a central angle of 2°47'25" and a chord which bears North 10°54'12" East a distance of 280.37 feet; thence continuing along the west line of said railroad right-of-way, and along the arc of said curve, 618.20 feet; said curve having a radius of 5,757.65 feet, a central angle of 6°09'07" and a chord which bears North 13°41'37" East a distance of 617.91 feet to a point of tangency of said curve; thence North 16°46'10" East along the west line of said railroad right-of-way, 156.93 feet; thence North 73°13'50" West, along the west line of said railroad right-of-way, 16.00 feet; thence North 16°46'10" East along the west line of said railroad right-of-way, 735.46 feet; thence continuing northeasterly along the west line of said railroad right-of-way, 250.00 feet, more or less, to the southeast corner of Lot 1 of Certified Survey Map 2275, recorded with said land registry; thence North 16°46'34" East along the west line of said railroad right-of-way, and along the east line of said Lot 1, a distance of 916.80 feet to the northeast corner of said Lot 1, and the south right-of-way line of County Trunk Highway "E", also known as 12th Street; thence South 89°24'08" West along the south line of said highway, 439.76 feet, as shown on said certified survey map; thence continuing South 89°24'08" West along the south line of said highway, 75 feet, more or less, to the centerline of Pike River; thence northwesterly along said centerline to the south right-of-way line of said County Trunk Highway "E"; thence westerly along said south right-of-way line of County Trunk Highway "E", 400 feet more or less, to the east line of the Northwest Quarter of Section 18, Town 2 North, Range 23 East; thence continuing westerly along said south right-of-way line of County Trunk Highway "E", 1,334.46 feet to the northerly extension of the east line of Lot 6 of Ascot Park, a recorded subdivision; thence South 1°55'39" East along said northerly extension, 3.42 feet to the northeast corner of said Lot 6; thence westerly along said south right-of-way line of said County Trunk Highway "E", and along the north lines of Lots 6 thru 12 of said subdivision, 590.42 feet to the northwest corner of said Lot 12; thence continuing South 85°14'26" West, 169.37 feet to the northeast corner of Lot II-A of Certified Survey Map 2364, recorded with said land registry; thence continuing South 85°14'26" West, along said south right-of-way line of County Trunk Highway "E", 556.65 feet to the northwest corner of Lot 1 of Certified Survey Map 1773, recorded with said land registry; thence continuing South 85°14'26" West, 51.53 feet to the east line of the Northeast Quarter of Section 13, Town 2 North, Range 22 East; thence South 1°55'39" East along said east line, 28.35 feet, more or less, to the north line of the parcel of land owned by Eihab F. Atout, and described and recorded in Document 1099775 on June 4, 1998 with said land registry; thence west along said north line, and along the south right-of-way line of said County






Trunk Highway "E", 335.26 feet, more or less, to the east line of Lot "B" of Certified Survey Map 8, recorded with said land registry; thence north along said east line, and along the south right-of-way line of said County Trunk Highway "E", 33 feet, more or less, to an angle point in said south right-of-way line; thence west along the south right-of-way line of said County Trunk Highway "E", 1,006.77 feet to the west line of Lot "A" of said Certified Survey Map 8; thence continuing west along the south right-of-way line of said County Trunk Highway "E", 1,224.26 feet to a point which is 118.09 feet, South 87°58'46" East of the west line of the Northeast Quarter of Section 13, Town 2 North, Range 22 East; thence South 45°07'20" West along the south right-of-way line of said County Trunk Highway "E", 116.17 feet; thence North 88°46'52" West parallel to the north line of the Northeast Quarter of said Section 13, a distance of 33.05 feet to the east line of the Northwest Quarter of said Section 13; thence North 88°45'39" West parallel to the north line of the Northwest Quarter of said Section 13, a distance of 50.07 feet to the east line of Lot 2 of Certified Survey Map 1931, recorded with said land registry; thence north along said east line, 100.39 feet to the northeast corner of said Lot 2; thence west along the north line of Lots 2 and 1 of said certified survey map, and along the south right-of-way line of said County Trunk Highway "E", 383.71 feet to the northwest corner of said Lot 1; thence continuing west along the south right-of-way line of said County Trunk Highway "E", 1,754.32 feet, more or less, to the east line of a parcel of land described as Parcel 2 and recorded in Document 1149970, on June 28, 1999 with said land registry; thence north along the east line of said Parcel 2, a distance of 17 feet to the northeast corner of said Parcel 2; thence west along the south right-of-way line of said County Trunk Highway "E", 495.00 feet to the northwest corner of Lot 4 of Certified Survey Map 1090, recorded with said land registry, being here also a point on the east line of the Northeast Quarter of Section 14, Town 2 North, Range 22 East; thence west along the south right-of-way line of said County Trunk Highway "E", 198.00 feet to the west line of the parcel of land described and recorded in Document 1183293, on May 31, 2000 with said land registry; thence south along the west line of the parcel of land described and recorded in said document, 201.90 feet to the north line of Lot 108 of Orchard View Second Edition, a subdivision of record; thence west along said north line, 132.00 feet; thence south along the west line of Lots 108 thru 119 of said subdivision, 1,075.76 feet to the northeast corner of Lot 120 of said subdivision; thence west along the north line of Lots 120 and 121 of said subdivision, 312.23 feet; thence south along the west lines of Lots 121 thru 131, and Lot 135 of said subdivision, 1,301.40 feet to the southwest corner of said Lot 135; thence south along the southerly extension of the west line of said Lot 135, a distance of 40.01 feet to the north line of the Southeast Quarter of Section 14, Town 2 North, Range 22 East; thence east along said north line, being here also the centerline of 15th Street, 14.00 feet to the northerly extension of the east line of 41st Avenue; thence south along the east line, and northerly extension, of 41st Avenue, 1,323.23 feet, more or less, to the westerly extension of the north line of Parcel 1 of Certified Survey Map 1652, recorded with said land registry; thence east along the north line, and westerly extension, of said Parcel 1, a distance of 299.23 feet to the northeast corner of said Parcel 1; thence south along the east line of Parcels 1 thru 4 of said certified survey map, and along the east line of Parcel 2 (also called Lot 2) of Certified Survey Map 2060, recorded with said land registry, 1,322.96 feet to the north line of the Northeast Quarter of Section 23, Town 2 North, Range 22 East; thence east along said north line, being here also the centerline of 18th Street, 4.45 feet; thence south parallel to the east line of said Quarter Section, 395.00 feet to the southeast corner of the parcel of land shown on an August 28, 2003 plat of survey by Wisconsin Registered Land Surveyor Jeffrey K. Rampart, and filed with the Kenosha County Land Information Office; thence west parallel to the north line of said Quarter Section, 338.60 feet to the west line of the 33.00 feet in width right-of-way easement shown on said plat of survey; thence north along the west line of said 33.00 feet in width right-of-way easement, 170.00 feet to a point which is 225.00 feet south of the north line of said Quarter Section; thence west parallel to the north line of said Quarter Section, 404.12 feet to the west line of the parcel of land shown on an August 2, 1995 plat of survey by Wisconsin Registered Land Surveyor Keith Koppen, and filed with said Land Information Office; thence south at right angle to the north line of said Quarter Section, 185.00 feet; thence west parallel to the north line of said Quarter Section, 300.00 feet; thence north at right angle to the north line of said Quarter Section, 185.00 feet; thence west parallel to the north line of said Quarter Section, 200.00 feet to the east line of parcel of land shown on Certified Survey Map 735, recorded with said land registry; thence south along said east line, 185.00 feet to the southeast corner of the parcel of land shown on said certified survey map; thence west along the south line of said parcel of land, 263.00 feet to the southwest corner of said certified survey map; thence north along the west line of said parcel of land, 185.00 feet; thence west parallel to, and 225.00 feet south of, the north line of said Quarter Section, 829.00 feet to the east line of the Northwest Quarter of Section 23, Town 2 North, Range 22 East; thence west parallel to the north line of said Quarter Section, 33 feet to the west line of 47th Avenue; thence south along said west line, 58.00 feet to the easterly extension of the south line of Certified Survey Map 2110, recorded with said land registry; thence west parallel to the north line of said Quarter Section, and in part, along the south lines of Certified Survey Maps 2110, 2328 and 1822,

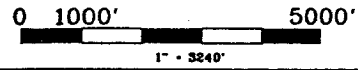
recorded with said land registry, 2,476.30 feet to the west line of Certified Survey Map 285, recorded with said land registry; thence south along said west line, 17 feet; thence west along the south line of said certified survey map, 150.00 feet to the east line of the Northeast Quarter of Section 22, Town 2 North, Range 22 East; thence west parallel to the north line of said Quarter Section, 305.35 feet to the east right-of-way line of State Trunk Highway "31", also known as Green Bay Road; thence south along said east right-of-way line, 1,365.47 feet to the north line of Lot 1 of Certified Survey Map 1453, recorded with said land registry; thence southwesterly, southerly and southeasterly along and upon said east right-of-way line, 332.45 feet to the south line of said Lot 1, being here also a point, on the north line 22nd Street, which is 328.32 west of the east line of the Northeast Quarter of said Section 22; thence South 13°07'21" West, 87.11 feet; thence South 34°59'56" West along the east right-of-way line of said State Trunk Highway "31", a distance of 90.04 feet; thence South 0°17'24" East along said east right-of-way line, 92.19 feet; thence South 24°02'23" East along said east right-of-way line, 89.61 feet; thence South 0°17'24" East along said east right-of-way line, 367.13 feet to the north line of the Southeast Quarter of said Section 22; thence south along and upon the east right-of-way line of said State Trunk Highway "31", a distance of 2,657.48 feet, more or less, to the north line of the Northeast Quarter of Section 27, Town 2 North, Range 22 East, being here also the north line of 31st Street; thence east along said north line, 0.26 feet to the northwest corner of Certified Survey Map 2330, recorded with said land registry; thence South 3°21'54" East along the west line, and its northerly extension, of Parcel 3 of said certified survey map, being here also the east right-of-way line of said State Trunk Highway "31", a distance of 190.91 feet, thence South 1°47'21" West along the west line of said Parcel 3, and along the east right-of-way line of said State Trunk Highway "31", a distance of 262.68 feet, thence South 3°37'21" East along the west line of said Parcel 3, and along the east right-of-way line of said State Trunk Highway "31", a distance of 457.26 feet, thence South 7°37'40" West in part, along the west line of said Parcel 3, and along the east right-of-way line of said State Trunk Highway "31", a distance of 641.33 feet, thence South 11°12'13" West in part, along the west line of Parcel 2 of said certified survey map, and along the east right-of-way line of said State Trunk Highway "31", a distance of 900.00 feet, thence South 54°00'53" East, along the west line of said Parcel 2, and along the east right-of-way line of said State Trunk Highway "31", a distance of 112.92 feet, to a point on the north right-of-way line of County Trunk Highway "S"; thence South 6°46'48" West, 194.47 feet to a point, on the south right-of-way line of said County Trunk Highway "S", which is 646.90 west of the east line of the Southeast Quarter of said Section 27; thence South 49°32'05" West along the southeast right-of-way line of the intersection of said State Trunk Highway "31" and of said County Trunk Highway "S", 181.16 feet; thence South 10°25'50" West along the east right-of-way line of said State Trunk Highway "31", a distance of 158.34 feet, and being also along a parcel of land described and recorded in Document 1219502, on May 18, 2001 with said land registry; thence South 18°03'46" West along the east right-of-way line of said State Trunk Highway "31", a distance of 64.38 feet, and being also along the parcel of land described and recorded in said Document; thence southwesterly along and upon the east right-of-way line of said State Trunk Highway "31", a distance of 629.26 feet, more or less, to the northwest corner of Lot 1 of Certified Survey Map 2100, recorded with said land registry; thence South 9°19'21" West along the west line of said Lot 1, a distance of 325.54 feet; thence South 2°14'29" East along the west line of said Lot 1, a distance of 152.41 feet; thence South 7°57'04" West along the west line of said Lot 1, a distance of 153.05 feet to the southwest corner of said Lot 1; thence continuing South 7°57'04" West along the east right-of-way line of said State Trunk Highway "31", a distance of 96.95 feet; thence South 19°15'40" West along the east right-of-way line of said State Trunk Highway "31", a distance of 101.98 feet; thence South 7°57'04" West along the east right-of-way line of said State Trunk Highway "31", a distance of 190.02 feet; thence continuing South 7°57'04" West along the east right-of-way line of said State Trunk Highway "31", as said right-of-way line is described and recorded in Volume 1289, Pages 807-811, Document 789306 with said land registry, 609.90 feet; thence South 30°10'19" East (also called out as South 30°16'19" East) along the east right-of-way line of said State Trunk Highway "31", as said right-of-way line is described and recorded in said Document, 32.40 feet to the north line of 45th Street; thence South 11°48'01" West, 81.87 feet to the northwest corner of Parcel 1 of Certified Survey Map 1619, recorded with said land registry; thence South 13°04'44" West along the west line of Parcels 1 and 2 of said certified survey map, 280.16 feet; thence South 11°50'40" West, 75.10 feet to the northwest corner of Parcel 84 as shown on Sheet 4.7 of the State of Wisconsin D.O.T. State Project 3340-00-71 for State Trunk Highway "31"; thence South 8°59'08" West along the west line of Parcels 84 thru 80 as shown on said State Project 3340-00-71, being here also along the east right-of-way line of said State Trunk Highway "31", a distance of 987.30 feet to the north line of 49th Street; thence southwesterly, in a straight line, 80.60 feet to the northwest corner of Parcel 4 of Certified Survey Map 2235, recorded with said land registry; thence South 8°59'08" West along the west line of Parcels 4 and

2 of said certified survey map, 507.16 feet to the easterly extension of the north line of Parcel "A" of Certified Survey Map 644, recorded with said land registry; thence South 89°25'49" West along said north line, and said easterly extension, 991.51 feet to the east line of the Northwest Quarter of Section 34, Town 2 North, Range 22 East, being here also the southwest corner of Lot 1 of Certified Survey Map 1385, recorded with said land registry; thence north along the west line of said Lot 1, a distance of 142.55 feet to the northwest corner of said Lot 1; thence west 20.01 feet along the parcel of land annexed into the City of Kenosha by Annexation Ordinance 34-78, adapted by the City of Kenosha Common Council on April 17, 1978; thence north along the east line of said parcel of land, 292.44 feet to the south line of the parcel of land described and recorded in Document 1215956, on April 24, 2001 with said land registry; thence west along the south line of the parcel of land described and recorded in said Document, 436.00 feet; thence north along the west line of the parcel of land described and recorded in said Document, 200.00 feet to the westerly extension of the south line of Parcel "A" of Certified Survey Map 1020, recorded with said land registry; thence east along said westerly extension, 130.48 feet to the southwest corner of said Parcel "A"; thence north along the west line of Parcels "A" and "B" of said certified survey map, 361.85 feet; thence east along the north line of said Parcel "B", 65.53 feet to the southwest corner of Lot 1 of Certified Survey Map 1412, recorded with said land registry; thence north along the west line of Lots 1 thru 4 of said certified survey map, 400.00 feet; thence east along the north line of said Lot 4, a distance of 51.20 feet to the southwest corner of Lot "C" of Certified Survey Map 1655, recorded with said land registry; thence north along the west line of Lots "C", "B" and "A", of said certified survey map, 346.05 feet to the northwest corner of said Lot "A"; thence east along the north line of said Lot "A", 208.83 feet to the northeast corner of said Lot "A", being here also a point on the east line of the Northwest Quarter of said Section 34; thence north along the east line of said Quarter Section, 208.83 feet to the southeast corner of the Southwest Quarter of Section 27, Town 2 North, Range 22 East; thence north along the east line of the Southwest Quarter of said Section 27, a distance of 2,608.24 feet to the south line of County Trunk Highway "S", also known as 38th Street; thence west along and upon the south line of said County Trunk Highway "S", 2,645 feet, more or less, to the east line of the Southeast Quarter of Section 28, Town 2 North, Range 22 East; thence west along and upon the south line of said County Trunk Highway "S", 2,723 feet, more or less, to the east line of the Southwest Quarter of Section 28, Town 2 North, Range 22 East; thence west along and upon the south line of said County Trunk Highway "S", 1,518 feet, more or less, to the northeast corner of Lot 1 of Certified Survey Map 955, recorded with said land registry; thence South 89°48'38" West along the north line of said Lot 1, a distance of 779.27 feet; thence North 75°15'02" West along the north line of said Lot 1, a distance of 104.86 feet; thence South 89°48'38" West along the north line of said Lot 1, a distance of 112.23 feet to the northeast corner of the parcel of land described and recorded in Volume 1220, Page 217, Document 752778 on May 8, 1986 with said land registry; thence South 81°44'33" West along the southeast line of the parcel of land described and recorded in said Document, and being also along the south line of said County Trunk Highway "S", 121.20 feet; thence South 10°10'42" West along a southwest line of the parcel of land described and recorded in said Document, and being also along the east line of County Trunk Highway "H", also known as 88th Avenue, 131.51 feet, to a point on the east line of said 88th Avenue; thence west, at right angle to said east line, 33.00 feet to the east line of the Southeast Quarter of Section 29, Town 2 North, Range 22 East; thence north along said east line 24.44 feet; thence west parallel to the north line of said Quarter Section, 38.75 feet to the east corner of the parcel of land shown on Certified Survey Map 938, and called out therein as Lot 1; thence northwesterly along the arc of a circular curve which is concave southwesterly, 220.78 feet; said curve having a central angle of 73°34'30", a radius of 171.93 and a chord which bears North 52°48'00" West a distance of 205.92 feet to the northwest corner of said Certified Survey Map 938, said northwest corner being here, South 1°15'13" East, 28.88 feet from the north line of said Quarter Section; thence west, along and upon the south line of said County Trunk Highway "S", 1,135.09 feet to a point on the east line of the parcel of land shown on Certified Survey Map 928, and called out therein as Lot 1, said point being South 1°29'13" East, 4.14 feet from the north line of said Quarter Section; thence South 89°46'42" West along the south line of said County Trunk Highway "S", 435.86 feet to the south line of the Northeast Quarter of said Section 29; thence South 89°46'42" West along the south line of said County Trunk Highway "S", 899.07 feet to a point which is North 1°43'18" West, 8.54 feet from the center of said Section 29, as shown on said Certified Survey Map 928, said point being also the northeast corner of the parcel of land shown on Certified Survey Map 927, and called out therein as Lot 1; thence west along the south line of said County Trunk Highway "S", and along the north line of said Lot 1, a distance of 344 feet, more or less, to the southeasterly extension of the south line of Burlington Road, also known as County Trunk Highway "S"; thence northwest along and upon the southerly line of said County Trunk Highway "S", (Burlington Road), to the east line of the Northeast Quarter of Section 30, Town 2 North, Range 22 East; thence northwest along and upon the southerly line of said County Trunk

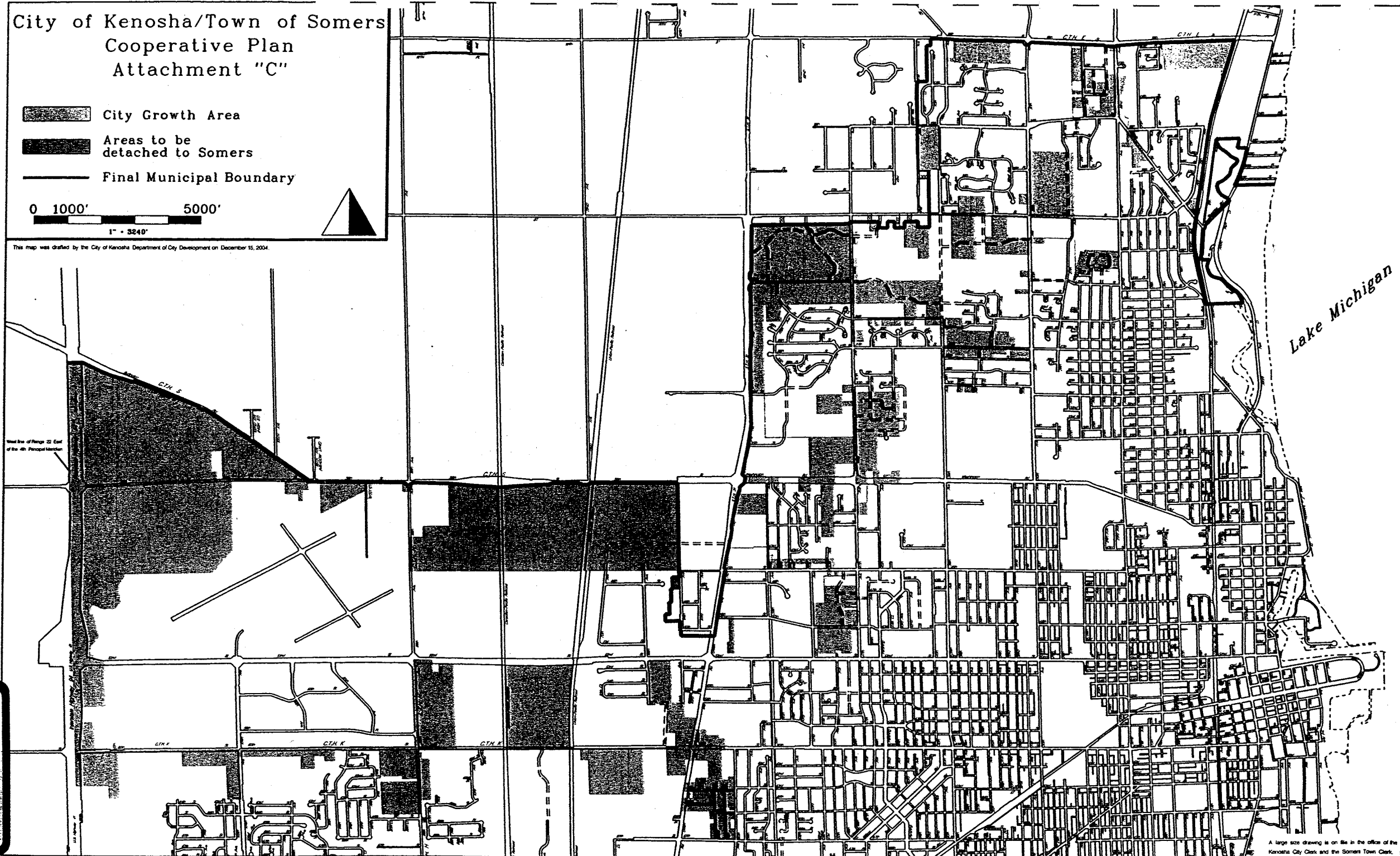
Highway "S", (Burlington Road), to the south line of the Southeast Quarter of Section 19, Town 2 North, Range 22 East; thence northwest along and upon the southerly line of said County Trunk Highway "S", (Burlington Road), to the east line of the Southwest Quarter of Section 19, Town 2 North, Range 22 East; thence northwest along and upon the southerly line of said County Trunk Highway "S", (Burlington Road), to the northeast corner of the parcel of land shown on an ALTA/ACSM Land Title Survey by Wisconsin Registered Land Surveyor James G. Schneider, dated November 26, 2002, and filed with the Kenosha County Land Information Office; thence North  $64^{\circ}03'20''$  West along the south line of said County Trunk Highway "S", (Burlington Road), and along a northeast line of the parcel of land shown on said survey, 260.00 feet; thence South  $56^{\circ}49'30''$  West along the southeast line of the intersection of said County Trunk Highway "S", (Burlington Road), and Interstate Highway 94 (frontage road), and being also along a northwest line of the parcel of land shown on said survey, 37.76 feet; thence west parallel to the south line of said Quarter Section to the west line of the Southwest Quarter of Section 19, Town 2 North, Range 22 East, and there terminating.

City of Kenosha/Town of Somers  
Cooperative Plan  
Attachment "C"

-  City Growth Area
-  Areas to be detached to Somers
-  Final Municipal Boundary



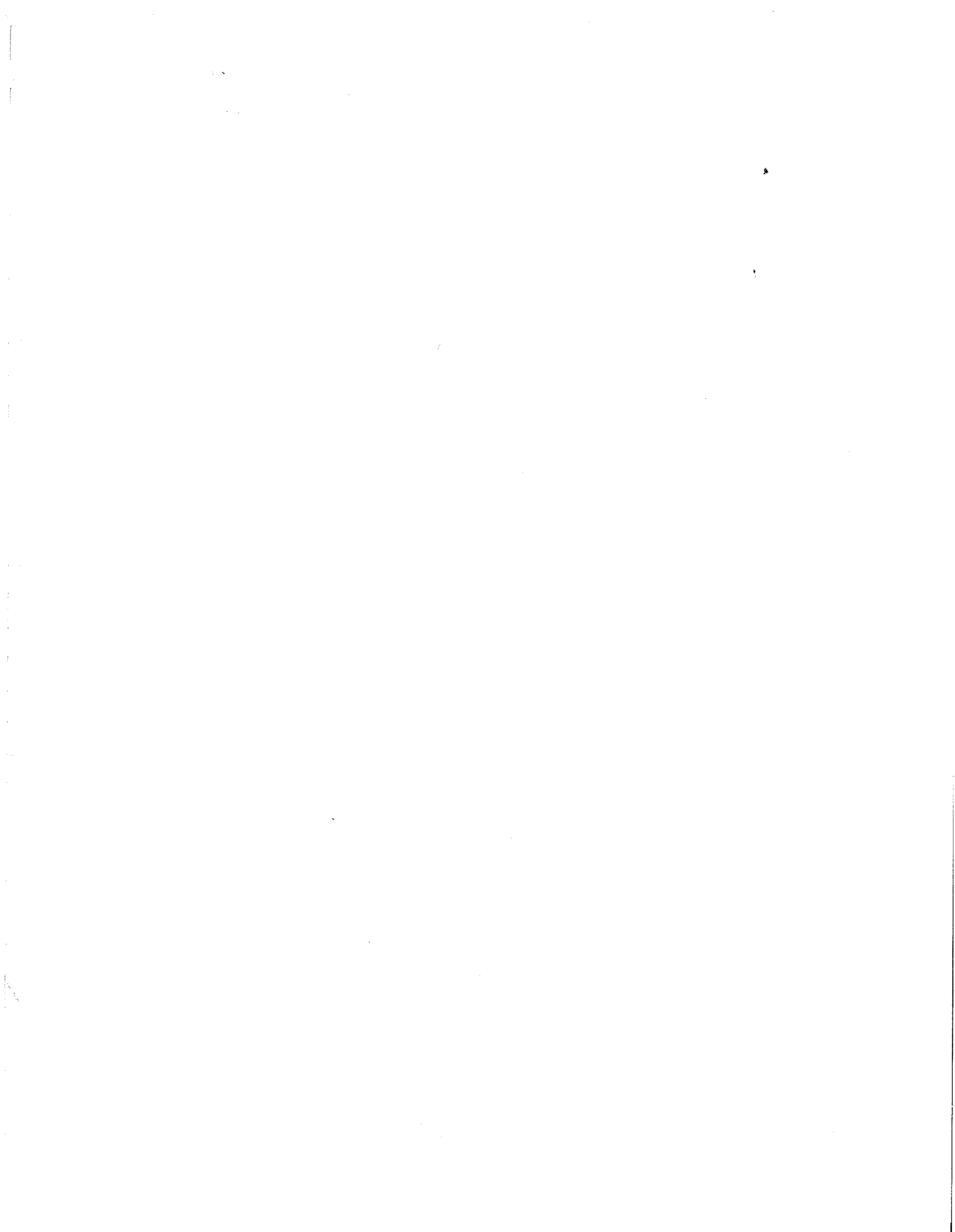
This map was drafted by the City of Kenosha Department of City Development on December 15, 2004.



Lake Michigan

ATTACHMENT

A large size drawing is on file in the office of the Kenosha City Clerk, and the Somers Town Clerk.



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JOINT PUBLIC HEARING  
TOWN OF SOMERS/CITY OF KENOSHA  
COOPERATIVE PLAN UNDER SECTION 66.0307

January 18, 2005  
Somers Town Hall  
6:00 p.m. - 7:00 p.m.

**ATTACHMENT "A"**

SUSAN K. TAYLOR

262-553-1058  
FAX NO. 553-2010

COURT REPORTER

1 MS. FISCHER: With 6:00 o'clock  
2 having arrived, we will call the joint public hearing  
3 for the Town of Somers/City of Kenosha to order.

4 Would you please rise and join us in the pledge of  
5 allegiance?

6 (Pledge of allegiance was recited)

7 MS. FISCHER: Good evening. Thank  
8 you for coming on this cold, cold night. I am first  
9 going to start by introducing those of us up here at  
10 the front table. We have our name tags in front of us,  
11 but we have our fire chief, Steve Krause; town board  
12 supervisor Ben Harbach; Supervisor Larry Harding; town  
13 clerk treasurer, Kay Goergen; Bill Morris is our public  
14 works -- our town administrator; the town attorney is  
15 Jeff Davison. We have Roger Clark, the special  
16 attorney for the Town of Somers; Harley Clinkenbeard,  
17 is the town planner; Dan Snyder who is our town  
18 engineer; Mr. Jim Conway, the city attorney; Mr. Jeff  
19 Labahn, assistant city planner; Art Strong, the city  
20 parks; Ron Bursek, administrator of the Department of  
21 Public Service, City of Kenosha.

22 Over on the counter, there are sheets of  
23 paper that look like this. They are sign-in sheets.

24 They say I wish to speak tonight to have your -- They  
25 have your name and your address. If you would fill one



1 of those out if you choose to speak tonight, I need  
2 that up here so I can call you. It is twofold. I need  
3 to have your accurate name and address for the record  
4 and I also want to make sure that everybody who chooses  
5 to speak has an opportunity to do so. I would like to  
6 ask that the clerk also place a photocopy of the agenda  
7 for tonight's meeting in the official transcript. That  
8 will be forwarded to the Department of Administration  
9 with the transcripts.

10 We are going to let everybody have a  
11 chance to speak, but you only will be allowed to speak  
12 one time. That is why I have the sheets. There will  
13 be no time limit on your comments. I am going to give  
14 you a brief overview here before we go on with the  
15 meeting, but I just would like to mention that, you  
16 know, I really appreciate everyone coming out again  
17 tonight. We have had five previous public information  
18 sessions that were held here at the town hall and  
19 hopefully, we were able to get as much information out  
20 to the public as we possibly could.

21 If you choose not to speak tonight, you  
22 are also free to submit comments in writing up to 20  
23 days and those will be made part of the public record  
24 that we have, so if you have written comments, make  
25 sure that you get them to us within the next 20 days.

1                   Mr. Wienke is also here this evening.  
2                   I see a few new faces, so I am going to give you a real  
3                   brief overview of what we are going to do here tonight.  
4                   It is a public hearing. We are here to hear your  
5                   comments. This is not a back and forth discussion,  
6                   there will be no comments from the board at all or  
7                   answers to your questions. If questions persist after  
8                   this evening's meeting or you have any further  
9                   clarification, please feel free to contact myself or  
10                  Mr. Morris and we will make sure that we put you in  
11                  contact with any individual or information that you  
12                  need.

13                  If you have written comments that you  
14                  speak, you are going to talk about tonight, if you  
15                  wouldn't mind giving our court reporter a copy of those  
16                  so she can make sure that she gets them in there  
17                  accurately and we will make sure that you get those  
18                  back.

19                  Do you want to give the little overview?

20                  MR. CLARK:                    I don't think it is  
21                  necessary.

22                  MS. FISCHER:                On the map that is  
23                  up there on the screen, you will see that the Town of  
24                  Somers is portrayed in the colored areas, the yellow,  
25                  the red, and then these hatched areas and this little

1 area along KR, this being 94, this being Highway KR,  
2 and this being Lake Michigan. The areas that are in  
3 the sewer service area are those areas that are hashed  
4 out. The yellow areas are not and the red areas are  
5 what is considered the city growth area. Those are the  
6 only areas that will be affected by the 30-year time  
7 frame for them to become parcels of the City of  
8 Kenosha.

9 The boundary agreement portion of the  
10 sewer/water boundary agreement plan is pretty clear.  
11 It spells out if you live in the B area and you don't  
12 want to become a resident of the City of Kenosha, do  
13 not ask for sewer and water. Do not ask to be annexed  
14 and don't double the size of your parcel or subdivide.  
15 Pretty much that is it. You can remain a town island.  
16 You can put in a well. You can add a new septic system  
17 or a mound system and not be forced into the City of  
18 Kenosha. If all your neighbors annex into the City of  
19 Kenosha and you are surrounded, you can still remain a  
20 Somers town resident for the next 30 years.

21 For the next 30 years, there will be no  
22 change. At that time, when 30 years arrive and in the  
23 year 2035, I am sure there will be some sort of  
24 procedure for the attachment of those parcels, but I  
25 couldn't tell you what that is right now.

1 quite dismayed that I did not read one single thing in  
2 yesterday's paper, the weekend paper, that this public  
3 hearing was going to be held and looking at the turn-  
4 out, I can see that that is probably one of the reasons  
5 why we have so many empty chairs here tonight. I know  
6 I complained about this at the informational meetings.  
7 Still evidently, it does not mean anything to the town  
8 board to get the information out to all the people in  
9 this township for something as important as this  
10 boundary agreement is, not only to the people in the  
11 so-called city growth areas, but also the people in the  
12 town growth areas, and it is going to affect every  
13 single person in this town in the future and not  
14 necessarily in the far future and I am really saddened  
15 by the fact that this information was not published  
16 more frequently or at least several times within the  
17 last week so that people had the opportunity to know  
18 that we were going to be here tonight and that this was  
19 going to be a public hearing. Those of us who have  
20 attended these meetings over the past five or six  
21 informational sessions knew that it was coming up, but  
22 the rest of the people in the town really and truly may  
23 have gotten a short glimpse of it in the paper when the  
24 informational meetings were publicized, but quite  
25 honestly, they probably have long forgotten about the

1 date if they are anything like me. So I was really  
2 dismayed.

3 That is my first point I want to make.  
4 I was dismayed at the fact that this meeting was not  
5 publicized more generally to the people in the township  
6 of Somers.

7 I have had an opportunity to read  
8 through the drafts and without going into a long  
9 dissertation and going page by page and questioning  
10 things, I just want to say that I think we could have  
11 gotten a lot better, a whole lot better. I believe  
12 that this agreement would amount to nothing more than a  
13 wholesale give away of our town.

14 I don't believe that the people of  
15 Somers understand what is going to happen with the loss  
16 of the properties that are in the so-called B areas.  
17 There is a lot of tax money that is going -- that is  
18 generated that will be lost to the town as these areas  
19 are brought into the city and if anyone is familiar at  
20 all with the draft, you will notice that although it is  
21 being marketed as a 30-year sunset agreement, really  
22 and truly, there are just so many different ways that  
23 you can be taken into the city whether you like it or  
24 not. We are pretty much giving away most of the  
25 control of what we do with our land. There is a lot of

1 questions that still remain unanswered.

2 I thought from the beginning, that this  
3 whole procedure was rushed through much faster than it  
4 should have been and I still maintain that is exactly  
5 what happened.

6 I am particularly dismayed by the fact  
7 that this agreement was drafted not necessarily by the  
8 people I elected to the town board, but more so by  
9 people who were hired by the town board to negotiate  
10 this. I am very much dismayed about that. It brings  
11 to mind the year 2000 Bristol land grab which the city  
12 engineered with the Town of Bristol which caused so  
13 much animosity out in that area and I believe that this  
14 is going to be the great 2005 Somers land grab that is  
15 going to create even more animosity among the people  
16 that are involved and probably the people in the Somers  
17 town growth area in the future.

18 I would sincerely urge the town board  
19 to scuttle this agreement. I don't think it is good.  
20 I think the people here in the Town of Somers deserve  
21 better, better than what we are doing here. We are  
22 giving away just about all the control of our land and  
23 I would sincerely hope that the town board will give  
24 this some real serious consideration when it comes up  
25 to them for a vote in the near future. Thank you.

1 MS. FISCHER: Thank you,

2 Mr. Lesko.

3 Tom Boedecker, 5011 - 22nd Street.

4 MR. BOEDECKER: I agree with the  
5 previous speaker wholeheartedly and prior to -- There  
6 is one individual that doesn't even reside in Somers,  
7 but he is eager to give up the property for his own  
8 benefit, obviously. That is his right as a property  
9 owner.

10 I thought we were going to be coming  
11 here today to ask questions, but I guess we can't and  
12 not knowing the details of this agreement makes me know  
13 that it is a done deal because there is no open  
14 discussion here. Everything has to be written and we  
15 get the information after the fact. It is kind of like  
16 Bush going to war.

17 I won't hold my property in 30 years  
18 because I want to move out of Somers as soon as I can,  
19 unfortunately, because I like living here, but this  
20 board has made it undesirable for me to stay here any  
21 longer and it is with regret that I have to say these  
22 things today.

23 That is all I have to say. If I want to  
24 ask questions, I can put them in writing? Who do I  
25 address them to?

1 MS. FISCHER: Just Bill or I. We  
2 will talk.

3 I have no other slips of paper. Here  
4 are a couple people coming. If you are hoping to  
5 speak, make sure you get your slip to me.

6 Marty Hogan, 1247 - 30th Court.

7 MR. HOGAN: I am Marty Hogan.

8 I have been a resident for the Town of Somers for 14  
9 years. Prior to about six months, I sold my house and  
10 deciding where I am going to live. I had lived in the  
11 Town of Somers very happily for 14 years. I love the  
12 town. I am in agreement of the sewer/water agreement  
13 between the town and the city.

14 I was notified of this workings-on since  
15 the beginning since I was one of the first developers  
16 that had an agreement -- a developer's agreement with  
17 the town some 14 years ago when we first wanted to  
18 bring that about with Mr. Morris and I have been  
19 hearing about this meeting and this sewer and water  
20 agreement for 14, 15 years and I am glad it is finally  
21 coming to fruition.

22 That is what I wanted to make myself  
23 said here. Thank you.

24 MS. FISCHER: Tom Fliess, Jr.,  
25 4436 - 90th street.



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MR. FLIESS:

I also am in

agreement with sewer and water deal that they have going. I am glad it is finally coming to a head now because I own -- we own quite a bit of property -- me and my family and my relatives own a lot of property in Somers and everybody says how they don't want somebody to tell them what to do with their property and for like about 15 years, we have been told what we can do with ours and we can't do nothing because everybody has their own little piece, but we own some of the largest pieces. Some of the largest pieces eventually they want to turn into something for Somers to give them something, whether it is business, commercial, industrial, whatever, which will bring more taxes and make --

You won't lose that much taxes to Kenosha in 30 years. You will gain so much more when they transfer in the time up until then, but residents have been holding Somers back. Eventually what is going to happen is us larger land owners that are finally getting tired of this -- and the town board has been trying for many years to get this through -- we might go and annex to Kenosha. Let Somers take control of their own space now. It is up to us to decide where you go.

1                   We like Somers. We have been around the  
2 Somers area for 30, 40 years now. It is a nice little  
3 place and that is why you should let Somers and the  
4 board take control. They know what is best, they know  
5 what we need as far as tax bases, whether it is more  
6 fire equipment, whatever. You need the income to help  
7 do that because I own property in the B area also and  
8 in 30 years, if I am still alive, I don't think there  
9 will be a big problem transferring over. I am sure  
10 most of us won't be here in 30 years, but it is  
11 something that's been going on for 15 years now like he  
12 said and another 30 years, you know, if they don't take  
13 it before because we keep stalling, that is what is  
14 going to happen.

15                   That is all I have to say.

16                   MS. FISCHER:           Thank you. If you  
17 are wishing to speak, you will need to fill out one of  
18 those forms and make sure I have it. Mr. Mark  
19 Molinaro, 1011 - 12th Street.

20                   MR. MOLINARO:           I am the 18th  
21 District county board supervisor in the Town of Somers.  
22 I am here to tell you I think while it might be a  
23 bitter pill to swallow, I think it is one that is long  
24 overdue in the Town of Somers. They need to get  
25 something done.

1 I am going -- I don't want it to sound  
2 as though I am speaking after Mr. Lesko, but I have  
3 been at a number of meetings where the criticism I  
4 think has been missing the point which is specific to  
5 issues in the agreement. I am talking about the  
6 process, I am talking about the notification and  
7 everything else. I think the way the board and the  
8 City of Kenosha has been going about it has been open  
9 and anybody who doesn't know this issue is going on  
10 clearly has not been paying attention in some form or  
11 fashion. It is shown by the number of people at the  
12 meetings. This is the biggest turnout that I have been  
13 at and it does seem to be repetitive on who is here, so  
14 I think those criticisms are some that are probably  
15 missing the mark and in some respects come from a  
16 position that you will not convince any way you cut it.

17 What I am disappointed about -- Let me  
18 say this. I have a piece of property that is going to  
19 be in the very corner -- or is in the very corner of  
20 the B area, so the boundary will be literally my east  
21 property line and my north property line. I can tell  
22 you I will never get sewer and water in my estimation  
23 whether I am there in 30 years or not because the City  
24 of Kenosha is not going to want to pay a million plus  
25 dollars -- and I think Mr. Snyder can bear this out.

1 I live right across the street from the  
2 parcel that you just put together some figures on for  
3 development for a client of mine a week or so ago.  
4 There is no recapture. All of my neighbors to the west  
5 is property the city would like to have and connect to  
6 Peorio Park. I will be the only one that will require  
7 three-quarters of a mile of sewer and water plus a lift  
8 station with no way to recapture and they can't get it  
9 from me.

10 I have all kinds of reasons personally  
11 to object to the agreement that is before you, but I am  
12 telling you that I think in the best interest of all of  
13 the Town of Somers residents, whether it is certainly  
14 is problematic for some or not, I think this is the way  
15 you have to go.

16 What I strongly object to -- and there  
17 is no way you are going to fix this at this point in  
18 time -- is something that I am accustomed to as a  
19 representative in the county for the last six terms in  
20 office is the way I am going to say the mayor here,  
21 because that is typically who does the negotiations,  
22 seems to bring to the table an issue that has nothing  
23 to do with what it is you are discussing.

24 In this case, it is a \$5,000,000 payment  
25 for the museum that in my estimation has absolutely

1 nothing to do with sewer and/or water. I am accustomed  
2 to that at the county. Anytime we bring up a  
3 discussion with the city that involves some type of  
4 negotiation or coming to agreement on something, there  
5 is always a caveat that comes in from the back door  
6 somewhere.

7 If you had solved this issue years ago  
8 when you were talking with the city, we -- in this  
9 case, it is an impact fee -- would not be on the table  
10 to cover the cost of a proposed museum because there  
11 was no museum on the board at that point in time. That  
12 is where I think the rub is for me. I have full  
13 understanding that you are not going to change that at  
14 this point in time because everything we need is east  
15 of the borders of the Town of Somers which is sewer and  
16 water, thereby the plans that we need to tap into  
17 through the infrastructure.

18 It is unfortunate, it is disappointing.  
19 One does not have any bearing on the other and it is  
20 unfortunate that every time these types of issues are  
21 brought to the table, this is where they end up.

22 We have heard last time we were here all  
23 kinds of adjectives to describe what that is all about.  
24 Without getting into it, I think it is a bitter pill  
25 for us to swallow.

1 I think the way you are trying to solve  
2 that issue of the \$5,000,000 payment through impact  
3 fees and through development is the right way to go  
4 about it and keep it off the backs of the residents of  
5 the Town of Somers. I urge you to continue to work to  
6 get this solved, do as you have with regard to keeping  
7 people notified. I think you have generally done a  
8 pretty good job with that and good luck to you.

9 MS. FISCHER: Anybody else? I  
10 have no slips. Anyone else? Anyone else? We will  
11 close -- I don't have a slip. Any other slips?  
12 Antonio Lori, 7125 - 60th Street.

13 MR. LORI: I don't know if I am  
14 a resident of Somers or where I am at, but that is  
15 okay. I have missed the first part of it here. I  
16 don't know. I guess I am cutting a little bit of wind.  
17 Nobody is able to ask any questions. Apparently --  
18 I don't know -- whatever, but I will tell you what.  
19 I have a lot of questions and I am going to ask them.  
20 Now if that is taboo, let it be taboo. I am going to  
21 ask them and that is the way it is going to be.

22 First of all, I want to know about the  
23 three R's; residents, residences, and residential. I  
24 need an explanation on all three of them. Apparently,  
25 they are turning around and you are limiting this to

1 just residential area, you are not taking it to any  
2 other areas. I think that is totally wrong.

3 There was at one time a lady who came  
4 who had the horse, the famous lady with the horse and  
5 she is agricultural. The way I interpret this 12th  
6 hour, 11th hour cooperative agreement, cooperative  
7 plan, that she wouldn't qualify for this because she  
8 does not have residential property. That is why I need  
9 I guess verification. We have a lot of agricultural  
10 property out there and they are primary residents, too.  
11 If you are going to turn around and you are saying you  
12 are just doing residential --

13 I will go back to it again. This is  
14 forced annexation. You are pushing us into it and it  
15 is totally wrong. This is through the intermediate  
16 section of what you guys are doing so we can get the  
17 R's verified and get that all set up. I think that  
18 would kind of help it out.

19 The other part I got is, you know, if  
20 you guys and whoever may be on this committee or  
21 whoever may be turning around and doing this draft or  
22 whatever, but if you guys know that you are violating  
23 state laws according to my understanding in this thing,  
24 you are supposed to turn around and rectify it. You  
25 are not in this contract able to make up your own laws

1 that are not state laws and say it is okay. And if you  
2 want, I can go back and give you where the DOA has  
3 actually published items on how to refer to this stuff  
4 and one of their things is that to knowingly know it is  
5 unlawful, so do it right because otherwise, it will be  
6 done at the state level.

7 Something in this agreement that I don't  
8 know if it actually comes in here. I guess I am kind  
9 of like Mr. Conway. I, too, went to the wrong  
10 agreement and started typing everything up and taking  
11 notes and all of that and it was the wrong agreement in  
12 my hands, so what I've got as far as fire and rescue  
13 and public services, I don't see where that is  
14 addressed in here. If it is addressed, we've got three  
15 services -- fire and rescue services in the area in the  
16 B area; we have Somers, City of Kenosha takes care of  
17 theirs, and we also have Pleasant Prairie that takes  
18 care of some of these shafted people from before. That  
19 should be addressed and stipulated.

20 You know, under the 66.0307, any issues  
21 that are possible to affect the area should be brought  
22 up. I don't know when you bring that up, but nobody is  
23 bringing up the casino and the fact the city is willing  
24 to give up land to reservation status, they are turning  
25 around and saying they need city growth area on top of



1 it. Give one away, 264 acres on top of it rather than  
2 just what they need, 64 acres and turn around and want  
3 to take whatever they can get the rest of the way.  
4 Obviously, they want to get up to Paris. More power to  
5 them. I think the casino better be addressed here  
6 somewhere along the line.

7 Obviously, I, too, have a problem with  
8 that \$5,000,000. It is wrong, but again, that is the  
9 way the city operates. That is the way it was brought  
10 up and I think maybe we learned a good lesson here on  
11 how the city operates.

12 I really wonder if the property owners  
13 in the city growth area have been unconstitutionally  
14 denied representation in local government. I believe  
15 this is a true possibility, especially the way some of  
16 this is worded. My statement from once before and  
17 everybody said they had a problem with it, but I  
18 believe, too, that the person or persons that drafted  
19 this agreement should sign it because I want to see in  
20 the next ten years when you guys want to do something  
21 or when this town wants to do something and when the  
22 city comes back and says well, your agreement is no  
23 good, we want to start a new one, we will know this  
24 time who to direct our questions to. Unfortunately,  
25 our 1990 agreement did not have that, so we can't

1 really say who drafted that, but this one should be  
2 noted. But I guess everybody says that they are  
3 slowing the process down and they want to eliminate a  
4 lot of the delays. They put the brakes on I guess was  
5 the term that was used finally realizing what real  
6 negotiations is all about.

7 I am going to tell you something  
8 tonight. I can almost tell you that there will be a  
9 petition for a referendum on this. Now we can either  
10 go that route or you people may want to think about  
11 putting this on the April ballot for a referendum. It  
12 will save you some money and it will tell you what the  
13 people really think. Since you haven't allowed that,  
14 you either go that way or we do it through a special  
15 referendum. Give it some thought. I know you will be  
16 voting on it prior to that. But unfortunately, our  
17 referendum can't be brought in until there is an action  
18 and with your action, you are getting my reaction.  
19 That is all I am telling you. There will be a  
20 referendum. Think about putting it on the April  
21 ballot. You have time.

22 With that in mind, a couple speakers up  
23 here said about 15 years this thing has been postponed  
24 and everything else. Unfortunately, I wish they would  
25 have known there is a 1990 agreement and that was

1 supposed to be state of the art agreement until a  
2 couple years back when somebody wanted some water and  
3 they threatened to take the town to court and we asked  
4 for our water and we were told well, the agreement is  
5 no good anymore.

6 One person that spoke up here one time  
7 even said he loves the idea to be able to drive on  
8 these quiet county roads. Well, I don't know where you  
9 are going to see that because you are going to have  
10 quite a big hassle going on in this area. I don't  
11 think it is going to be all hunky-dory, because it  
12 won't be. I understand you want to establish  
13 boundaries. I understand that 100 percent. I under-  
14 stand that you want to try to save the town. That  
15 part, I understand, but I don't understand how you can  
16 turn around -- I understand how the city operates, but  
17 I can't understand why you are turning it around and  
18 trying to shaft us again. That part, I have a little  
19 bit of a problem with.

20 With that said, I will present written  
21 comments tomorrow to the board.

22 MS. FISCHER: Thank you, Tony.  
23 Anyone else? Last call for slips. Here comes one.

24 Rob Pitts, 8202 - 80th Avenue.

25 MR. PITTS: I just want to say I

1 think the agreement is a good thing for both Somers and  
2 the City of Kenosha and I think it is good that Somers  
3 and the city can finally cooperate. That is all I want  
4 to say.

5 MS. FISCHER: I see one more slip.  
6 Anybody else have a slip? Bring it up.

7 Scott Pederson, 10708 - 38th Street.

8 MR. PEDERSON: Well, well, well.  
9 Can we still submit written comments even if we speak?

10 MS. FISCHER: Yes.

11 MR. PEDERSON: All right. I don't  
12 know where to start.

13 VOICE: Start at the  
14 beginning.

15 MR. PEDERSON: I got drawn into  
16 this when Pleasant Prairie decided they wanted to  
17 become a village. I was a Somers resident. My  
18 property has been in Somers since the middle of the  
19 1800's when the State of Wisconsin was brought into  
20 being a state.

21 About 14, 15 years ago, I discovered  
22 that I am now a B resident because of the agreement  
23 that was entered into to allow Pleasant Prairie to  
24 incorporate and back then, we were told the same thing  
25 that we have been told here recently, that this is what

1 is necessary for the town to survive. I fully expect  
2 in ten, 12, 14 years to be here again, God willing, to  
3 have this discussion with you all again. Maybe  
4 different faces as it has turned out to be from 14  
5 years ago, but we are still here again and there are  
6 what I would consider to be some problems with this  
7 current agreement.

8 Probably the best way to do this is the  
9 way I have done it in the past. I will go item by item  
10 and I am sure our handy court reporter here will get  
11 every word.

12 I will start with the fact that when  
13 this whole process, depending on when you want to view  
14 the start of this process, whatever that may be,  
15 because depending on who you talk to depends on when  
16 this current process actually started. But we have  
17 been told from day one that there will be no forced  
18 annexation. None, period. And as time has gone by,  
19 that's been clarified a little clearer, but there are  
20 still forced annexation issues in this agreement.

21 Section 10.021 says that we must annex  
22 in, we want to add on -- add 20 percent to our homes --  
23 more than 20 percent. This in essence is causing a  
24 forced annexation.

25 I happen to live across the street from

1 the airport. If a wonderful airplane decides to crash  
2 into my house, not only do I get to contend with the  
3 airport over the zoning ordinance which limits on me to  
4 51 percent damage, I can have 50 percent damage and  
5 still rebuild my house, but at 51 percent, the city  
6 wants to come in and bulldoze it. At least move this  
7 up to that 51 percent so that number one, at least you  
8 are only dealing with one percent across the board, so  
9 to speak, regarding kicking us out of town. At least  
10 that is how I view it. I personally view this as I am  
11 being kicked out of town.

12 I don't know when sewer and water is  
13 going to come to my house because of where I am at.  
14 My parcel will end up being bulldozed and become part  
15 of the airport or an industrial park or something like  
16 that, but I like Somers. I have enjoyed this  
17 community. I don't know how long -- I don't know how  
18 long before sewer is even readily accessible to the  
19 areas that are going to be forced to annex in.

20 Part of this agreement talks about the  
21 two-year -- about the city providing sewer and/or water  
22 within two years. It does not talk about any  
23 repercussions to the city regarding what happens if  
24 they don't provide that within the two years. People  
25 are going to be annexed by choice or otherwise and they

1 may be planning on that sewer and water coming within  
2 two years and all of a sudden when it does not come,  
3 what type of penalty is there for the city to ensure  
4 that when they tell you upon the verbal discussion  
5 early on that you will have sewer and water within two  
6 years and that does not happen, what type of penalty  
7 can even be brought into this agreement? Something  
8 should be put there so that it can deal with and  
9 document as to -- as to deal with the city on this  
10 issue.

11 Another problem is the section of --  
12 which is still in Section 10 regarding rezoning. I can  
13 understand how rezoning could pull parcels into the  
14 situation of a voluntary annexation in order to get  
15 sewer and water, but I have four different zonings on  
16 my land. If I need to change one of those zonings for  
17 whatever reason, why do I have to be forced to annex  
18 into the City of Kenosha in order to do that? We  
19 should at least be able to -- As long as we are not  
20 doing any development, we should be able to rezone our  
21 parcel so that we can continue to enjoy our property.

22 The next section would be Section 10.06  
23 regarding the actual annexation. Parcels that are  
24 annexed into the city according to this agreement will  
25 become what is termed as the most restrictive

1 classification. Why should we be penalized a second  
2 time for being forced into the city? We should at  
3 least be able to keep our current zoning classification  
4 and if the city wants to change something about what we  
5 are currently doing with our parcel, then they should  
6 be required to work with us to come up with a fair and  
7 compatible use that everybody can agree with.

8 Section 11.02 deals with actually living  
9 in the parcel on the property and having any say in  
10 things. It should not matter whether you live on the  
11 premises or not. A residential unit is a residential  
12 unit is a residential unit. It should not matter  
13 whether you are connected with a commercial situation.  
14 There are a number of situations where people have  
15 offices in their homes where they actually have  
16 apartments above their businesses whether it be for  
17 security purposes or convenience purposes or whatever,  
18 and it should not make a difference whether or not the  
19 people live on the premises or not.

20 Section 12.01e, that is -- Some of my  
21 notes are doubled over here, so I will try not to  
22 duplicate myself.

23 Sections 13.02.1 and 13.02.2 should be  
24 removed. These were -- In some of the earlier  
25 discussions, we talked about the only thing that was



1 now going to be imposed regarding city ordinances and  
2 regulations was going to be the billboard ordinance,  
3 so I am also trying to get to the stuff incorporated as  
4 part of this record.

5 Section 20, it is my opinion that this  
6 is where the extortion occurs. This \$5,000,000 fee was  
7 pulled from the clouds with no realistic basis to come  
8 up with it other than reaching their arm in the sky and  
9 grabbing a cloud. With what we are having to give up  
10 here, we should be at least be treated fairly and we  
11 should be given the opportunity that we were told we  
12 would have and that be mainly that there be no forced  
13 annexations.

14 Section 27.01, I almost question whether  
15 this is a mistake or not depending on who you talk to,  
16 and it is my view that the discussions regarding this  
17 whole agreement came into play as early as the fall of  
18 2003 and the way some of these discussions and  
19 negotiations occurred were done in a manner that  
20 intentionally kept the public out of both information  
21 and input until two and a half, three months ago. Some  
22 of this misunderstanding and negotiation and whatever  
23 other terms you want to use could have probably been  
24 done in a much more organized fashioned, the public  
25 been given the opportunity for input along and

1 throughout this process rather than coming up with an  
2 agreement that was represented to us to be negotiated  
3 between two parties when in reality, it looks like we  
4 were just handed a document and said this is what we  
5 want and now we have been scrambling over the last six  
6 weeks to try and correct what we considered as citizens  
7 to be some of the inequities in this agreement.

8 I, too, support a referendum on this  
9 issue. I will be a part of bringing this -- creating  
10 the petition to create the referendum and in the  
11 interest of our town budget, it is my understanding --  
12 I might be mistaken -- the only election we have  
13 scheduled for the year 2005 is the upcoming primary and  
14 April election. I would urge -- Since most of our  
15 town board is here, I would urge my town board to take  
16 into serious consideration putting this issue on the  
17 April ballot mainly to save the town some money. I  
18 don't know what the exact dollars are to fund or  
19 finance or support an election, but at least this way,  
20 it would cost no additional dollars for the town  
21 budget.

22 My understanding is that the way the  
23 petition would work when we do it, if it is not on the  
24 April ballot is there is a minimum number of days after  
25 the petition is filed and a maximum number of days

1 after it is filed that the election has to occur  
2 within. More than likely, that would end up being --  
3 If we do -- if we are forced to do a petition and force  
4 the issue, that will probably end up being in the fall,  
5 so with that in mind, I would urge the board to start  
6 thinking about that in a very serious fashion.

7 I don't really think this agreement was  
8 done and negotiated in a fair give-and-take manner.  
9 There was a lot of give on the Somers side and there  
10 was a lot of take on the city's side. I hope when we  
11 come to a final agreement -- As much as I don't  
12 support this, I understand why it is happening. I  
13 alone will not be the person to stop this, but we as  
14 citizens at least deserve the right to have the input  
15 and have things at least be fair with us.

16 I have said in the past that the forced  
17 annexation in any way, shape, or form in my opinion is  
18 a deal breaker, that if there are forced annexations,  
19 that in and of itself will create problems for us  
20 citizens.

21 I don't want to go to that level. I  
22 hope you don't want to, either. You should really --  
23 As a town board representing the citizens, you should  
24 do everything in your power to make sure that in no  
25 way, shape, or form are there any forced annexations in

1 this. It has been a strong argumentative point for  
2 many years. We have been told no forced annexations.  
3 I hope you live up to that.

4 I will be submitting some written  
5 comments. At this point, I will say that is all I have  
6 to say for now. Thank you.

7 MS. FISCHER: Thank you. Any  
8 other slips for speaking? Any other slips? Any other  
9 slips? We will close the public comment or public  
10 hearing and I thank you all for coming. You have 20  
11 days to submit written comments to the town  
12 administrator or myself, the town board. You should  
13 address it to the town clerk.

14 (WHEREUPON, PROCEEDINGS WERE ADJOURNED AT 7:00 P.M.)

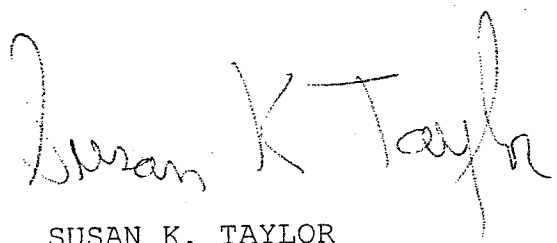
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STATE OF WISCONSIN)  
 )  
COUNTY OF KENOSHA )

I, SUSAN K. TAYLOR, do hereby certify  
that I am a stenographic reporter; that I was present  
at the hearing in the above entitled action, and that I  
recorded the same in shorthand; that the above and  
foregoing is a true, correct and exact copy, in  
longhand, of my shorthand notes taken at said hearing.

Dated this 23rd day of January, 2005



SUSAN K. TAYLOR  
Court Reporter

January 24, 2005

To: Carol Fisher, Chair &  
Board Members  
Town of Somers

From: Shirley Mandernack,  
Town of Somers Plan Commission

Re: Boundary Agreement

I am pleased that you finally have been able to work out an agreement with the City of Kenosha regarding the boundaries of our town. The 30-year timeframe seems to be a fair trade-off for the B area people. I realize that some folks will be unhappy; however, I also realize that our town needs some industrial/business/professional zoning in order to supplement residential tax revenue to pay for the services we all enjoy. (As Clink has repeatedly told us, residential taxes alone won't pay the bills!) Generally knowing what we have to work with for the next 30 years will enable us to do a better job of planning for the future. I agree with some residents that the \$5 million one-time payment requested by the City for its museum fund is a bit hard to take. (I think the City said it would allow free admission to Somers residents—that's not an issue since there is no admission fee for anyone!) However, it sounds like the overall amount isn't out of line when compared to what other neighboring municipalities pay for similar services—and part of that will be recouped from the developers, right? For these reasons, I support the town in entering into this agreement and finally bringing the issue to fruition. Good luck and thanks for your diligence in doing so..

RECEIVED  
JAN 25 2005  
TOWN OF SOMERS

January 27, 2005

To: Kay Goergen  
Town Clerk  
Town of Somers

Dear Kay,

I am writing this letter in support of the Town Board's decision and action to negotiate a boundary line agreement with the City of Kenosha to freeze our boundaries and allow the extensions of sewer and water service into the Town of Somers to allow planned orderly development.

My family has been a resident of the Town of Somers since 1955. Somers was a great place to grow up and continues to be a great place to live and raise a family.

I have been in the real estate brokerage business in Kenosha County for over 27 years. Change is occurring rapidly with tremendous development pressures on Kenosha County and the Town of Somers. There are farmers and landowners who desire to develop or sell their land for development.

Without a boundary agreement you will see landowners adjacent to the city with large and small tracts of land seeking annexation into the City of Kenosha so they can obtain sewer and water service to develop their land. This could become a disorderly dissection of the Town of Somers. The boundary agreement would assure the long-term existence of the Town of Somers with a plan for orderly and positive development controlled by the town.

In regards to the "B" areas of the town that would have to annex into the City of Kenosha in 30 years, I believe the Town Board has negotiated in the best interest of both the property owners of the "B" area and the Town of Somers as a whole to provide a 30 year window for an exit strategy for anyone that does not want to be a part of the City of Kenosha.

Without their boundary agreement those in the "B" area could find themselves annexed into the city this year, next year, or anytime a whole lot sooner than 30 years.

RECEIVED

JAN 31 2005

TOWN OF SOMERS

February 4, 2005  
Page 1

RECEIVED

FEB 07 2005

TOWN OF SOMERS

Town of Somers / Kenosha County  
% Town Chair Carol Fischer  
7511 12th Street  
Somers, WI 53171

Re: Written questions/comments Public hearing of 1-18-05

Kenosha/Somers co-operative plan for development.

The following questions and comments are in addition to the testimony given at the January 18, 2005 public hearing. I fully expect that they will be submitted in their entirety to the Wisconsin Dept. of Administration along with the comments presented at the public hearing.

1. Section 12.05:

Does this subsection mean that a parcel which currently is zoned commercial/business which includes the property owners' home as well as their business, will lose it's commercial zoning designation upon attachment to the city of Kenosha?

There does not seem to be a clear answer to this question in the plan nor are there any mentions of multi-family, agricultural or industrial parcels in the same situation. I believe that all parcels, upon attachment to the city under this plan, should come into the city with their current use zoning intact.

2. Section 20

This section reads nothing short of a ransom note! Let's just look back and review the facts as they pertain to the Kenosha Sewage Disposal Facility. The city of Kenosha (many years ago) was designated by the Dept. of Natural Resources as the sole collector and treater of sewage for the area of Kenosha County east of Interstate Highway 94 to Lake Michigan. A very large expansion of the Kenosha treatment facility become necessary and took place at that time. The lion's share of the cost came from state and federal grants. Yes, tax money from state and federal income taxes and other revenue sources.

Somers taxpayers paid for part of that expansion and are being denied use of that facility unless we pay a 15 million dollar ransom as part of this plan. These are the facts plain and simple. The City of Kenosha has been denying sewer hook-ups to Town of Somers residents for decades. If you needed sanitary sewer, you had better annex your land to the city or you got nothing. No annexation -- No sewer...at any cost!

It is because of this selfish policy by the city of Kenosha over the years that we are in this difficult boundary plan situation. They created this irregular boundary and

"town islands" mentioned in subsection 4.01 of the plan. And now they want the Town of Somers to come up with the \$15 million "ransom money" so that we can have access to the sewage treatment facility that we helped pay for.

continued...



February 4, 2005

Page 2

3.

I have a very serious problem with the way this plan was developed. Why were not my local elected representatives present for the negotiating sessions with the city of Kenosha? I believe that attorneys negotiated this agreement from start to finish. I also have reason to believe that my elected representatives were not present to represent me at most if not all of these crucial meetings. Town attorney's are present to provide legal advice. My town board members are responsible for negotiating matters that affect my status as a resident of this township. They alone are responsible for the contents of this pact.

I urge them to re-open negotiations with the city on this co-operative boundary agreement plan and come back with a revised draft that will address the concerns of all the Somers landowners affected.

I also urge the Wisconsin Dept. of Administration to look closely at all the issues brought up at the public hearing of 1-18-05. There are far too many flaws in this plan that adversely affect the well-being of the property owners of the Town of Somers in both the City Growth Area and the Town Growth Area. We certainly deserve better than this.

Respectfully,

*Richard J. Lesko*  
Richard J. Lesko  
2714 30th Avenue  
Kenosha, WI 53144  
Business owner and  
Property owner  
Town of Somers - Kenosha City

RECEIVED

FEB 07 2005

TOWN OF SOMERS

February 7, 2005

To: Somers Town Board Correspondence  
C/o Town Clerk

Subject: Comments and questions about: the Draft - December 22, 2004  
City of Kenosha/Town of Somers

This letter is being sent to the town board and the negotiating committee in reference to the January 18, 2005 Joint Public Hearing, and all comments and question pertain to that draft as mentioned about not to the most recent Draft - February 1, 2005. As I find ironic that the 20 day response period has not expired for public comments and that a new draft has already been placed on the table. Makes a person wonder if we, the residents, are really being heard or that the proceedings are proceeding w/o any consideration to the actual concerns of the people involved. This placed aside but not forgotten, I still have concerns and questions of the agreement presented.

The town had four informative meetings prior to the Dec. 22, 2005 draft. At those meetings several question were asked and at almost every meeting a different answer was given.

- We were told that this draft pertained to all parts of City Growth Area and that it included Residential, Commercial, Conservancy, Industrial, etc. That you had 30 years to stay out of the city. At the Joint Public Hearing that was not the case as is reflected in the Dec. 22, 2005. (Sec 11.02)
- At those informative meeting, we were told that building permits were going to be issued by the township if a present house was going to be remodeled. The Dec 22, 2005 Draft states that only 20 % of the house can be remodeled and that it has to be and owner occupied, residential one family or two family and that the city had to approve any such remodeling first (Sec 10.021 & 10.02)

These are only two of many miss-information that we the residents were told. I do believe that the recordings of these meetings should be made apart of the comments of the Joint public hearing to allow the Department of Administration to actually see what has transpired and what was said prior to the joint public hearing.

With that scenario given I would like to comment and ask the following questions of The Draft - December 22, 2004:

1. Sec. 4.02 Assure Orderly Development of the City Within the City Growth Area and of the Town Within the Town Growth Area. The City has property already annex into the city and surrounded by the City Growth Area. The property is now currently being used as a Dog Track. The City, County, and Indians are

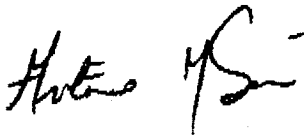
- presently in negotiations to take the entire 200 + acres and put into Reservation Status. That is not mentioned in this Draft at all yet it is a large issue that will affect the City Growth Area. Somewhere this should be stated in the draft.
2. Sec 4.05 Increase the Level of Public Safety Services Available To Areas of the Town Attached to the City. The first sentence states "Because many City ordinances will apply to the City Growth Area at the commencement of this Cooperative Plan....." Where are all these ordinances that will apply. As was stated by Mr. Clark, Somers Lawyer for the agreement stated, there is only one ordinance that will apply and that being that of the sign ordinance (Sec. 13.02.2). And if that is the case why is this statement in this Sec. 4.05
  3. In the same Section, (Sec 4.05) Public Safety Services. Three fire and rescue departments are now serving this City Growth Area. You have the City of Kenosha, Town of Somers, and Pleasant Prairie. Nothing is mentioned how we will be taken care of. In the past, there have been several problems with who takes care of what, yet this agreement mentions nothing about that. It is my opinion, that the City is understaffed to provide fire and rescue services to this area. This is a very important issue yet nothing is put in writing.
  4. Under Sec. 9, last paragraph (page 7), refers to Sec. 11.1. I have asked and not received an answer but were is this Section that they refer too?
  5. Sec. 10.014- Land Division. Normally in a land division one parcel will remain with the same parcel number, the other parcels receive new parcels. In fairness to the owner doing the land division that one parcel that retains the parcel number should remain in the township at least until any other conditions cause it to become part of the city.
  6. Sec. 10.016 Connections to Kenosha Water Utility Sanitary Sewer and Water. The Town will not have any power or authority. Line comes in front of your property, you have to hook-up and you are in the City. Sec 10.03 & 10.035 also states that Attachments to the City required in the City Growth Area as a pre-condition upon connections to Kenosha Water Utility. And if that is not good enough, Sec. 10.04, imposes a special assessment, and the town gets to collect for the city. Another means of forced annexation.
  7. Section 10.02—Exercise of Town Authority. The Town shall have the power....only if approved by the City. And if you don't like it see Sec 30.02
  8. Sec. 10.021- this is the most ridiculous of all restriction put on the resident. This should be removed in its entirety. Do you really think people are going to keep up their homes, if this becomes part of the agreement?
  9. Sec. 10.023, lets you rebuild if you are destroyed by catastrophe or act of God but only if the City approves it.
  10. Sec. 10.06- Non-conforming Uses. Refers to Wis. Statues, Sec 62.23 (7). That is a long section, and should be narrowed down to a Sub ( ). This should specify that Wis. Statues, Sec 62.23 (7)(h)- non-conforming uses.
  11. Sec. 11.011 Public Right-of-Way. I believe this violates the law in the sense that the dividing line is the center of the roadway. And yet to this day that law is still not being enforced. Sec 12.03 also addresses public right-of-ways. If the city wants the property they should take the burden of maintaining the roads. This may become a safety issue too; similar to several streets we now have that is

boundary streets. Hwy K or 60St from Hwy 31 to I-94. The city has taken land in and the road remains a county highway and two schools are built in the area and several subdivisions and not a thing about sidewalks in that area. City property requires sidewalk, town property does not, and whom do you think is going to maintain these right-of-ways?

12. As it is presented, this draft is not treating the residents of the City Growth Area, as well as the Town Growth Area, equally. In the City Growth Area, residents are being brought into a condition of forced annexation. (And this too was a topic that stated that we would not be under a force annexation situation). This takes me back to the Sec 11.02. And the question I would like answered is: what is the meaning of the three R's: a) Resident, b) Residential, c) Residency? And why aren't Resident being treated the same.
13. Sec. 19 Environmental Evaluation. In this portion of the state, cars are still checked for emissions. That is why I believe that the casino issue needs to be addressed in this boundary agreement.
14. Sec. 20 - Revenues Extortion at its best. \$5,000,000.00 paid within 3 years from the date of final approval. (This speaks for itself)

In closing, I will go back to what I have said in the beginning that the residents of the City Growth Area are not being treated equally. And what further bothers me is that by having this joint public hearing; only consist of an analysis of the public hearing comments. And further more if questions were answered at this hearing, with everyone present, we may not be in the state of confusion that most resident are. Both the City and the Town are not communicating with the Residents. Oh yes they will tell you they are listening but further proof of not listening is the drafting a new agreement on Drafted - February 1, 2005

Sincerely:



Antonio J. Lori  
(B-1 Area Resident of Somers)  
7125 - 60 Street  
Kenosha, WI 53144

1.30.05

Written comments for Draft - Dec. 22, 04 City  
of Kenosha/Town of Somers Cooperative Plan.

To whom it may concern:

The following is a list of problems  
as I see it, regarding the Cooperative Plan.

Section 4.02 It has been represented to citizens a  
span of 1-2 years

Section 4.05 The first line "Because many city  
ordinances will apply... should be limited to  
sign/billboard ordinances only, as the rest of  
this document is suppose to reflect.

Section 10.02 City should have no say in rebuilding or  
adding on to our homes as long as we remain  
in the town. We should NOT be forced into  
city regulations through anything other than  
annexation.

Section 10.021 We should be allowed to add onto our  
existing homes any amount of space, by  
square footage or percentage. We have been  
told the only reason for us to have to annex  
into the city is if we develop our property  
or want sewer +/or water hook-ups. This violate  
what we've been told.

2 of 5

Section 10.022 We citizens should not have to get approval from a municipality in which we do not reside.

Section 10.023 We should be able to rebuild our home of whatever size we are able to financially afford. Our building size rebuild should not be limited by square footage and/or percentage. A municipality we do not reside in should not have restrictions or limitations on our full enjoyment of our property.

Section 10.033 This should be REMOVED.

Section 10.034 Rezoning should not force annexation if it doesn't involve dividing or needing sewer and/or water hook-up.

Section 10.04 This section is COMPLETELY UNACCEPTABLE.

Section 12.01(b) should say . . . no residential property shall be attached to the city without the consent of the owners).

3 of 5

Section 12.01(c) if 402 was corrected to 1-2 years these two items would then match equally in intent.

What penalty is imposed to city if utilities are not obtainable within 2 years. Suggestion: city refunds to property owner taxes paid as city resident v.s. town resident until utilities are made available.

Section 12.05 When we do annex, we should be allowed to continue with our current zoning. We should NOT be penalized because we do go into the city thru annexation.

Section 13.01 Same type usage should be allowed thru proper zoning without penalty to property owner.

Section 13.02.1 It has been represented to we citizens that the only city ordinance with authority on Somers residents in city growth area is the sign/billboard ordinance.

4 of 5

Section 20 This is extortion. Plain and simple. There is no basis in reality for this \$5,000,000 fee. It is approx. 2 to 2½ times our yearly town budget. Why should we have to pay to get kicked out of our own town ???

Section 40 This agreement was mostly dictated to Somers by Kenosha. It has not been drafted jointly. The city takes - Somers gives.

There have been a total of 5 information meetings. Somers officials have had with residents. For 3 of these meetings the documents up for discussion were not available as noticed to the public. The citizens had no document to discuss with.

From day one, Somers residents have been told we would NOT be forced to annex. This document does NOT accomplish this. Several sections have provisions that do force annexation. Sections 10.021, 10.023, 10.031, 10.034. These sections indirectly can implement forced annexations for residential property owners. This should be



5 of 5

corrected in the cooperative plan. When all is said and done, there should be no forced annexations. This was what we have been told all along.

### Attachment "D"

Section #8 - Wells should be allowed to be redrilled if problems arise with current well on residential property.

Section #10 - Somers should be given a representative on the Kenosha Board of Water Commissioners.

Sincerely,

Scott Pederson

10708-38 St

Kenosha, WI 53144

January 31, 2005

Somers Town Board  
Attn: Regarding Sewer/Water Agreement  
7511-12<sup>th</sup> Street  
Somers, WI 53144

Dear Board Members:

Per the recommendation given at the Town meeting on January 18, 2005, I am submitting my written questions regarding the Sewer and Water Agreement. In that regard, I need clarification on the following concerns that I have.

**I. Additions or improvements to real property:**

In an earlier Agreement there was a 20% increase in structures that would trigger annexation. At the last meeting I saw no percentage, or failed to see it mentioned in the up-dated Agreement.

Question: Is the 20% level still in affect?

Question: If not, what is the new percentage value?

Question: Does the percentage apply to each structure(house, garage) separately? Or is the square footage accumulative, I.e., all structure footage combined.

Question: What about multiple additions over a period of time? What if I increase my house one year and my garage in the future?

I have a 2-bedroom home of 900 sq. feet and a 2.5 car garage with a side porch that is about 900 sq. feet. When I purchased my home I did so with the idea of adding on to the house to make it a 3-bedroom with 2 baths. At the 20% level I couldn't build a decent bathroom. Personally, I don't see a valid reason for "any" addition limits that would trigger an automatic and immediate annexation. Actually, I considerate it confiscation of my property rights and the freedom to use and enjoy my property, and denies me the opportunity of increasing the value of my home.

I have two acres of land which provides me the space to expand my house without violating any current building codes or restrictions. What difference does it make how much I increase my footage? Whether its Somers today or Kenosha in the future, I will have to pay increased property taxes; which is what every governmental entity wants-- more taxes!

If the Town or City mandates an unreasonable restriction on the right to use one's property in a sound and socially acceptable matter I will definitely seek some type of legal advice to see if this treatment is legal or constitutional. To tell someone they can't add on without annexation is not only ridiculous, it's totally contrary to the American Dream. If ever there was a governmental intrusion or interference in an individual's life this article would raise the bar.

## **II. Replacement of Wells and Septic or Mound Systems:**

I need confirmation on this issue even though the DNR is the controlling agency.

- Question: Does replacing either a private well or septic system void the 30-year annexation clause?
- Question: What about shared or common wells? If a shared well fails, can only one well be drilled for the new well?
- Question: If a septic system fails and can only be replaced with a mound, does this void the 30-year clause?
- Question: Does an entirely new well or septic system trigger annexation?

Currently, and to the best of my knowledge, my well and septic system function properly and are humanly and environmentally safe. The well is on my property with a supply line running to the neighbor's house. We have a maintenance agreement sharing the operational and repair costs 50/50.

If the current well fails I plan on drilling a new well for myself and letting my neighbor fend for himself. Our well agreement does not stipulate perpetuity. If the well fails can only one replacement well be drilled? If so, why? Again, I would consider this denying me the right to use my property as I want.

## **III. Sale of "B" Residential Property Within the 30-Year Period:**

- Question: If I sell, or the next owner(s) sells, a single-family residential property, does this trigger automatic annexation? In other words, is the 30-year period limited to the "current" owner at the time the Agreement becomes effective?

## **IV. Conclusion:**

I am not a supporter of this annexation the way it is being carried out by the Somers Town Board and the City of Kenosha. I realize I cannot stop the juggernaut, the tsunami of growth, but turning the "B" area into high-density housing and light commercial and manufacturing isn't my idea of socially acceptable growth. But that's capitalism.

I purchased my home in Somers because I wouldn't be in the City of Kenosha. There was no mention of my home being in a "growth area" in the disclosure statement, and I don't know if it was required. If I had known that fact at the time of purchase, I would not have bought this property nor be writing this today. All I desire is the freedom to utilize my home and land in a reasonable and responsible manner. If I am allowed to do that then I can coexist with the inevitable Agreement. On the other hand, if my hands and freedoms as I view them are to be usurped by this Agreement, I will express my displeasure through the ballot box and with my feet at their earliest opportunities.

It's my opinion that there is no need for restrictions or limitations on one's use of real property. The building codes that are currently, or in the future, applicable to real property should not cause forced annexation. While I'm not an expert on the building codes, I should have the freedom to increase my 900 square foot home to a 1,500 square foot home on 2-acres of land.

There should be no "trigger" mechanisms that cause automatic and forced annexation prior to the 30-year clause in regards to single-family homes. Unless the use of the property is being changed I see no need for restrictions or forced annexation. If I'm allowed to replace a well or septic system, why can't I add another room or two and a bath? Why would the latter be grounds for immediate annexation?

Since no member of the Town Board lives in the "B" zone I can understand a complete lack of understanding or compassion for us "other" citizens. As long as the NIMBY theorem prevails why should anyone care? An elected official has a fiduciary duty and responsibility to promulgate good polices and good politics; that's what makes good government. In my opinion, I haven't see either one being exercised during this entire process. In particular, the exchange of specifics and clarity regarding automatic annexation and what a property owner of residential housing can and can not do.

I thought the meeting on Jan. 18<sup>th</sup> was ludicrous and profoundly sad. We start with the pledge of allegiance, "with liberty and justice for all", and the first thing we are told is that their will be no questions, no open two-way forum. In hindsight, I don't know why the board bothered to have a meeting. Their was no open exchange. How many words did anyone on the board speak that night? For all the good the meeting did, you could have mailed a notice to the citizens of Somers regarding the 20-days in which to submit written questions relating to the Agreement.

In conclusion, I look forward to your answers to my concerns and the questions I have presented. I can't help reiterating that my sole objection to this Agreement is the unreasonable interference or prevention of a property owner enjoying and utilizing his/her property in a reasonable and socially acceptable manner without being forcibly annexed before the 30-year period expires.

Sincerely yours,



# SOUTHEASTERN WISCONSIN REGIONAL PLANNING COMMISSION

W239 N1812 ROCKWOOD DRIVE • PO BOX 1607 • WAUKESHA, WI 53187-1607

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February 15, 2005

William A. Morris  
Town Administrator  
Town of Somers  
P. O. Box 197  
Somers, WI 53171

Dear Mr. Morris:

Pursuant to your letter request of January 24, 2005, the Southeastern Wisconsin Regional Planning Commission has reviewed the cooperative boundary plan prepared by the Town of Somers and the City of Kenosha dated November 1, 2004. The Commission has made the following findings relative to the plan as required by the provisions of Section 66.0307 of the Wisconsin Statutes:

1. Upon its approval and implementation by all parties concerned, the plan and the boundary agreements set forth therein should serve to facilitate implementation of the master plan for the Southeastern Wisconsin Region adopted by the Commission under Section 66.0309(10) of the Wisconsin Statutes.
2. Implementation of the boundary plan should serve to enhance the delivery of essential municipal services to the boundary adjustment area identified in the plan and provide for a more logical boundary between the communities involved.

We trust that the foregoing findings are responsive to your request and will be helpful to the Town of Somers and the City of Kenosha. It is the Commission's hope that the boundary plan will be approved by all parties concerned.

Sincerely,

Philip C. Evenson  
Executive Director

PCE/DAS/ds  
#103628 v1 - KENOSHA/SOMERS AGREEMENT

cc: Nicholas Arnold, Kenosha City Administrator  
Larry Brumback, Kenosha County Planning

Date: January 21, 2005

To: Town Administrator Bill Morris

From: Supervisor Ben Harbach

Subject: City of Kenosha/Town of Somers Cooperative Plan

Attorneys Clark and Davison suggested that comments concerning the Cooperative Plan should be reduced to writing and submitted to you. These comments would then be addressed as a part of further discussion to ensure there is mutual understanding of the Cooperative Plan with the city and the Town Board. Following are my comments that I would like to see be given review consideration.

4.05 Many city ordinances: Delete "many" as it has little or no value.

Section 8. 6<sup>th</sup> line down, Town Board petitions the city for attachment. Should we add, ..Or the city petitions the town for properties to remain unattachment. An example would be in the Mark Molinaro situation or north of the airport along Cth N west from Cth S. Just a thought.

10.021 Twenty (20 %) should be increased to 50% or greater which would be more favorable.

10.23 How would commercial buildings be processed?

10.03 Needs clarification or maybe it's the sentence structure that seems confusing.

10.04 If applying to signage only, this should be identified. Is 13.02.2 then a duplication?

10.05 Why should parcels in Town growth area have a city parcel numbers? Seems to be confusing.

10.06 What is Airport Approach Protection Law?

11.11 Who owns and maintains boundary streets?

12.01(a) Upon written petition,..... constituting the intermediate attachment. Why doesn't a 66.0307 have jurisdiction in this situation as it does in the creation of islands etc.? How does that relate to 12.01(b)?

12.02 The final.....as provided in Section 11.2. Can not locate 11.2 so this maybe a typo?

12.03 Needs clarification, as it seems confusing.

12.05 Is there a conflict with 10.06? Needs clarification, as it seems confusing.

12.06 Could be a typo as there are no 12.1 or 12.2.

Section 15 page 13. The UW-Parkside .....Town. The Town agrees, and certification will be ..... How is certification accomplished? Or does this Plan serve as certification?

4<sup>th</sup> Paragraph; the Town would then be ..... under the terms of this Cooperative Plan. Paragraph should be eliminated.

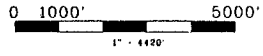
Section 16; 2nd Paragraph Town.....to city. Needs clarification, as it seems confusing.

Section 17 1<sup>st</sup> Paragraph; how could this occur without annexation?

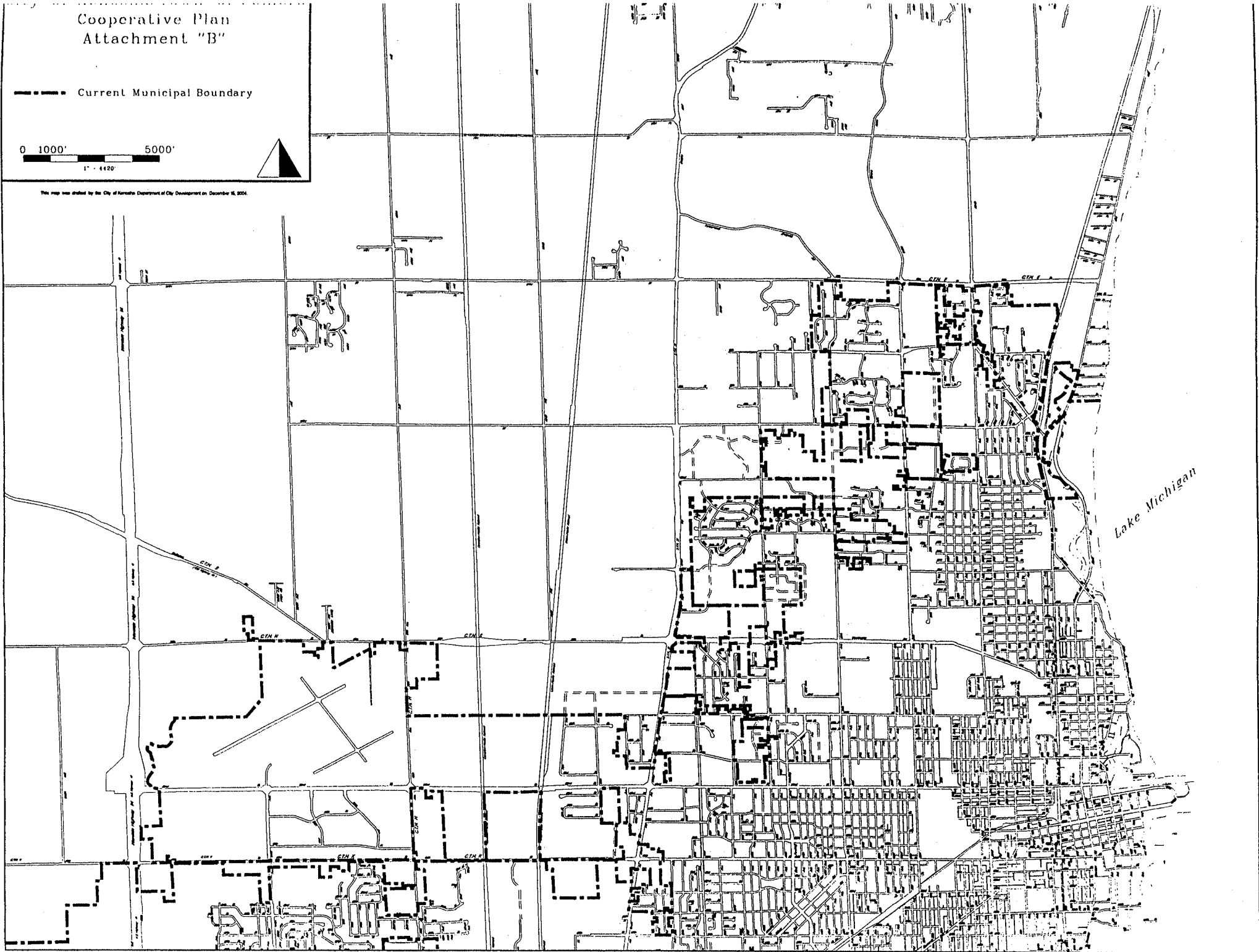
Any questions, let me know and Thanks much.

Cooperative Plan  
Attachment "B"

--- Current Municipal Boundary



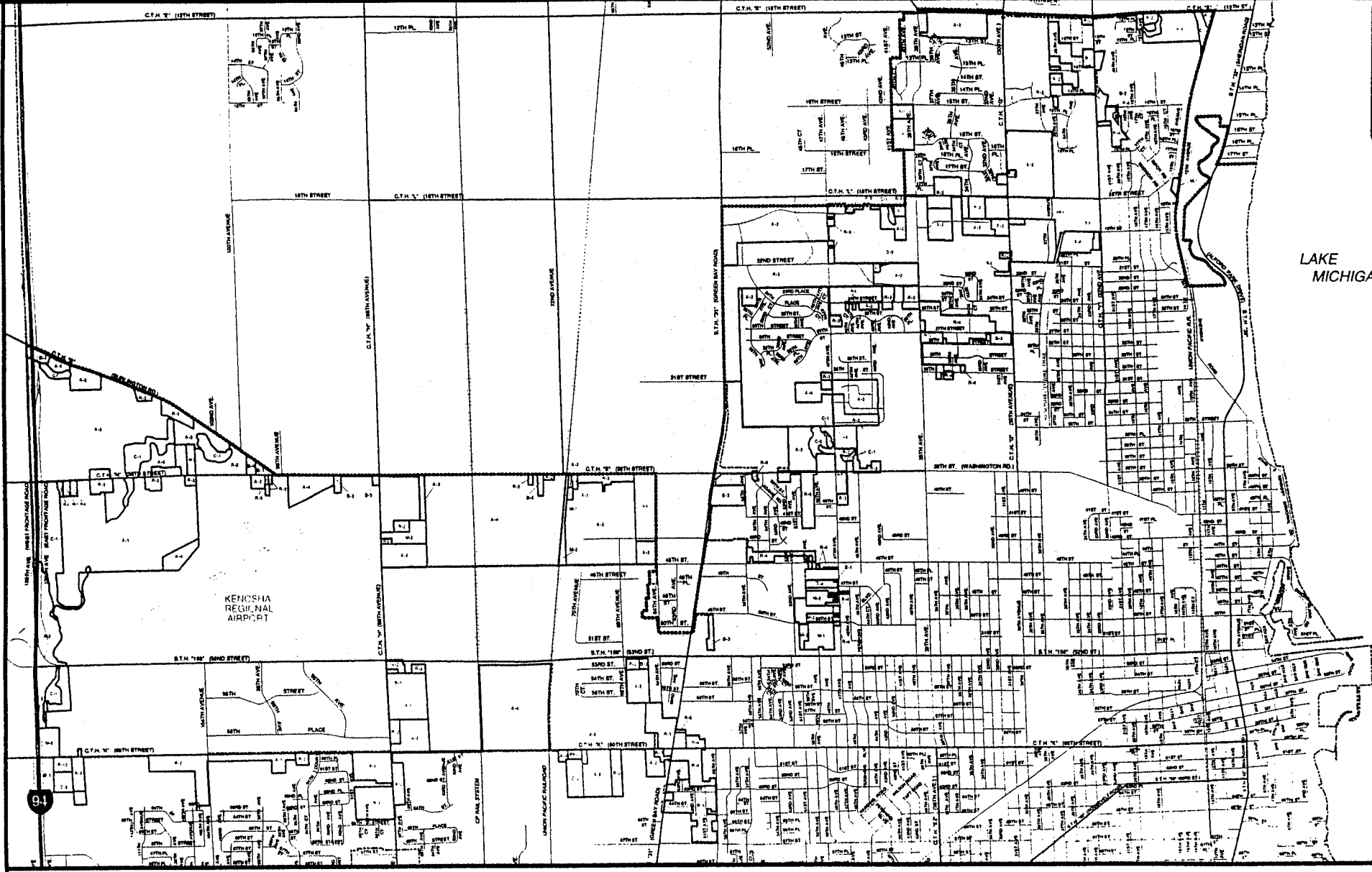
This map was drafted by the City of Kenosha Department of City Development on December 16, 2004.



Lake Michigan

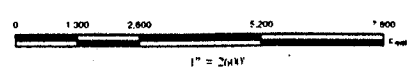


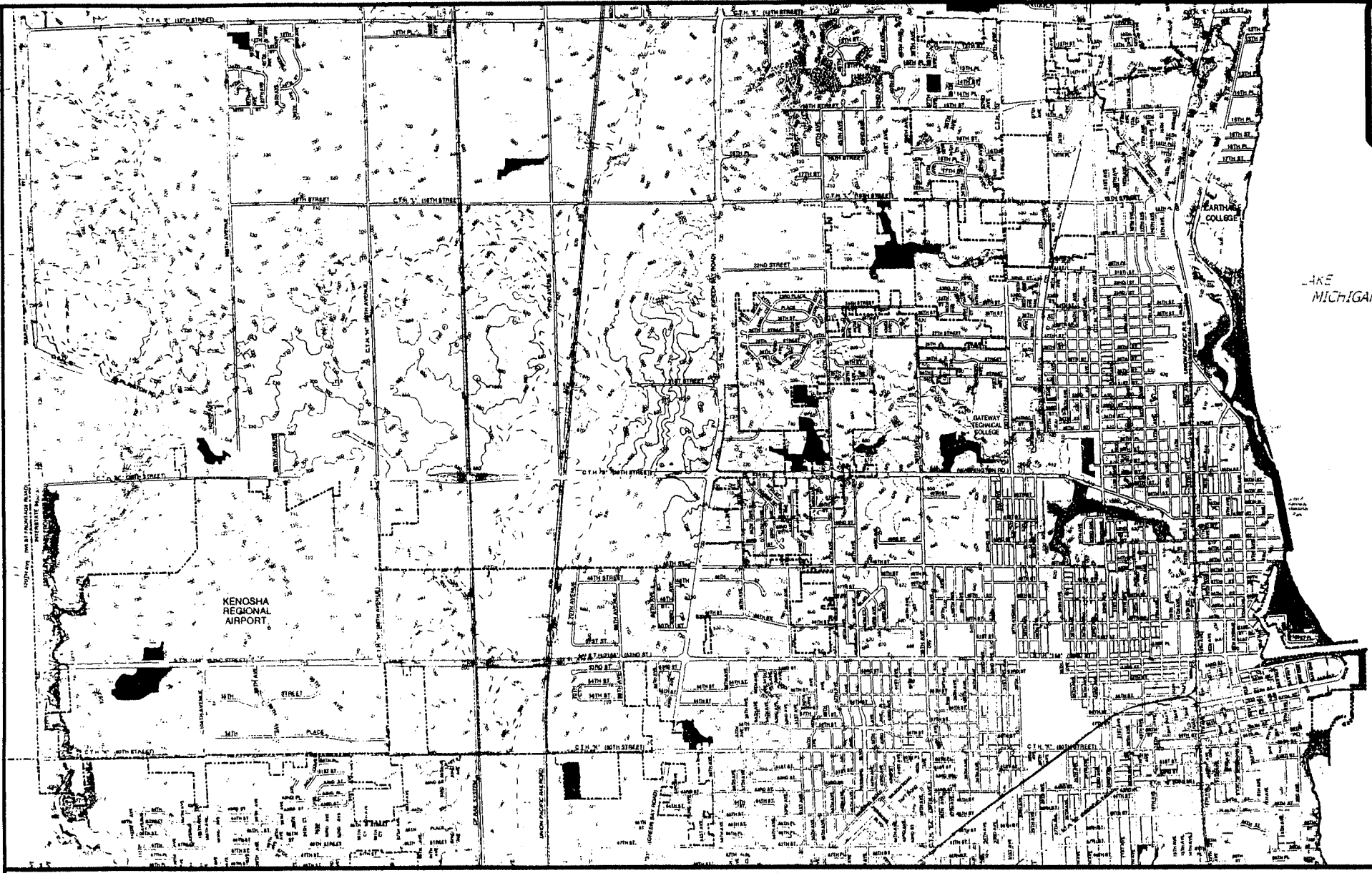




**Current Somers Zoning - Area "B"**  
**Kenosha\Somers Boundary Agreement**

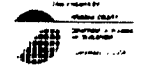
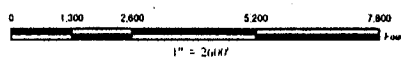
- - - - - Current City of Kenosha  
 - - - - - Current Civil Division  
 - - - - - Areas to remain in Somers  
 ..... Area B Boundary  
 [ ] Area B Zoning





TOWN of SOMERS

- Contour Lines
- Somers Area B Boundary
- Isolated Natural Resource Area
- Primary Environmental Corridor
- Secondary Environmental Corridor
- 100 Year Floodplain Boundary
- Wetlands
- C-1 - Lowland Resource Conservancy District
- C-2 - Upland Resource Conservancy District
- Shoreland District Area





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(c) Any plan under par. (b) shall comply with the provisions listed in sub. (4).

(5) HOSPITAL, ACCIDENT AND LIFE INSURANCE. The state or a local governmental unit may provide for the payment of premiums for hospital, surgical and other health and accident insurance and life insurance for employees and officers and their spouses and dependent children. A local governmental unit may also provide for the payment of premiums for hospital and surgical care for its retired employees. In addition, a local governmental unit may, by ordinance or resolution, elect to offer to all of its employees a health care coverage plan through a program offered by the group insurance board under ch. 40. A local governmental unit that elects to participate under s. 40.51 (7) is subject to the applicable sections of ch. 40 instead of this subsection.

History: 1999 a. 9, 115; 1999 a. 150 ss. 34, 303 to 306; Stats. 1999 s. 66.0137; 1999 a. 186 s. 63; 2001 a. 16, 30.

Section 66.185 [now sub. (5)] does not prohibit providing health insurance benefits to persons not listed in the statute if authority is granted by other statutes. Sections 120.12, 120.13, and 120.44, broadly construed as required by s. 118.001, grant broad powers, including that of providing insurance to persons not listed in this section. *Pritchard v. Madison Metropolitan School District*, 2001 WI App 62, 242 Wis. 2d 301, 625 N.W.2d 613.

This section authorizes the purchase of liability insurance for state officers, agents, and employees for errors or omissions in carrying out the responsibility of their governmental positions. 58 Atty. Gen. 150.

**66.0139 Disposal of abandoned property.** (1) In this section, "political subdivision" means a city, village, town or county.

(2) A political subdivision may dispose of any personal property which has been abandoned, or remained unclaimed for a period of 30 days, after the taking of possession of the property by an officer of the political subdivision by any means determined to be in the best interest of the political subdivision. If the property is not disposed of in a sale open to the public, the political subdivision shall maintain an inventory of the property, a record of the date and method of disposal, including the consideration received for the property, if any, and the name and address of the person taking possession of the property. The inventory shall be kept as a public record for a period of not less than 2 years from the date of disposal of the property. Any means of disposal other than public auction shall be specified by ordinance. If the disposal is in the form of a sale, all receipts from the sale, after deducting the necessary expenses of keeping the property and conducting the sale, shall be paid into the treasury of the political subdivision.

(3) A political subdivision may safely dispose of abandoned or unclaimed flammable, explosive, or incendiary substances, materials, or devices that pose a danger to life or property in their storage, transportation, or use immediately after taking possession of the substances, materials, or devices without a public auction. The political subdivision, by ordinance or resolution, may establish disposal procedures. Procedures may include provisions authorizing an attempt to return to the rightful owner substances, materials, or devices that have a commercial value in normal business usage and do not pose an immediate threat to life or property. If enacted, a disposal procedure shall include a presumption that if the substance, material, or device appears to be or is reported stolen, an attempt will be made to return the substance, material, or device to the rightful owner.

(4) Except as provided in s. 968.20 (3), a 1st class city shall dispose of abandoned or unclaimed dangerous weapons or ammunition without a public auction 12 months after taking possession of them if the owner has not requested their return. Disposal procedures shall be established by ordinance or resolution and may include provisions authorizing an attempt to return to the rightful owner any dangerous weapons or ammunition which appear to be stolen or are reported stolen. If enacted, a disposal procedure shall include a presumption that if the dangerous weapons or ammunition appear to be or are reported stolen an attempt will be made to return the dangerous weapons or ammunition to the rightful owner. The dangerous weapons or ammunition are subject to sub. (5).

(5) A political subdivision may retain or dispose of any abandoned, unclaimed or seized dangerous weapon or ammunition only under s. 968.20.

History: 1979 c. 221, 222, 355; 1985 a. 29; 1987 a. 203; 1991 a. 269; 1993 a. 90; 1995 a. 157; 1999 a. 150 ss. 35, 324, 325; Stats. 1999 s. 66.0139; 2001 a. 103.

**66.0141 Accident record systems.** Every city, village and town having a population of 5,000 or more shall maintain a traffic accident record system whereby traffic accidents occurring within the city, village or town may be located within 100 feet of the occurrence and shall provide a copy of the record quarterly to the county traffic safety commission under s. 83.013 (1) (a).

History: 1975 c. 381; 1983 a. 291; 1993 a. 246; 1999 a. 150 s. 118; Stats. 1999 s. 66.0141.

**66.0143 Local appeals for exemption from state mandates.** (1) DEFINITIONS. In this section:

(a) "Political subdivision" means a city, village, town, or county.

(b) "State mandate" means a state law that requires a political subdivision to engage in an activity or provide a service, or to increase the level of its activities or services.

(2) APPEALS FOR EXEMPTIONS. (a) A political subdivision may file a request with the department of revenue for a waiver from a state mandate, except for a state mandate that is related to any of the following:

1. Health.
2. Safety.

(b) An administrative agency, or the department of revenue, may grant a political subdivision a waiver from a state mandate as provided in par. (c).

(c) The political subdivision shall specify in its request for a waiver its reason for requesting the waiver. Upon receipt of a request for a waiver, the department of revenue shall forward the request to the administrative agency that is responsible for administering the state mandate. The agency shall determine whether to grant the waiver and shall notify the political subdivision and the department of revenue of its decision in writing. If no agency is responsible for administering the state mandate, the department of revenue shall determine whether to grant the waiver and shall notify the political subdivision of its decision in writing.

(3) DURATION OF WAIVERS. A waiver is effective for 4 years. The administrative agency may renew the waiver for additional 4-year periods. If a waiver is granted by the department of revenue, the department may renew the waiver under this subsection.

(4) EVALUATION. By July 1, 2004, the department of revenue shall submit a report to the governor, and to the appropriate standing committees of the legislature under s. 13.172 (3). The report shall specify the number of waivers requested under this section, a description of each waiver request, the reason given for each waiver request, and the financial effects on the political subdivision of each waiver that was granted.

History: 2001 a. 109; 2003 a. 321.

SUBCHAPTER II

INCORPORATION; MUNICIPAL BOUNDARIES

**66.0201 Incorporation of villages and cities; purpose and definitions.** (1) PURPOSE. It is the policy of this state that the development of territory from town to incorporated status proceed in an orderly and uniform manner and that toward this end each proposed incorporation of territory as a village or city be reviewed as provided in ss. 66.0201 to 66.0213 to assure compliance with certain minimum standards which take into account the needs of both urban and rural areas.

(2) DEFINITIONS. In ss. 66.0201 to 66.0213, unless the context requires otherwise:

(am) "Board" means the incorporation review board.

(ar) "Department" means the department of administration.

(bm) "Isolated municipality" means any existing or proposed village or city entirely outside any metropolitan community at the time of its incorporation.

(c) "Metropolitan community" means the territory consisting of any city having a population of 25,000 or more, or any 2 incorporated municipalities whose boundaries are within 5 miles of each other whose populations aggregate 25,000, plus all the contiguous area which has a population density of 100 persons or more per square mile, or which the department has determined on the basis of population trends and other pertinent facts will have a minimum density of 100 persons per square mile within 3 years.

(d) "Metropolitan municipality" means any existing or proposed village or city entirely or partly within a metropolitan community.

(dm) "Population" means the population of a local unit as shown by the last federal census or by any subsequent population estimate certified as acceptable by the department.

**History:** 1977 c. 29; 1979 c. 361 s. 112; 1991 a. 39; 1995 a. 27 ss. 3306 and 9116 (5); 1997 a. 27; 1999 a. 150 s. 33; Stats. 1999 s. 66.0201; 1999 a. 186; 2003 a. 171.

**66.0203 Procedure for incorporation of villages and cities.** (1) **NOTICE OF INTENTION.** At least 10 days and not more than 20 days before the circulation of an incorporation petition, a notice setting forth that the petition is to be circulated and including an accurate description of the territory involved shall be published within the county in which the territory is located as a class 1 notice, under ch. 985.

(2) (a) The petition for incorporation of a village or city shall be in writing signed by 50 or more persons who are both electors and freeholders in the territory to be incorporated if the population of the proposed village or city includes 300 or more persons; otherwise by 25 or more persons who are both electors and freeholders in the territory to be incorporated.

(b) The petition shall be addressed to and filed with the circuit court of a county in which all or a major part of the territory to be incorporated is located. The incorporation petition is void unless filed within 6 months of the date of publication of the notice of intention to circulate.

(c) The petition shall designate a representative of the petitioners, and an alternate, who shall be an elector or freeholder in the territory, and state that person's address; describe the territory to be incorporated with sufficient accuracy to determine its location and have attached to the petition a scale map reasonably showing the boundaries of the territory; specify the current resident population of the territory by number in accordance with the definition given in s. 66.0201 (2) (dm); set forth facts substantially establishing the required standards for incorporation; and request the circuit court to order a referendum and to certify the incorporation of the village or city when it is found that all requirements have been met.

(e) No person who has signed a petition may withdraw his or her name from the petition. No additional signatures may be added after a petition is filed.

(f) The circulation of the petition shall commence not less than 10 days nor more than 20 days after the date of publication of the notice of intention to circulate.

(3) **HEARING; COSTS.** (a) Upon the filing of the petition the circuit court shall by order fix a time and place for a hearing giving preference to the hearing over other matters on the court calendar.

(b) The court may by order allow costs and disbursements as provided for actions in circuit court in any proceeding under this subsection.

(c) The court may, upon notice to all parties who have appeared in the hearing and after a hearing on the issue of bond, order the petitioners or any of the opponents to post bond in an amount that it considers sufficient to cover disbursements.

(4) **NOTICE.** (a) Notice of the filing of the petition and of the date of the hearing on the petition before the circuit court shall be

published in the territory to be incorporated, as a class 2 notice, under ch. 985, and given by certified or registered mail to the clerk of each town in which the territory is located and to the clerk of each metropolitan municipality of the metropolitan community in which the territory is located. The mailing shall be not less than 10 days before the time set for the hearing.

(b) The notice shall contain:

1. A description of the territory sufficiently accurate to determine its location and a statement that a scale map reasonably showing the boundaries of the territory is on file with the circuit court.

2. The name of each town in which the territory is located.

3. The name and post-office address of the representative of the petitioners.

(5) **PARTIES.** Any governmental unit entitled to notice pursuant to sub. (4), any school district which lies at least partly in the territory or any other person found by the court to be a party in interest may become a party to the proceeding prior to the time set for the hearing.

(6) **ANNEXATION RESOLUTION.** Any municipality whose boundaries are contiguous to the territory may also file with the circuit court a certified copy of a resolution adopted by a two-thirds vote of the elected members of the governing body indicating a willingness to annex the territory designated in the incorporation petition. The resolution shall be filed at or prior to the hearing on the incorporation petition, or any adjournment granted for this purpose by the court.

(7) **ACTION.** (a) No action to contest the validity of an incorporation on any grounds, whether procedural or jurisdictional, may be commenced after 60 days from the date of issuance of the charter of incorporation by the secretary of state.

(b) An action contesting an incorporation shall be given preference in the circuit court.

(8) **FUNCTION OF THE CIRCUIT COURT.** (a) After the filing of the petition and proof of notice, the circuit court shall conduct a hearing at the time and place specified in the notice, or at a time and place to which the hearing is duly adjourned.

(b) On the basis of the hearing the circuit court shall find if the standards under s. 66.0205 are met. If the court finds that the standards are not met, the court shall dismiss the petition. Subject to par. (c), if the court finds that the standards are met the court shall refer the petition to the board. Upon payment of any fee imposed under s. 16.53 (14), the board shall determine whether the standards under s. 66.0207 are met.

(c) 1. The court shall determine whether an annexation proceeding that affects any territory included in the incorporation petition has been initiated under s. 66.0217, 66.0219, or 66.0223. A court shall consider an annexation proceeding under s. 66.0223 to have been initiated upon the posting of a meeting notice by a city or village that states that the city or village is considering enacting an ordinance under s. 66.0223.

2. If the court determines that an annexation proceeding described under subd. 1. was initiated before the publication of the notice under sub. (1), the court shall refer the petition to the board when the annexation proceeding is final. If the annexation is determined to be valid, the court shall exclude the annexed territory from the territory proposed to be incorporated when it refers the petition to the board.

3. If the court determines that an annexation proceeding described under subd. 1. was initiated after, and within 30 days after, the publication of the notice under sub. (1), the annexation may not proceed until the validity of the incorporation has been determined. If the incorporation is determined to be valid and complete, the annexation is void. If the incorporation is determined to be invalid, the annexation may proceed.

4. If the court determines that an annexation proceeding described under subd. 1. was initiated on the same date as the publication of the notice under sub. (1), the court shall determine which procedure was begun first on that date and that action may

## 66.0203 MUNICIPAL LAW

proceed and the other action may not proceed unless the first action fails.

5. If the court determines that an annexation proceeding described under subd. 1. was initiated more than 30 days after the publication of the notice under sub. (1), the annexation is void.

(9) **FUNCTION OF THE BOARD.** (a) Upon receipt of the petition from the circuit court and payment of any fee imposed under s. 16.53 (14), the board shall make any necessary investigation to apply the standards under s. 66.0207.

(b) Within 30 days after the receipt by the board of the petition from the circuit court and payment of any fee imposed under s. 16.53 (14), whichever is later, any party in interest may request a hearing. Upon receipt of the request, the board shall schedule a hearing at a place in or convenient to the territory sought to be incorporated.

(c) Notice of the hearing shall be given in the territory to be incorporated by publishing a class 2 notice, under ch. 985, and by mailing the notice to the designated representative of the petitioners or any 5 petitioners and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

(d) Subject to par. (dm), unless the court sets a different time limit, the board shall prepare its findings and determination, citing the supporting evidence, within 180 days after receipt of the referral from the court and payment of any fee imposed under s. 16.53 (14), whichever is later. The findings and determination shall be forwarded by the board to the circuit court. Copies of the findings and determination shall be sent by certified or registered mail to the designated representative of the petitioners, and to all town and municipal clerks entitled to receive mailed notice of the petition under sub. (4).

(dm) The time period specified or set by the court under par. (d) shall be stayed for a reasonable period of time to allow for alternative dispute resolution of any disagreements between interested parties that result from the filing of an incorporation petition if all interested parties agree to this stay and provide written notice of their agreement to the board and to the circuit court.

(e) The determination of the board made in accordance with the standards under ss. 66.0205, 66.0207 and 66.0217 (6) (c) shall be one of the following:

1. The petition as submitted is dismissed.
2. The petition as submitted is granted.
3. The petition as submitted is dismissed with a recommendation that a new petition be submitted to include more or less territory as specified in the department's findings and determination.

(f) If the board determines that the petition shall be dismissed under par. (e) 1., the circuit court shall issue an order dismissing the petition. If the board grants the petition, the circuit court shall order an incorporation referendum as provided in s. 66.0211.

(g) The findings of both the court and the board shall be based upon facts as they existed at the time of the filing of the petition.

(h) Except for an incorporation petition which describes the territory recommended by the board under sub. (9) (e) 3., no petition for the incorporation of the same or substantially the same territory may be entertained for one year following the date of dismissal under par. (f) of the petition or the date of any election at which incorporation was rejected by the electors.

(i) If the board fails to make a determination within the time limit under par. (d), the board shall refund the fees imposed by the board under s. 16.53 (14) and shall then make a determination as quickly as possible.

(10) **EXISTING ORDINANCES.** A county shoreland zoning ordinance enacted under s. 59.692 that is in force in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

**History:** 1973 c. 37; 1977 c. 29; 1977 c. 187 s. 134; 1983 a. 219; 1991 a. 316; 1993 a. 329; 1995 a. 201; 1999 a. 150 s. 36; Stats. 1999 s. 66.0203; 1999 a. 186; 2001 a. 16; 2003 a. 171.

Sub. (5) does not empower a court to compel joinder. In re Incorporation of Town of Fitchburg, 98 Wis. 2d 635, 299 N.W.2d 199 (1980).

An incorporation petition's precedence over a competing annexation proceeding is discussed. *Town of Delavan v. City of Delavan*, 176 Wis. 2d 516, 500 N.W.2d 268 (1993).

Sub. (2) (e) prevents the signer of a petition from withdrawing his or her name. It does not prevent the circulator of the petition from striking invalid signatures. Sub. (2) (b) permits withdrawal of a signature before the petition is filed. *Walag v. Town of Randall*, 213 Wis. 2d 424, 570 N.W.2d 623 (Ct. App. 1997).

The effect of the requirement in sub. (2) (c) of a description with "sufficient accuracy" and a scale map "reasonably showing" the boundaries of the affected parcel is that the description and map, when viewed together, fairly apprise the public of the territory to be incorporated. *Wirth v. City of Port Washington*, 2001 WI App 277, 248 Wis. 2d 893, 637 N.W.2d 442.

The date a petition is "entertained" under sub. (9) (h) is the date the petition is filed with the circuit court. *Town of Sheboygan v. City of Sheboygan*, 2001 WI App 279, 248 Wis. 2d 904, 637 N.W.2d 770.

There are significant conflicts between a contingent narrative description that provides for more than one location and the sub. (2) (c) requirement that the petition describe the territory to be incorporated with sufficient accuracy to determine its location. *Town of Campbell v. City of La Crosse*, 2003 WI App 139, 266 Wis. 2d 107, 667 N.W.2d 356, 02-1150.

Under the rule of prior precedence, in case of conflict between competing annexations, or between an annexation and a proceeding for the incorporation of a city or village, the proceeding first instituted has precedence, and the later one must yield. Annexation proceedings did not lose priority status when the ordinances were deemed invalid and dismissed by the circuit court but subsequently vindicated on appeal. *Town of Campbell v. City of La Crosse*, 2003 WI App 139, 266 Wis. 2d 107, 667 N.W.2d 356, 02-1150.

**66.0205 Standards to be applied by the circuit court.** Before referring the incorporation petition as provided in s. 66.0203 (2) to the board, the court shall determine whether the petition meets the formal and signature requirements and shall further find that the following minimum requirements are met:

(1) **ISOLATED VILLAGE.** Area, one-half square mile; resident population, 150.

(2) **ISOLATED CITY.** Area, one square mile; resident population, 1,000; density, at least 500 persons in any one square mile.

(3) **METROPOLITAN VILLAGE.** Area, 2 square miles; resident population, 2,500; density, at least 500 persons in any one square mile.

(4) **METROPOLITAN CITY.** Area, 3 square miles; resident population, 5,000; density, at least 750 persons in any one square mile.

(5) **STANDARDS WHEN NEAR 1ST, 2ND OR 3RD CLASS CITY.** If the proposed boundary of a metropolitan village or city is within 10 miles of the boundary of a 1st class city or 5 miles of a 2nd or 3rd class city, the minimum area requirements are 4 and 6 square miles for villages and cities, respectively.

**History:** 1977 c. 29; 1999 a. 150 s. 37; Stats. 1999 s. 66.0205; 2003 a. 171.

The 4 square mile requirement of sub. (5) was met when 4.2 square miles of village land were proposed for annexation, although 2.5 square miles of that land was within floodway lines. In re Petition of Township of Campbell, 78 Wis. 2d 246, 254 N.W.2d 241 (1977).

**66.0207 Standards to be applied by the board.** (1) The board may approve for referendum only those proposed incorporations which meet the following requirements:

(a) **Characteristics of territory.** The entire territory of the proposed village or city shall be reasonably homogeneous and compact, taking into consideration natural boundaries, natural drainage basin, soil conditions, present and potential transportation facilities, previous political boundaries, boundaries of school districts, shopping and social customs. An isolated municipality shall have a reasonably developed community center, including some or all features such as retail stores, churches, post office, telecommunications exchange and similar centers of community activity.

(b) **Territory beyond the core.** The territory beyond the most densely populated one-half square mile specified in s. 66.0205 (1) or the most densely populated square mile specified in s. 66.0205 (2) shall have an average of more than 30 housing units per quarter section or an assessed value, as defined in s. 66.0217 (1) (a) for real estate tax purposes, more than 25% of which is attributable to existing or potential mercantile, manufacturing or public utility uses. The territory beyond the most densely populated square mile as specified in s. 66.0205 (3) or (4) shall have the potential for residential or other urban land use development on a substantial scale within the next 3 years. The board may waive these

requirements to the extent that water, terrain or geography prevents the development.

(2) In addition to complying with each of the applicable standards set forth in sub. (1) and s. 66.0205 in order to be approved for referendum, a proposed incorporation must be in the public interest as determined by the board upon consideration of the following:

(a) *Tax revenue.* The present and potential sources of tax revenue appear sufficient to defray the anticipated cost of governmental services at a local tax rate which compares favorably with the tax rate in a similar area for the same level of services.

(b) *Level of services.* The level of governmental services desired or needed by the residents of the territory compared to the level of services offered by the proposed village or city and the level available from a contiguous municipality which files a certified copy of a resolution as provided in s. 66.0203 (6).

(c) *Impact on the remainder of the town.* The impact, financial and otherwise, upon the remainder of the town from which the territory is to be incorporated.

(d) *Impact on the metropolitan community.* The effect upon the future rendering of governmental services both inside the territory proposed for incorporation and elsewhere within the metropolitan community. There shall be an express finding that the proposed incorporation will not substantially hinder the solution of governmental problems affecting the metropolitan community.

*History:* 1977 c. 29; 1983 a. 189 s. 329 (14); 1985 a. 297 s. 76; 1999 a. 150 s. 38; Stats. 1999 s. 66.0207; 2003 a. 171.

The delegation of legislative power under sub. (2) (d) is constitutional. *Westring v. James*, 71 Wis. 2d 462, 238 N.W.2d 695 (1976).

Incorporation of a town in a metropolitan area is discussed. *Pleasant Prairie v. Department of Local Affairs and Development*, 113 Wis. 2d 327, 334 N.W.2d 893 (1983).

That the department approved annexations that helped create fragmented town borders did not render arbitrary and capricious the department's determination that the town's proposed incorporation did not meet the requirement of homogeneity and compactness. *Incorporation of the Town of Pewaukee*, 186 Wis. 2d 515, 521 N.W.2d 453 (Ct. App. 1994).

Whether incorporation would benefit the proposed village area is not the standard for allowing incorporation. An area must meet all the requirements of subs. (1) and (2). *Walag v. DOA*, 2001 WI App 217, 247 Wis. 2d 850, 634 N.W.2d 906.

**66.0209 Review of incorporation-related orders and decisions.** (1) The order of the circuit court made under s. 66.0203 (8) or (9) (f) may be appealed to the court of appeals.

(2) The decision of the board made under s. 66.0203 (9) is subject to judicial review under ch. 227.

(3) Where a proceeding for judicial review is commenced under sub. (2), appeal under sub. (1) may not be taken and the time in which the appeal may be taken does not commence to run until judgment is entered in the proceeding for judicial review.

(4) An incorporation referendum ordered by the circuit court under s. 66.0203 (9) (f) may not be stayed pending the outcome of further litigation, unless the court of appeals or the supreme court, upon an appeal or upon the filing of an original action in the supreme court, concludes that a strong probability exists that the order of the circuit court or the decision of the board will be set aside.

*History:* 1977 c. 29, 187; Sup. Ct. Order, 146 Wis. 2d xiii (1988); 1999 a. 150 s. 39; Stats. 1999 s. 66.0209; 2001 a. 103; 2003 a. 171.

When a petition to incorporate is dismissed due to DOA disapproval, sub. (2) prevents appellate court review prior to judicial review under ch. 227. *Petition to Incorporate Powers Lake Village*, 171 Wis. 2d 659, 492 N.W.2d 342 (Ct. App. 1992).

#### **66.0211 Incorporation referendum procedure.**

(1) **ORDER.** The circuit court's order for an incorporation referendum shall specify the voting place and the date of the referendum, which shall be not less than 6 weeks from the date of the order, and name 3 inspectors of election. If the order is for a city incorporation referendum the order shall further specify that 7 alderpersons shall be elected at large from the proposed city. The city council at its first meeting shall determine the number and boundaries of wards in compliance with s. 5.15 (1) and (2), and the combination of wards into aldermanic districts. The number of alderpersons per aldermanic district shall be determined by charter ordinance.

(2) **NOTICE OF REFERENDUM.** Notice of the referendum shall be given by publication of the order of the circuit court in a newspaper having general circulation in the territory. Publication shall be once a week for 4 successive weeks. The first publication may not be more than 4 weeks before the referendum.

(3) **RETURN.** An incorporation referendum shall be conducted in the same manner as an annexation referendum under s. 66.0217 (7) to the extent applicable except that the ballot shall contain the words "For a city [village]" and "Against a city [village]". The inspectors shall make a return to the circuit court.

(4) **COSTS.** If the referendum is against incorporation, the costs of the election shall be borne by the towns involved in the proportion that the number of electors of each town within the territory proposed to be incorporated, voting in the referendum, bears to the total number of electors in the territory voting in the referendum. If the referendum is for a village or city, the costs shall be charged against the municipality in the apportionment of town assets.

(5) **CERTIFICATION OF INCORPORATION.** If a majority of the votes in an incorporation referendum are cast in favor of a village or city, the clerk of the circuit court shall certify the fact to the secretary of state and supply the secretary of state with a copy of a description of the legal boundaries of the village or city and the associated population and a copy of a plat of the village or city. Within 10 days of receipt of the description and plat, the secretary of state shall forward 2 copies to the department of transportation and one copy each to the department of administration, the department of revenue and the department of commerce. The secretary of state shall issue a certificate of incorporation and record the certificate.

*History:* 1971 c. 304; 1973 c. 37, 90; 1977 c. 29 s. 1654 (8) (c); 1977 c. 273; 1979 c. 361 s. 112; 1981 c. 4 s. 19; 1981 c. 377; 1993 a. 184; 1995 a. 27, s. 9116 (5); 1999 a. 150 s. 40; Stats. 1999 s. 66.0211.

A referendum is effective immediately if the majority of votes are for incorporation. 70 Atty. Gen. 128.

**66.0213 Powers of new village or city: elections; adjustment of taxes; reorganization as village.** (1) **VILLAGE OR CITY POWERS.** A village or city incorporated under ss. 66.0201 to 66.0213 is a body corporate and politic, with powers and privileges of a municipal corporation at common law and conferred by these statutes.

(2) **EXISTING ORDINANCES.** (a) Ordinances in force in the territory incorporated or any part of the territory, to the extent not inconsistent with chs. 61 and 62, continue in force until altered or repealed.

(b) A county shoreland zoning ordinance enacted under s. 59.692 that is in force in any part of the territory continues in force until altered under s. 59.692 (7) (ad).

(3) **INTERIM OFFICERS.** All officers of the village or town embracing the territory that is incorporated as a village or city continue in their powers and duties until the first meeting of the board of trustees or common council at which a quorum is present. Until a village or city clerk is chosen and qualified all oaths of office and other papers shall be filed with the circuit court with which the petition was filed. The court shall deliver the oaths and other papers with the petition to the village or city clerk when that clerk qualifies.

(4) **FIRST VILLAGE OR CITY ELECTION.** (a) Within 10 days after incorporation of the village or city, the clerk of the circuit court with whom the petition was filed shall fix a time for the first election, and where appropriate designate the polling place or places, and name 3 inspectors of election for each place. The time for the election shall be fixed no less than 40 nor more than 50 days after the date of the certificate of incorporation issued by the secretary of state, irrespective of any other provision in the statutes. Nomination papers shall conform to ch. 8 to the extent applicable. Nomination papers shall be signed by not less than 5% nor more than 10% of the total votes cast at the referendum election, and be filed no later than 15 days before the time fixed for the election. Ten days' previous notice of the election shall be given by the





# 2005-2009 Consolidated Plan

for the  
Community Development Block Grant  
and  
HOME Programs



City of Kenosha, Wisconsin

ATTACHMENT

" G "

### **Basis for Assigning Priorities**

The local priorities established take into consideration the overall need for services that the local homeless providers are witnessing today. It also reflects ESN's commitment to providing shelter as a first priority to all homeless and at-risk households.

### **Obstacles to Meeting Underserved Need**

The primary obstacle in meeting underserved needs is the lack of sufficient private and public funding and the growing homeless population.

### **Resource Allocation**

#### **a. Acquisition**

CDBG                      The City of Kenosha is an Entitlement City for the CDBG Program. Funds are used by non-profit agencies and the Department of City Development.

#### **b. Rehabilitation**

CDBG                      The City of Kenosha is an Entitlement City for the CDBG Program. Funds are used for rehabilitation loans/grants of low and moderate income owner occupied housing units citywide.

HOME                      The City of Kenosha is a Participating Jurisdiction for the HOME Program. Funds can be used for rehabilitation loans of low and moderate income owner occupied housing units citywide.

CAA                      The Racine/Kenosha Community Action Agency operates a weatherization program funded by the US Departments of Energy, Housing & Urban Development, and Health and Human Services, and Exxon

WHEDA                      Low interest rehabilitation loans for low and moderate income owner and occupied housing.

NHS                      Rehabilitates houses for existing homeowners and new homebuyers within the NHS target area.

#### **c. New Construction**

HOME                      Construction of new single-family homes for low/moderate income persons on vacant inner-city lots

#### **d. Home Buyer Assistance**

WHEDA                      Low interest loans to low income first time home buyers.

HCRI                      Homebuyer downpayment/closing costs assistance grants NHS  
Homebuyer counseling for potential homebuyers.

#### **e. Rental Assistance**

Section 8 Existing      Certificates and Vouchers for low income households.  
HCRI                      Short term rental assistance to low income households.  
CAA                        Rent and escrow assistance to homeless and at-risk households.

f.      Homeless Assistance

Shalom Center      Provides emergency family shelter facilities and soup kitchen.  
INNS                      Coordinated shelter program operated by local churches on a rotating basis.

g.      Homeless Prevention

ESG                        Can fund homeless prevention programs.

## Barriers to Affordable Housing

There are a number of State and local regulations designed to promote the orderly development and maintenance of safe, decent and sanitary housing in the community. Sometimes these regulations can act as barriers to affordable housing. That does not appear to be the case in Kenosha.

To eliminate duplication, the City uses the building codes established by the State for uniform construction standards. These standards parallel the three National Code standards and are minimum provisions to ensure general safety for the public. The State codes and guidelines are also appealable to the State. Consequently, the City's building codes do not appear to hinder the development or preservation of affordable housing.

Likewise, the locally established Minimum Housing Code does not create a barrier for affordable housing. These standards parallel the National Minimum Housing Code Standards and are minimum requirements established to preserve and promote the public health, safety, comfort, personality and general welfare of the people. Their enforcement is necessary to preserve and encourage the private/public interests in housing and its maintenance. At the same time, these standards are appealable, locally, to ensure there are no undue hardships.

An examination of the community's fee structures indicates the City's building permit fees and charges are at a median, as compared to surrounding communities. In fact, in the case of new housing development, the City is currently subsidizing the cost of services because the cost to the City is greater than the development fees charged. The City's positive, proactive position on housing development and preservation is further evidenced by its departmental restructuring to facilitate and better coordinate the development and housing process, as well as the substantial resources and technical assistance the City provides to the development and preservation of affordable housing.

The City's zoning and land-use codes promote the morals, aesthetics, prosperity, health, safety and general welfare of all people in Kenosha. These codes are constructed to allow compatible development throughout the community and are flexible enough to encourage redevelopment in the community's existing, established areas. This is evidenced by development in both the City's outlying and urban areas. These codes, like other local codes, are appealable locally to ensure equitable and fair treatment.

All residential properties are assessed on a citywide basis using market sales data of comparable properties in and around the immediate neighborhood. Citywide assessing appears to ensure an equitable treatment of residential property and provides an incentive to those who maintain and improve their properties.

The current public policies relating to housing and, in particular, affordable housing, do not appear to be excessive, exclusionary, or discriminatory nor do they duplicate any other policies. However, the City will continue to monitor those relevant public policies to ensure they do not change in such a manner as to constitute a barrier to affordable housing. The City will also continue its pro-active position, regarding affordable housing, by continuing to provide both financial and technical assistance to affordable housing activities and projects.

The City will continue its proactive position in regard to affordable housing by continuing to provide both financial and technical assistance to affordable housing activities and projects. The City is committed to the principle that all individuals should have available to them an equal opportunity for housing choices regardless of their race, color, religion, familial status, sex, national origin or handicap. The City will also continue to plan for and assemble vacant lots for the construction of new infill housing.

The City also fosters and maintains its affordable housing stock through the code enforcement program, a systematic exterior inspection program targeted towards the City's Reinvestment Neighborhood; the housing rehabilitation grant program which provides very low income homeowners assistance with addressing the orders through the code enforcement program; and the HOME Buyer Program which

purchases and rehabilitates substandard housing and builds new houses on infill sites. HOME funds are also used to provide second mortgage assistance to homebuyers in order to keep projects affordable.

### **Fair Housing**

The Department of Neighborhood Services and Inspections is responsible for receiving all housing discrimination complaints per Section 22.01 of the Code of General Ordinances of the City of Kenosha.

No complaints were received by the Department of Neighborhood Services and Inspections.

The City of Kenosha's Analysis of Impediments to Fair Housing was completed and submitted to HUD for review and approval on April 29, 1998.

The Kenosha Housing Authority gives presentations to both landlord groups in Kenosha regarding their programs and fair housing issues. KHA staff attend monthly landlord meetings where questions are asked regarding fair housing, as well as answer calls daily from landlords asking fair housing questions. During 2003, fair housing issues were discussed and promoted during every briefing for Port-ins..

### **Organizational Structure and Coordination**

The City has adopted a more coordinated and cooperative approach in order to build on the strengths and prevent any gaps in its delivery system.

A Neighborhood Improvement Committee has been created to support and reinforce positive actions taken by the City, non-profit organizations and private developers toward upgrading low and moderate income neighborhoods. The committee will encourage reinvestment, provide property for development that will contribute to the improvement of targeted neighborhoods, and support and reinforce efforts to preserve and develop affordable housing. To further reinforce and focus positive actions, the committee has designated three specific target areas within the larger Reinvestment Neighborhood.

Two neighborhood revitalization strategies have also been developed. The strategies allow the committee to take a proactive, rather than reactive, approach to targeting areas for investment of program funds. The strategies also address both the housing and community development needs of the reinvestment neighborhood, thereby consolidating all resources and efforts.

The Carpenters Home Improvement Program (CHIP) is an existing effort between the City, school district, and local carpenters' union to provide on the job training for high school students and assist lower income homeowners with necessary repairs to their properties as well as to construct new single family infill housing. The advantages of this program are two-fold. First of all, a low income homeowner or homebuyer is provided with assistance to make repairs or purchase an affordable home. Secondly, a group of students are provided with an opportunity to develop the skills necessary to allow them to enter into a construction apprenticeship program after high school.

As previously described, the Emergency Services Network (ESN) is a consortium of nearly all of the homeless service providers and local government housing assistance agencies, including the City. ESN's mission is to strengthen the impact of service delivery in meeting emergency needs through the coordinated planning and cooperative delivery of services. ESN has adopted a Continuum of Care philosophy.

The only gap in the organizational structure continues to be the availability of only one CHDO. The City continues to pursue the possible creation of an additional CHDO in the future.



**RESOLUTION NO. 85-04**

**BY: THE MAYOR**

**TO AUTHORIZE THE MAYOR AND CITY ADMINISTRATOR, WITH THE ASSISTANCE OF SUCH CITY AND WATER UTILITY STAFF AS MAY BE NECESSARY, PURSUANT TO §66.0307, WISCONSIN STATUTES, TO PARTICIPATE WITH THE TOWN OF SOMERS IN THE PREPARATION OF A COOPERATION PLAN, UNDER THE GUIDANCE OF THE KENOSHA COMMON COUNCIL AND CITY PLAN COMMISSION**

**WHEREAS**, Section 66.0307, Wisconsin Statutes, authorized municipalities to set the boundary lines between themselves upon adopting and having approved by the Wisconsin Department of Administration, a Cooperative Plan in accordance with statutory procedures and requirements; and,

**WHEREAS**, the Cooperative Plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the plan which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development; and,

**WHEREAS**, cooperative planning is in the best interest of the participating municipalities.

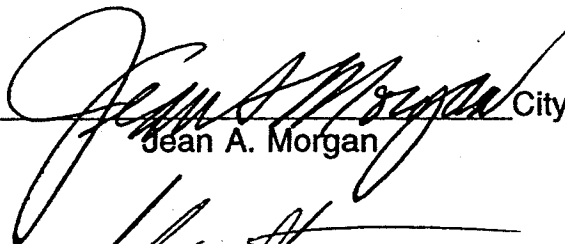
**NOW, THEREFORE, BE IT RESOLVED** by the Common Council of the City of Kenosha, Wisconsin, that the Mayor and City Administrator, with the assistance of such City and Water Utility staff as may be necessary, are authorized pursuant to Section 66.0307, Wisconsin Statutes, to participate with the Town of Somers in the preparation

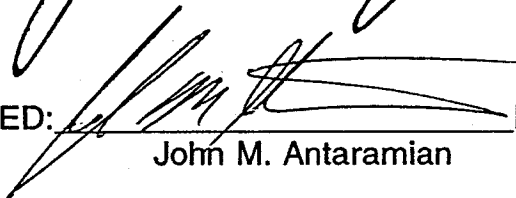
**ATTACHMENT**  
" H "

of a Cooperative Plan, under the guidance of the Kenosha Common Council and City Plan Commission.

**BE IT FURTHER RESOLVED** that notice of this Resolution shall be given, in writing, by the City Clerk, within five (5) days after its adoption, to the parties specified in Section 66.0307(4)(a), Wisconsin Statutes.

Adopted this 2<sup>nd</sup> day of August, 2004.

ATTEST:  City Clerk  
Jean A. Morgan

APPROVED:  Mayor  
John M. Antaramian

Date: August 3, 2004

Drafted By:  
JAMES W. CONWAY,  
City Attorney



STATE OF WISCONSIN)  
(AFFIDAVIT OF POSTING  
COUNTY OF KENOSHA)

KAY GOERGEN, being first duly sworn on oath deposes and says that on the 23rd day of July A.D., 2004, she posted in at least three of the most public places in the Town of Somers, Kenosha County, Wisconsin to wit:

Somers Town Hall  
7511 12th Street  
Somers, Wisconsin

Somers Superette  
8101 12th Street  
Somers, Wisconsin

Somers Post Office  
Somers, Wisconsin

fair, true and complete copies of Resolution 11-04 Resolution To Open Negotiations with the City of Kenosha which the Town Board adopted on July 13th, 2004.

Affiant further states that attached hereto and made a part of this affidavit is a fair, true and complete copy of said Resolution and that the copy which she posted are in all respects fair, true and complete copies of said Resolution is hereto attached and made a part hereof.

Kay Goergen  
KAY GOERGEN, TOWN CLERK/TREAS.

Subscribed and sworn to before me  
this 23 day of July, A.D., 2004.

Helen Sebend  
Notary Public, Kenosha County, Wisconsin  
My commission expires: April 9, 2006



RESOLUTION NO. 11-04

The Town Board of Supervisors of the Town of Somers, Kenosha County, Wisconsin, hereby resolves as follows:

WHEREAS, the Town Board of the Town of Somers, Kenosha County, Wisconsin, has found it necessary and desirable to enter into negotiations with the City of Kenosha concerning various issues of mutual concern pertaining to zoning, utility service and public services; and

WHEREAS, Section 66.0307, of the Wisconsin Statutes, authorizes towns and municipalities to set boundary lines between them upon adoption and approval by the Wisconsin Department of Administration, a cooperative plan in accordance with various statutory procedures and requirements; and

WHEREAS, the cooperative plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the cooperative plan which will, in accordance with existing and future needs, best promote the public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development; and

WHEREAS, cooperative planning is in the best interest of the participating municipalities, the Town of Somers and the City of Kenosha.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somers, Kenosha County, Wisconsin, hereby authorizes the Town Chairperson and Town Administrator, with the assistance of such additional Town Board members and/or staff as may be necessary or desirable, and pursuant to §66.0307, Wis. Stats., to participate with the City of Kenosha in the preparation of a cooperative plan, under the guidance of the Town Board and Town Plan Commission.

BE IT FURTHER RESOLVED, that notice of this resolution shall be given, in writing, by the Town Clerk/Treasurer, within five (5) days after its adoption, to the parties specified in §66.0307(4)(a), Wis. Stats.

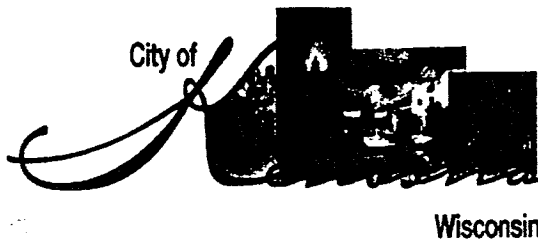
Dated at Somers, Wisconsin, this 13<sup>th</sup> day of July 2004.

TOWN OF SOMERS

Carol Fischer  
Carol Fischer, Chairperson

Kay Goergen  
Kay Goergen, Clerk/Treasurer





City Clerk  
625 - 52<sup>nd</sup> Street  
Kenosha, WI 53140  
262-653-4020

August 11, 2004

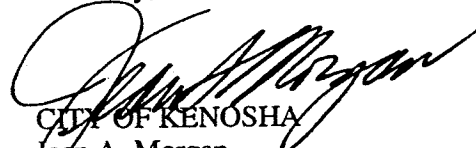
Kay Goergen  
Clerk/Treasurer  
Town of Somers  
7511 - 12<sup>th</sup> Street, Box 197  
Somers, Wisconsin 53171

Re: City-Somers Cooperative Plan

Dear Kay:

Enclosed find copy of Affidavit of City Clerk respecting the adoption and mailing of Resolution No. 85-04 respecting above.

Sincerely,



CITY OF KENOSHA  
Jean A. Morgan  
City Clerk-Treasurer

C: Mayor  
Nick Arnold, City Administrator  
Jim Conway, City Attorney

Enclosure

ATTACHMENT

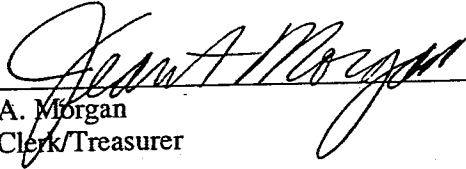
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AFFIDAVIT

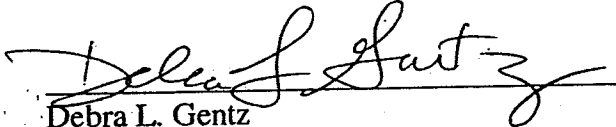
Jean A. Morgan, under oath, does state that:

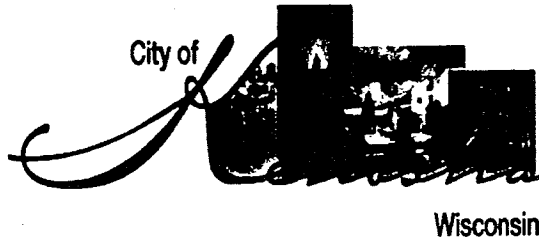
1. She is the City Clerk/Treasurer of the City of Kenosha, Wisconsin, and has held that position at all times relevant.
2. That Resolution No. 85-04, "To authorize the Mayor and City Administrator, with the assistance of such City and Water Utility Staff as may be necessary, pursuant to Section 66.0307, Wisconsin Statutes, to participate with the Town of Somers in the preparation of a cooperation plan, under the guidance of the Kenosha Common Council and City Plan Commission" copy attached (Attachment "A"), is a true and correct copy of said Resolution duly adopted at a properly convened meeting of the common Council on August 2, 2004.
3. That on or about August 6, 2004, she caused to be mailed a copy of said Resolution per the distribution list contained in Attachment "B". A copy of the cover letter is found in Attachment "C".

Dated this 11<sup>th</sup> day of August, 2004.

  
\_\_\_\_\_  
Jean A. Morgan  
City Clerk/Treasurer

Subscribed and sworn to before me  
this 11<sup>th</sup> day of August, 2004.

  
\_\_\_\_\_  
Debra L. Gentz  
Notary Public, Kenosha County, WI  
My Commission is/expires: May 13, 2007



City Clerk  
625 - 52<sup>nd</sup> Street  
Kenosha, WI 53140  
262-653-4020

August 6, 2004

Re: City of Kenosha Resolution Number 85-04 – To authorize the Mayor and City Administrator, with the assistance of such City and Water Utility Staff as may be necessary, pursuant to Section 66.0307, Wisconsin Statutes, to participate with the Town of Somers in the preparation of a cooperation plan, under the guidance of the Kenosha Common Council and City Plan Commission

Please take notice that on the 2<sup>nd</sup> day of August, 2004, the Common Council of the City of Kenosha, Wisconsin adopted the above Resolution, copy enclosed.

This notice is required to be sent to you under the authority of Section 66.0307, Wisconsin Statutes . No action on your part is required at this time. Should the parties specified in the Resolution agree to enter into a Cooperative Plan which would include a boundary adjustment, you will have an opportunity to submit oral comments at a noticed public hearing and/or provide written comments.

Should you have any questions, please contact James Conway, City Attorney, 262-653-4170.

Sincerely,

CITY OF KENOSHA  
Debra L. Gentz  
Deputy City Clerk-Treasurer

C: Mayor  
Administration  
Jim Conway, City Attorney


Enclosure

Name	Business	Address	City, State, Zip
Mark Stalker, Clerk	Kenosha Unified School District No. 1	2902 - 35 <sup>th</sup> Street	Kenosha, WI 53140
George Melcher, Director	Kenosha County Planning & Development	19600 - 75 <sup>th</sup> Street	Bristol, WI 53104
Jane M. Romanowski, Clerk	Village of Pleasant Prairie	9915 - 39 <sup>th</sup> Avenue	Pleasant Prairie, WI 53158-0905
Clerk	Central High School District of Westosha	24617 - 75 <sup>th</sup> Street	Salem, WI 53168
Lori Baird, Clerk	Bristol School District No. 1	20511 - 84 <sup>th</sup> Place	Bristol, WI 53104
Jean M. Werble, Community Development Director	Village of Pleasant Prairie	9915 - 39th Avenue	Pleasant Prairie, WI 53158-0905
Clerk	Village of Silver Lake	113 S. First Street	Silver Lake, WI 53170
Catherine Krueger, Clerk	Salem Consolidated Grade School District No. 2	6800 - 243 <sup>rd</sup> Avenue	Salem, WI 53168
Clerk	Wilmot Union High School District	11112 - 308 <sup>th</sup> Avenue	Wilmot, WI 53192-0008
Clerk	Riverview Joint School District No. 1	PO Box 69	Silver Lake, WI 53170
Royce Kennedy, Building Inspector	Silver Lake Village Hall	113 S. First Street	Silver Lake, WI 53170
Doris Raditz, Clerk	Village of Paddock Lake	6969 - 236 <sup>th</sup> Avenue	Paddock Lake, Salem WI 53168
Tim Popanda, Building Inspector	Village of Paddock Lake	6969 - 236th Avenue	Paddock Lake, Salem WI 53168
Linda Perona, Clerk	Town of Brighton	22520 Burlington Road	Kansasville, WI 53139
Clerk	Union Grove High School District	3433 S. Colony Avenue	Union Grove, WI 53182
Debra A. Lois, Clerk	Wheatland Center School Joint District No. 1	7601 - 368 <sup>th</sup> Avenue	Burlington, WI 53105
Jan Crane, Clerk	Brighton Elementary School District	1200 - 248 <sup>th</sup> Avenue	Kansasville, WI 53139
Antonette Seitz, Clerk	Town of Salem	9814 Antloch Rd Hwy 83	Salem, WI 53168
Clerk	Wilmot Grade School District	Box 68	Wilmot, WI 53192
Lynn Jaeger, Clerk	Trevor State Grade School District No. 7	12725 - 257 <sup>th</sup> Avenue	Trevor, WI 53179
Kay Goergen, Clerk	Town of Somers	PO Box 197	Somers, WI 53171
Bill Morris	Somers Utility District No. 1	PO Box 197	Somers, WI 53171
Carol Fischer, Chairman	Town of Somers	PO Box 197	Somers, WI 53171
Terri Fonk, Clerk	Town of Paris	16607 Burlington Road	Union Grove, WI 53182
Clerk	Union Grove Grade & Middle School Joint District No. 1	1745 Mildrum Street	Union Grove, WI 53182
District Administrator	Central High School District of Westosha	24617 - 75 <sup>th</sup> Street	Salem, WI 53168
Amy Klemko, Clerk	Bristol Town Hall	PO Box 187	Bristol, WI 53104
Marc Marotta, Secretary	Department of Administration State of Wisconsin	PO Box 7864	Madison, WI 53707-7864
Linda Terry, Clerk	Paris Consolidated School District Joint No. 1	1901 - 176 <sup>th</sup> Avenue	Kenosha, WI 53144
Richard Gossling, Chairman	Town of Bristol	PO Box 187	Bristol, WI 53104
Secretary	Dept. of Agriculture Trade & Consumer Protection State of Wisconsin	PO Box 8911	Madison, WI 53708-8911
George E. Meyer, Secretary	Dept. of Natural Resources State of Wisconsin	PO Box 7921	Madison, WI 53707-7921
Charles H. Thompson, Secretary	Dept. of Transportation State of Wisconsin	PO Box 7910	Madison, WI 53707-0910
Secretary	Gateway Technical College	521 - 6 <sup>th</sup> Street	Racine, WI 53403
David B. Falstad, Chairman	Southeastern WI Regional Planning Commission	916 N. East Avenue	Waukesha, WI 53187-1607
Edna Highland, Clerk	Kenosha County	1010 - 56 <sup>th</sup> Street	Kenosha, WI 53140
Randy Kerkman, Administrator	Town of Bristol	PO Box 187	Bristol, WI 53104
Joan Rennert, Clerk	Racine County	730 Wisconsin Avenue	Racine, WI 53403
Arnold Clement, Planning & Development Director	Racine County	14200 Washington Avenue	Sturtevant, WI 53177
Clerk	Racine Unified School District	2220 Northwestern Avenue	Racine, WI 53404
Barbara Pauls, Clerk	Village of Sturtevant	2801 - 89 <sup>th</sup> Street	Sturtevant, WI 53177
Clerk/Treasurer	Town of Mount Pleasant	6126 Durand Avenue	Racine, WI 53406
Utility Manager	Mount Pleasant Sewer Utility	6126 Durand Avenue	Racine, WI 53406
Karen Norton, Clerk	City of Racine	730 Washington Avenue	Racine, WI 53403
General Manager Water & Wastewater Utility	City of Racine City Hall Annex	830 Center Street	Racine, WI 53403
Clerk	Village of Elmwood Park	3554 Taylor Avenue	Racine, WI 53408
William J. McCoshen, Secretary	Dept. of Commerce State of Wisconsin	PO Box 7970	Madison, WI 53707-7970
George Hall	Municipal Boundary Review	PO Box 8933	Madison, WI 53708
Ed St. Peter, General Manager	Kenosha Water Utility	4401 Green Bay Road	Kenosha, WI 53144

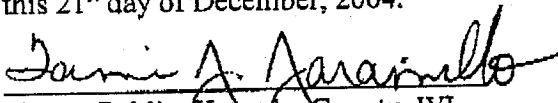
**AFFIDAVIT OF SERVICE BY MAIL**

STATE OF WISCONSIN    )  
  ) ss.  
COUNTY OF KENOSHA    )

The affiant, being sworn, says that affiant mailed a true copy of the documents entitled AMENDED NOTICE OF PUBLIC HEARING ON THE CITY OF KENOSHA/TOWN OF SOMERS COOPERATIVE PLAN (BOUNDARY CHANGE) UNDER SECTION 66.0307, WISCONSIN STATUTES and RESOLUTION NO. 11-04 in this action to each of the persons named at the addresses shown on the attached list, by enclosing the same in an envelope which was postpaid for first-class handling, which bore the sender's return address of DAVISON & MULLIGAN, LTD., 1207 55<sup>th</sup> Street, Kenosha, Wisconsin 53140, and which affiant mailed in Kenosha, Wisconsin on December 21, 2004:

  
\_\_\_\_\_  
Diane Pierce

Subscribed and sworn to before me  
this 21<sup>st</sup> day of December, 2004.

  
\_\_\_\_\_  
Notary Public; Kenosha County, WI  
My Commission expires 6/18/06.



Mark Stalker, Clerk  
Kenosha Unified School District No. 1  
2902 35<sup>th</sup> Street  
Kenosha, WI 53140

George Melcher, Director  
Kenosha Co. Planning & Development  
19600 75<sup>th</sup> Street  
Bristol, WI 53104

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Village of Pleasant Prairie  
9915 39<sup>th</sup> Avenue  
Pleasant Prairie, WI 53158

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24617 75<sup>th</sup> Street  
Salem, WI 53168

Lori Baird, Clerk  
Bristol School District No. 1  
20511 84<sup>th</sup> Place  
Bristol, WI 53104

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Community Development Director  
Village of Pleasant Prairie  
9915 39<sup>th</sup> Avenue  
Pleasant Prairie, WI 53158

Clerk  
Village of Silver Lake  
113 S. First Street  
Silver Lake, WI 53170

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Salem Consolidated Grade School District No. 2  
6800 243<sup>rd</sup> Avenue  
Salem, WI 53168

Clerk  
Wilmot Union High School District  
11112 308<sup>th</sup> Avenue  
Wilmot, WI 53192-0008

Clerk  
Riverview Joint School District No. 1  
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Silver Lake, WI 53170

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Silver Lake Village Hall  
113 S. First Street  
Silver Lake, WI 53170

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6969 236<sup>th</sup> Avenue  
Paddock Lake, Salem, WI 53168

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Union Grove, WI 53182

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Salem, WI 53168

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P.O. Box 187  
Bristol, WI 53104

Marc Marotta, Secretary  
Dept. of Administration  
State of Wisconsin  
P.O. Box 7864  
Madison, WI 53707-7864

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Paris Consolidated School District Joint No. 1  
1901 176<sup>th</sup> Avenue  
Kenosha, WI 53144

Richard Gossling, Chairman  
Town of Bristol  
P.O. Box 187  
Bristol, WI 53104

Secretary  
Dept. of Agriculture, Trade & Consumer  
Protection  
State of Wisconsin  
P.O. Box 8911  
Madison, WI 53708-8911

George E. Meycr, Secretary  
Dept. of Natural Resources  
State of Wisconsin  
P.O. Box 7921  
Madison, WI 53707-7921

Charles H. Thompson, Secretary  
Dept. of Transportation  
State of Wisconsin  
P.O. Box 7910  
Madison, WI 53707-0910

Secretary  
Gateway Technical College  
521 6<sup>th</sup> Street  
Racine, WI 53403

David B. Falstad, Chairman  
Southeastern Wisconsin Regional Planning  
Commission  
916 N. East Avenue  
Waukesha, WI 53187-1607

Edna Highland, Clerk  
Kenosha County  
1010 56<sup>th</sup> Street  
Kenosha, WI 53140

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Racine, WI 53403

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Planning & Development Director  
Racine County  
14200 Washington Avenue  
Sturtevant, WI 53177

Clerk  
Racine Unified School District  
2220 Northwestern Avenue  
Racine, WI 53404

Barbara Pauls, Clerk  
Village of Sturtevant  
2801 89<sup>th</sup> Street  
Sturtevant, WI 53177

Clerk/Treasurer  
Town of Mount Pleasant  
6126 Durand Avenue  
Racine, WI 53406

Utility Manager  
Mount Pleasant Sewer Utility  
6126 Durand Avenue  
Racine, WI 53406

Karen Norton, Clerk  
City of Racine  
730 Washington Avenue  
Racine, WI 53403

General Manager  
Water & Wastewater Utility  
City of Racine City Hall Annex  
830 Center Street  
Racine, WI 53403

Clerk  
Village of Elmwood Park  
3554 Taylor Avenue  
Racine, WI 53408

William J. McCoshen, Secretary  
Dept. of Commerce  
State of Wisconsin  
P.O. Box 7970  
Madison, WI 53707-7970

George Hall  
Municipal Boundary Review  
P.O. Box 8933  
Madison, WI 53708

Ed St. Peter, General Manager  
Kenosha Water Utility  
4401 Green Bay Road  
Kenosha, WI 53144

Jean A. Morgan, Clerk/Treasurer  
City of Kenosha  
625 52<sup>nd</sup> Street  
Kenosha, WI 53140

P.O. Box 197  
Somers, WI 53171



(414) 859-2822  
Fax (414) 859-2331

## Town of Somers

December 21, 2004

Re: Town of Somers resolution to authorize negotiations pursuant to §66.0307, Wis. Stats., to participate with the City of Kenosha in the preparation of a cooperation plan, and public hearing for the same

Please take notice that a public hearing will be conducted on the 18<sup>th</sup> day of January, 2005, commencing at 6:00 o'clock p.m. at the Somers Town Hall concerning the above adopted resolution, copies of which Notice and Resolution are enclosed.

This notice is required to be sent to you under the authority of Section 66.0307, Wis. Stats. As indicated in the Notice of Public Hearing, a copy of the proposed Cooperative Plan is available for inspection at the places indicated. Should you desire to provide public comments, you may do so either at the public hearing or you may submit written comments within 20 days thereafter.

Should you have any questions, please contact Town Attorney Jeffrey J. Davison at (262) 657-5165.

Sincerely,

Kay Goergen, Clerk/Treasurer  
Town of Somers

cc: All Members of the Town Board  
William A. Morris, Town Administrator  
Jeffrey J. Davison, Town Attorney

**AMENDED NOTICE OF PUBLIC HEARING  
ON THE CITY OF KENOSHA/TOWN OF SOMERS  
COOPERATIVE PLAN (BOUNDARY CHANGE) UNDER  
SECTION 66.0307, WISCONSIN STATUTES**

**PLEASE TAKE NOTICE** that on Tuesday, the 18<sup>th</sup> day of January, 2005, commencing at 6:00 o'clock p.m. at the Somers Town Hall, 7511 - 12<sup>th</sup> Street (County Trunk Highway E), Wisconsin, a Public Hearing shall be conducted pursuant to Section 66.0307(4)(b), Wisconsin Statutes, upon a proposed Cooperative Plan (boundary change) between the City of Kenosha, Wisconsin, and the Town of Somers, Wisconsin. Any person may comment on the Cooperative Plan during the hearing and may submit written comments to the City Clerk/Treasurer and/or Town Clerk/Treasurer before, at or within twenty (20) days following the hearing.

A copy of the proposed Cooperative Plan is available for inspection during regular business hours in the Office of the City Clerk/Treasurer of the City of Kenosha, Wisconsin, Room 105, 625 - 52<sup>nd</sup> Street, Kenosha, Wisconsin 53140, or the Office of the Town Clerk/Treasurer of the Town of Somers, Wisconsin, 7511 - 12<sup>th</sup> Street, Box 197, Somers, Wisconsin 53171.

Dated at Kenosha, Wisconsin, this 21<sup>st</sup> day of December, 2004.

---

Kay Goergen, Clerk/Treasurer  
Town of Somers, Wisconsin



**ATTACHMENT "J"**  
**FINAL RESOLUTION**

12/21/04

12:02

SOMERS, TOWN OF → 2626575517

NO. 007

003

**RESOLUTION NO. 11-04**

The Town Board of Supervisors of the Town of Somers, Kenosha County, Wisconsin, hereby resolves as follows:

WHEREAS, the Town Board of the Town of Somers, Kenosha County, Wisconsin, has found it necessary and desirable to enter into negotiations with the City of Kenosha concerning various issues of mutual concern pertaining to zoning, utility service and public services; and

WHEREAS, Section 66.0307 of the Wisconsin Statutes, authorizes towns and municipalities to set boundary lines between them upon adoption and approval by the Wisconsin Department of Administration, a cooperative plan in accordance with various statutory procedures and requirements; and

WHEREAS, the cooperative plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the cooperative plan which will, in accordance with existing and future needs, best promote the public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development; and

WHEREAS, cooperative planning is in the best interest of the participating municipalities, the Town of Somers and the City of Kenosha.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Somers, Kenosha County, Wisconsin, hereby authorizes the Town Chairperson and Town Administrator, with the assistance of such additional Town Board members and/or staff as may be necessary or desirable, and pursuant to §66.0307, Wis. Stats., to participate with the City of Kenosha in the preparation of a cooperative plan, under the guidance of the Town Board and Town Plan Commission.

BE IT FURTHER RESOLVED, that notice of this resolution shall be given, in writing, by the Town Clerk/Treasurer, within five (5) days after its adoption, to the parties specified in §66.0307(4)(a), Wis. Stats.

Dated at Somers, Wisconsin, this 13<sup>th</sup> day of July, 2004.

TOWN OF SOMERS

Carol Fischer  
Carol Fischer, Chairperson

Kay Goergen  
Kay Goergen, Clerk/Treasurer



RESOLUTION NO. 3-05

TO REQUEST THE STATE OF WISCONSIN DEPARTMENT  
OF ADMINISTRATION TO APPROVE THE CITY OF  
KENOSHA/TOWN OF SOMERS COOPERATIVE PLAN  
UNDER SECTION 66.0307, WISCONSIN STATUTES

BE IT RESOLVED by the Town Board of the Town of Somers, Wisconsin, that  
having approved the City of Kenosha/Town of Somers Cooperative Plan under Section 66.0307,  
Wisconsin Statutes, the Town Board requests the State Department of Administration to approve  
said Cooperative Plan.

BE IT FURTHER RESOLVED that the Town Clerk/Treasurer is directed to send  
a copy of this Resolution to the Clerk/Treasurer of the City of Kenosha and to the State of  
Wisconsin Department of Administration.

Dated this 22<sup>nd</sup> day of February, 2005.

TOWN OF SOMERS

By: Carol J. Fischer  
Carol Fischer, Chairperson

Attest: Kay Goergen  
Kay Goergen, Clerk/Treasurer

**RESOLUTION NO. 32-05**

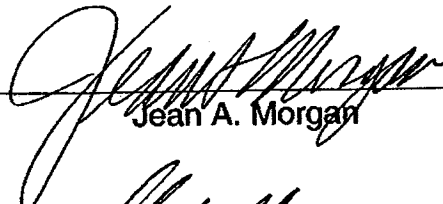
**BY: THE MAYOR**

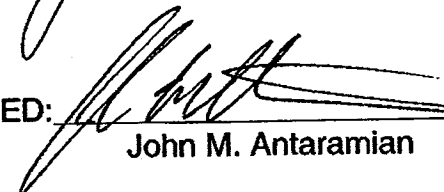
**TO AUTHORIZE TRANSMITTAL TO, AND TO REQUEST THE STATE OF WISCONSIN DEPARTMENT OF ADMINISTRATION TO APPROVE THE CITY OF KENOSHA/TOWN OF SOMERS COOPERATIVE PLAN UNDER SECTION 66.0307, WISCONSIN STATUTES**

**BE IT RESOLVED** by the Common Council of the City of Kenosha, Wisconsin, that, having approved the City of Kenosha/Town of Somers Cooperative Plan under Section 66.0307, Wisconsin Statutes, (the Cooperative Plan ) the Common Council authorizes transmittal of the Cooperative Plan to, and requests the State Department of Administration to approve said Cooperative Plan.

**BE IT FURTHER RESOLVED** that the City Clerk/Treasurer is directed to join with the Town Clerk/Treasurer in transmitting the Cooperative Plan and this Resolution to the State of Wisconsin, Department of Administration, and to send a copy of this Resolution to the Somers Town Clerk/Treasurer.

Adopted this 7<sup>th</sup> day of March, 2005.

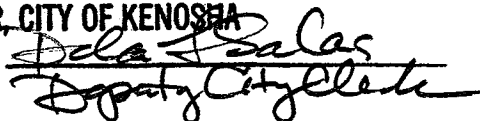
ATTEST:  City Clerk  
Jean A. Morgan

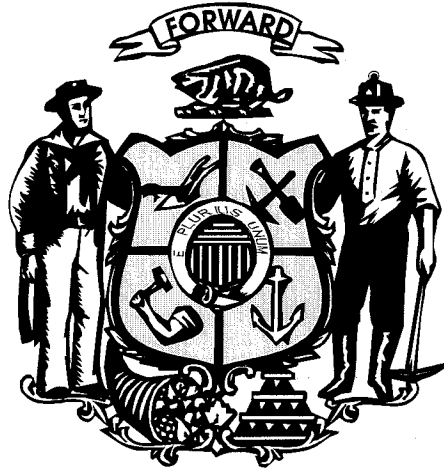
APPROVED:  Mayor  
John M. Antaramian

Date: March 8, 2005

Drafted By:  
JAMES W. CONWAY,  
City Attorney

THIS IS TO CERTIFY THAT THIS  
IS A TRUE AND CORRECT COPY  
OF THE RECORD ON FILE IN THE  
OFFICE OF THE CITY CLERK  
TREASURER, CITY OF KENOSHA  
WISCONSIN

  
Deputy City Clerk



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**WISCONSIN DEPARTMENT OF ADMINISTRATION**

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**APPROVAL OF THE CITY OF KENOSHA AND TOWN OF SOMERS  
COOPERATIVE PLAN UNDER SECTION 66.0307, WISCONSIN STATUTES**

**August 2005**

## Introduction

The cooperative boundary plan procedure as set forth in s. 66.0307, Wis. Stats., affords any combination of cities, villages and towns the opportunity to establish boundary lines and services between or amongst themselves pursuant to a cooperative plan approved by the Wisconsin Department of Administration (Department). Municipalities interested in learning more about this statute are encouraged to review explanatory materials available upon request from the Department. This is the sixteenth cooperative plan submitted to, and approved by, the Department.

On May 19, 2005, the Department of Administration received the *City of Kenosha/Town of Somers Cooperative Plan under Section 66.0307, Wisconsin Statutes* (hereinafter called the "Cooperative Plan," or the "Plan"), that was approved for submission to the Department by the City of Kenosha Common Council on May 16th, 2005, and by the Town of Somers Town Board on May 10th, 2005.

This Cooperative Plan represents the willingness of the respective governing bodies to establish permanent boundaries between the Town and the City derived from prior sanitary sewer and water agreements arrived at over the past several decades, and that will sunset upon approval of this document. This Plan (through Attachment D) makes provision for City sanitary sewer and water services to the Town Growth Area at wholesale and retail rates. In addition, the Cooperative Plan provides that the City shall not oppose incorporation of the Town Growth Area as a village under current standards at some future date, and provides for a five million dollar payment by the Town to the City in lieu of other revenue sharing arrangements. Approval of this Cooperative Plan will also foster the continued implementation of orderly land use planning occurring since the 1970's by the City of Kenosha, Town of Somers, Kenosha County and the Southeastern Wisconsin Regional Planning Commission. Approval by the Department of the Cooperative plan will enable the extension of the existing "208" sewer service area boundary well into the Town of Somers. The Cooperative Plan limits exercise of extraterritorial zoning, land division, condominium platting and official mapping controls by the City in the Town Growth Area. Within the City Growth Area, the Cooperative Plan requires attachment to the City as a condition of receiving certain building permits, site plan and conditional use permit reviews, land divisions, rezonings, and sanitary sewer and water connections.

The territory encompassed by this Cooperative Plan is shown on "Exhibit A - Pages 1 and 2," and includes the entire existing Town of Somers.<sup>1</sup>

Subsequent paragraphs of this approval document will describe the Plan in more detail. It is important to understand that this approval document is not a complete restatement of the Plan, nor should it be construed as containing all of the nuances and conditions of the Plan. Instead, this approval document is designed to examine the ways in which the Plan complies with the requirements of s. 66.0307, Wis. Stats. This narrative touches mainly on the principal components of the Cooperative Plan, not the specific details. Specific details can be found in

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<sup>1</sup> *CITY OF KENOSHA/TOWN OF SOMERS COOPERATIVE PLAN UNDER SECTION 66.0307, WISCONSIN STATUTES* (May, 2005), see pp. 41-42 of the "2005 Intergovernmental Agreement for Orderly Development by and between City of Kenosha and Kenosha Water Utility, and Town of Somers, Somers Water Utility and Somers Sewer Utility District."

the text of the Plan. This approval document is prepared pursuant to s. 66.0307(5)(a), Wis. Stats., which requires that the Department review cooperative plans and agreements and issue findings based on criteria found in s. 66.0307(5)(c), Wis. Stats. This approval document does not modify the terms of the Cooperative Plan.

Before a cooperative plan and agreement is submitted to the Department, a joint public hearing is required of the participating governing bodies in order to receive comments from the public and other governmental bodies. Rather than hold just one public hearing, the Town convened 5 public information meetings starting in November, 2004, leading up to the joint public hearing. This hearing, pursuant to s. 66.0307(4)(a), Wis. Stats., was held at the Somers Town Hall by the Town of Somers and City of Kenosha on Tuesday, January 18<sup>th</sup>, 2005. A record of the joint hearing is attached to the Cooperative Plan as Exhibit A.

Attachments "H" and "T" to this Cooperative Plan contain copies of authorizing resolutions approved by the City and Town, along with affidavits of mailing/service to the governmental units entitled to notice pursuant to s. 66.0307(4), Wis. Stats. Those agencies and institutions served include the Wisconsin Department of Natural Resources (WDNR), Wisconsin Department of Transportation (WisDOT), the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP), Southeastern Wisconsin Regional Planning Commission (SEWRPC), Kenosha County, area school districts, universities and vocational and technical colleges, municipal clerks, town sanitary and utility districts, and this Department.

Prior to submission to the Department following approval of a cooperative plan by the governing bodies of the participating municipalities, an advisory referendum may be conducted if requested by qualified electors. In this instance, an advisory referendum was requested by a group of Town of Somers residents who petitioned for a referendum on the Cooperative Plan as permitted by ss. 66.0307 (4) (e), and 8.40, Wis. Stats. The Town subsequently conducted the referendum on May 3, 2005; of the 761 votes cast by electors in the Town, 505 were in support and 256 in opposition.

Following receipt of a cooperative plan by the Department, anyone in the participating municipalities may request a public hearing to be conducted by the Department or the Department may, on its own motion, conduct a public hearing. In this instance, no such request for a public hearing was received. The Department believes that the purpose of this Cooperative Plan is clear and that the information submitted to the Department is sufficiently adequate so that no additional public hearing is necessary.

### **Description of territory covered by the Cooperative Plan**

#### Boundary Modification Area

As described in the Cooperative Plan, the jurisdictional area of the Plan includes all of the existing Town of Somers and is depicted on Exhibit A – Page 1 and Page 2 (of the "2005 Intergovernmental Agreement for orderly Development...", attached to the Cooperative Plan). These maps describe the Existing Town Service Area, the City Growth Area, existing City of Kenosha, and Town Growth Area, along with information specific to the Town and City water and sewer utility departments.

The City Growth Area within the existing Town lies (with several exceptions) in Public Land Survey Sections 14, 15, 18, 27, and 28 south of CTH S, East of STH 31 (excluding nearly all of Section 14), and south of 12<sup>th</sup> Street (CTH E, except along Lake Michigan in Sections 15

and 18 where a peninsula extends southward abutting 12<sup>th</sup> Avenue), and includes numerous town islands and peninsulas. Conversely the Town Growth Area lies north of CTH S and 38<sup>th</sup> Street, west of Green Bay Road, north of 18<sup>th</sup> Street (CTH L) and 12<sup>th</sup> Street (CTH E, except for a small peninsula extending southerly along Lake Michigan).

### **Approval Criteria Applicable to the Department**

A cooperative plan shall be approved by the Department if the Department determines that all of the following numbered criteria from s. 66.0307(5)(c), Wis. Stats., apply:

***(1) The content of the plan under sub. S. 66.0307(3)(c) to (e) is sufficient to enable the Department to make the determinations under subs. 2 to 5m.***

This Cooperative Plan contains sufficient information<sup>2</sup> to enable the Department to approve it. Information required by statute, and provided by the parties, includes the following: Identification of current land use conditions of the territory designated by the proposed agreement; identification of a time period specifying the duration of the cooperative agreement, identification of boundary change areas and the conditions for the changes and when they may occur; a statement as to why the boundary area is appropriate; the availability of services and the method for provision of services to the identified territory; maps that sufficiently identify the area of the Cooperative Plan; fiscal activities necessary for the planned territory; potential environmental consequences of the plan have been considered and evaluated; housing activities within the area affected by the plan are described; all permits, ordinances and sources of jurisdiction necessary are identified for plan activities to occur within the territory – either before or after attachment to the city; the plan contains evidence that opportunities for public comments were provided during preparation of the plan; and finally, the plan is consistent with applicable state and federal codes, and with adopted city, town, county and regional plans.

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<sup>2</sup> In additional to the explanatory information contained in Cooperative Plan, the Department requested planning and development documents from the City and the Town, and from the City received copies of the “*Corridor Land Use Plan*,” (covering the territory located between I-94 and Green Bay Road, and STH 142 and 75th Street, as well as plans/maps for the “*Gateway Neighborhood*,” and “*Hillcrest Neighborhood*,” as well as other neighborhoods. These plans dating back to the early 1990’s include much of the Town of Somers within the City Growth Area, and define existing natural resources/environmental corridors, recommend proposed land use types to ensure orderly and compatible development (with existing development, and for example, recognition by the Town of Somers for maintaining land uses compatible with the Kenosha Regional Airport “clear zone” that extends into the Town of Somers), and seek to minimize land use conflicts. In a meeting with Town representatives on July 29<sup>th</sup>, the Department received summary information for projected land use types at time of build out, as well as a “Preliminary Draft Town of Somers Land Use Plan” (as the Town’s comprehensive plan is currently under development). This proposed Town plan identifies, for example, park and open space lands (including primary environmental corridors) totaling 3.76 square miles, or 17% of the Town Growth Area. In addition, *A Comprehensive Plan for the Kenosha Urban Planning District* (1995) prepared by the SEWRPC contains useful background information on availability of urban services for the Town of Somers and City of Kenosha.

**(2) The cooperative plan is consistent with current state laws, municipal regulations and administrative rules that apply to the territory affected by the plan.**

This Cooperative Plan was reviewed by staff from the Southeastern Wisconsin Regional Planning Commission (SEWRPC).<sup>3</sup> The SEWRPC is the designated metropolitan clearinghouse for the seven-county region southeastern region of Wisconsin. In addition to being the designated transportation planning authority for the region, SEWRPC also participates directly in the development and approval of local sewer service area plans and amendments (involving NR-121, Wis. Admin. Code) for the greater Kenosha area (which include consideration for development limitations within designated environmental corridors, shoreland, floodplain, and wetland areas). By letter dated February 15, 2005, the SEWRPC stated that “the plan and boundary agreements set forth therein should serve to facilitate implementation of the master plan for the Southeastern Wisconsin Region adopted by the Commission under s. 66.0309 (10), Wis. Stats.,” and that “...Implementation of the boundary plan should serve to enhance the delivery of essential municipal services to the boundary adjustment area identified in the plan and provide for a more logical boundary between the communities involved.”

In addition to assistance and comments by the SEWRPC, Kenosha County Department of Planning and Development also participated in the preparation of the Cooperative Plan (and contributed GIS maps and data to the parties at no cost). Pursuant to s. 66.0307 (4) (c), Wis. Stats., the County commented by letter dated February 17, 2005, stating:

“Adoption and implementation of the cooperative boundary plan will serve as a good land use planning document leading to sound development in the respective boundary areas. A great amount of effort was put to addressing the concerns of the citizens, which would be affected by this agreement.”

The County will continue to cooperate with the Town and City in implementation of this Cooperative Plan, and Town territory will be subject to the county’s zoning ordinances (subject to Section 13.02 of the Cooperative Plan) until all Town parcels within the City Growth Area have transitioned to the City. The Cooperative Plan requires attachment to the City as a condition of issuing certain types of building permits, site plan and conditional use reviews, land divisions, rezonings, and sanitary sewer and water connections.

The preceding agency comments, along with the Department’s analysis of this Cooperative Plan, suggest that the Plan as approved by the local governing bodies should not be in opposition to existing law. Existing and proposed development within the territory of the Cooperative Plan will be consistent with local, state, and federal laws.

**(3) Adequate provision is made in the cooperative plan for delivery of necessary municipal services to the territory covered by the plan.**

The Department finds that adequate provision has been made for delivery of municipal services.

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<sup>3</sup> Cooperative Plan, Exhibit A, unpagged.

### *Municipal water and sewer*

The Cooperative Plan includes the “2005 Intergovernmental Agreement for Orderly Development by and Between City of Kenosha and Kenosha Water Utility, and Town of Somers, Somers Water Utility and Somers Sewer Utility District,” (2005 Intergovernmental Agreement) that details the conditions and provision of wholesale water and sewer utility service by the Kenosha Water Utility to the Town for the Town Growth Area. This “master” agreement, effective upon acceptance by the Department of this Cooperative Plan, will supersede numerous agreements between the City of Kenosha, City of Kenosha Water Utility, and Town of Somers dating back to 1974.<sup>4</sup> The 2005 Intergovernmental Agreement provides for making available adequate capacity in conveyance facilities and sewage treatment plant, and opportunity for future capacity in future Kenosha Water Utility sewer conveyance facilities and sewage treatment plant “...so as to allow for reasonable and orderly development in the Potential Town Service Area,” as well as making available existing capacity in the Kenosha Water Utility’s existing sewage conveyance system and existing sewage treatment plant to all customers on a first-come, first-served basis.

This detailed and complex 40-page agreement (which may be amended from time to time by mutual agreement of the parties without triggering an amendment of the Cooperative Agreement), for example, provides for conditions of service in the City Growth Area, the establishment of rates, conditions that would trigger the construction of a future sewerage treatment plant, methods of dispute resolution, and so forth. In order for Town properties to receive sewer and water service in the City Growth Area, they must become attached to the City of Kenosha. The Cooperative Agreement provides that Town residents within the City Growth area, so long as they do not apply for certain building permits, site plans and conditional use reviews, land divisions, rezonings and sanitary sewer and water connections, may replace their existing well or sanitary septic system, and remain a town resident until the end of the 30-year agreement at which time every remaining Town parcel in the City Growth Area is attached to the City (“Final Attachment”).

The City and Town certify in Section 19 of the Cooperative Plan that the Kenosha Water Production Plant and Wastewater Treatment Plant have adequate capacity to serve the City Growth Area and the Town Service Area existing on the effective date of acceptance of this Cooperative Plan by the state.

### *Stormwater management*

Town and City Growth Areas are located in the Pike Creek/Pike River Basin/Lake Michigan watershed, as well as the Kilbourn Ditch/Des Plaines River Basin. The parties may create a joint utility for surface water management “...with authority over multiple jurisdictions including jurisdictions not party to this cooperative plan.” The parties have committed to jointly develop a s. 66.0301, Wis. Stats., agreement that would establish a drainage district for implementing management and resolving cost allocation issues for the two “growth areas.” Prior to attachment within the City Growth Area, the Town commits to applying City standards to the construction and installation of new storm sewer facilities, as well as to facilities in the Town Growth Area that discharge water into the City Growth Area.<sup>5</sup>

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<sup>4</sup> “2005 Intergovernmental Agreement,” for a list of the agreements to be superseded, see pp. 2-3.

<sup>5</sup> Cooperative Plan, Section 16.



*Public protection services (police, fire and ambulance)<sup>6</sup>*

The County Sheriff's Department provides police services to the Town and is housed with the Kenosha Police Department in the County-owned Public Safety Building. Currently parts of the Town of Somers lie totally within one patrol district (1 squad car on duty all day, 7 days a week) with the remainder sharing a second district that includes the Town of Paris. Districts are organized by calls for service, and boundaries could shift as population grows in Somers and additional calls are received. There is also the option for Somers to contract with the Sheriff for additional patrol/enforcement services for example, as currently does Village of Paddock Lake. City law enforcement and fire/rescue services will continue to be provided under contract with the Town to University of Wisconsin-Parkside Campus (located in the Town Growth Area) as services by the City (with Town fire protection for the open/natural areas of the campus) have been provided since the early 1980's.

As territory in the City Growth Area transitions to the City over the next 30 years, law enforcement responsibilities will shift to the City. Historically as population has increased, the City has expanded the police force, adding 18 officers in the past 8 years. A substation to serve the westerly portion of the City Growth Area (south of the existing City territory comprising the Kenosha Regional Airport) has been under consideration by the City for some time.

The City is currently protected by a full time fire department responding from 7 fire stations with an Insurance Services (ISO) rating of 2. Two stations are located in territory adjacent to the City Growth Area, and a third is located at the Kenosha Regional Airport. An 8<sup>th</sup> station is being planned for the Strawberry Creek Neighborhood 2 miles west of I-94. Total staff for the department number 156 persons. EMS services include 56 paramedics staffing 4.5 ambulances with additional EMS services provided by engine crews (but not transport).

The Town maintains two fire stations, Station 1 at the Town Hall, and Station 2 near Lake Michigan. Both are located in the Town Growth Area. In areas with fire hydrants, the Town Fire Department ISO rating is 5, in territory without hydrants it is a 6 (the average for towns is usually a 9 – the lowest rating). The Town has 83 paid on call staff, and 7 permanent staff including the chief. Full-time staff serve a 12 hour shift with a second 12-hour shift covered by paid on call staff. 45 of the staff are also licensed EMT's (many at the Intermediate I-99 level), and staff 2 ambulances located at the two fire stations along with a backup ambulance housed at Station 1. Station 2 was recently expanded to include quarters for staff and additional equipment; Station 1 is slated to similarly expand whenever a new town hall is constructed.

The Town and City participate in mutual aid agreements for police, fire, and emergency services (the MABAS – Mutual Aid Box Alarm System that links some 1000 departments in SE Wisconsin and NE Illinois), and is dispatched by the Kenosha County Joint Services Dispatch (911).

Within the Town Growth Area, a plan exists to utilize the current fire/EMS stations until such time as population densities and response times warrant constructing additional stations (5 are proposed by time of build-out).

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<sup>6</sup> Information for this section was obtained by the Department from the City of Kenosha Police and Fire Departments, Town of Somers Fire Department, Kenosha County Sheriff, Town Administrator, City Attorney, and special counsel for the Town of Somers.

### *Park and recreation*

The Town currently maintains one community park of 20 acres, with 2 neighborhood parks (one in the Country Charms/Highwood Heights Neighborhood, and a second adjacent to the Sheridan Road Corridor Neighborhood). The Town has acquired a 35-acre parcel south of the Town Hall and formed a park committee which is currently studying all of the park and recreational facilities and planning for the future needs of the Town. City of Kenosha has a well-distributed hierarchy of parks offering numerous recreational opportunities, and additional sites are planned for residential neighborhoods (such as those identified in the “Corridor Neighborhood Plan”) located in the City Growth Area.

***(4) Any boundary maintained or any boundary change under the cooperative plan is reasonably compatible with the characteristics of the surrounding community, taking into consideration present and potential transportation, sewer, water and storm drainage facilities and other infrastructure, fiscal capacity, previous political boundaries and shopping and social customs.***

### Political boundaries

As stated by the participants, this Cooperative Plan is, to a great extent, a consensual ratification of past plans, with the intent that the Cooperative Plan will provide development direction and assure the efficient provision of urban services for anticipated urban growth. This agreement is adjudged to have no effect on surrounding jurisdictions.

### Present and potential transportation systems

Section 17 of the Cooperative Plan states that within 60 days of the “effective date” of this agreement, the Town will adopt and apply City public works standards in the City Growth Area with respect to the design and construction of public streets, sidewalks, improvements in right-of-ways and placement of public utilities in the street right of way, as well as providing a method for cost-proration based on benefits received, and resolution of disputes.

The primary transportation grid in the territory included in the Cooperative Plan is already well-established, and not likely to change.<sup>7</sup> The City Growth Area will be served by City transit services following attachment of territory and achievement of a population density sufficient to support such service. The Town has identified a potential site for a rail transit station once commuter rail is extended north to Racine and Milwaukee.

### Sewer, water and storm drainage facilities and other infrastructure

See the prior discussion on preceding pages 3-5.

### Fiscal capacity

The most recent collected statistics (year 2004) for “Allowable Versus Actual Debt” from the Wisconsin Department of Revenue indicate that for that year, the Town of Somers had 93.5% of their allowable debt ceiling— or \$26,435,490 available. The comparable statistic for the City of Kenosha is 48.3% of their allowable debt ceiling, or \$114,201,138 in allowable debt capacity. Statistics provided by the City and Town with the Cooperative Plan suggest that the Town currently has zero general obligation debt, and the City has 32.8% of its GO debt capacity remaining.

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<sup>7</sup> SEWRPC, *A Comprehensive Plan for the Kenosha Urban Planning District* (1995), Chapter 5, pp. 93-119.

For these reasons, and due to the availability of financing mechanisms other than general obligation debt, the Department concludes that the Town and City are capable of financing a full range of municipal services to those areas destined to be served according to provisions stated within the Cooperative Plan.<sup>8</sup>

#### Shopping and social customs

From inspection of various City and Town land use, comprehensive, and special-area plans, retail/commercial districts related to the territory in the agreement either currently exist, or are envisioned by the respective plans to be developed as utilities are extended. The Department finds that build-out of the *Cooperative Plan* will likely strengthen existing shopping patterns and community identity.

For all of the above-mentioned reasons, the Department finds that the standards set forth in s. 66.0307(5)(4), Wis. Stats., have been met.

***(5) The shape of any boundary maintained or any boundary change under the cooperative plan is not the result of arbitrariness and reflects due consideration for compactness of area. Considerations relevant to the criteria under this subdivision include quantity of land affected by the boundary maintenance or boundary change and compatibility of the proposed boundary maintenance or boundary change with natural terrain including general topography, major watersheds, soil conditions, and such features as rivers, lakes and major bluffs.***

The jurisdictional transfer of territory envisioned by this Cooperative Plan will result in a more logical boundary than currently exists by eventually eliminating Town islands and peninsulas, concluding with a boundary that follows (for the most part) easily identifiable distinctions between existing and proposed land use types (see “Recommended Land Use Plan for the Kenosha Urban Planning District: 2010”),<sup>9</sup> parcel sizes, and major transportation corridors. This Cooperative Plan will reinforce the City’s existing westerly growth, while likely causing the Town Growth Area to become a more cohesive political unit over time (incorporation of a portion or all of the Town Growth Area at some future date is addressed by the Cooperative Plan).

As previously described, land use planning over the past 2 decades, as well as the actions envisioned by this Cooperative Plan, have taken environmental and cultural issues into account. With or without this Cooperative Plan, this area would have urbanized over time due to its central location in the greater Kenosha metropolitan area. This Plan will promote more compact development that is served in both communicates by full urban services along with a coherent system of infrastructure, and respects boundaries arrived at by mutual consensus over the past several decades.

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<sup>8</sup> See the report “Allowable Versus Actual Debt” on the Wisconsin Department of Revenue web site: <http://www.dor.state.wi.us/slf/03aadebt.pdf>

<sup>9</sup> SEWRPC, *A Comprehensive Plan for the Kenosha Urban Planning District* (1995), p. 245. This plan is further refined by City neighborhood plans, and the (preliminary) Town of Somers Land Use Plan.

### Environmental protection

The Town and City certify in Section 19 that no new environmental effects of a significant nature will result from the proposed boundary changes<sup>10</sup>, and the Department concurs. This Plan "...will promote cooperation between the City and the Town to protect...(environmental) resources."

***(5m) The cooperative plan adequately identifies and addresses the significant adverse environmental consequences to the natural environment that may be caused by the proposed physical development of the territory covered by the plan, the municipalities submitting the plan have adequately identified and considered alternatives to minimize or avoid the significant adverse environmental consequences, the proposals in the plan for compliance with federal environmental laws or regulations and state environmental laws or rules are adequate and the need for safe and affordable housing for a diversity of social and income groups in each community has been met.***

### Significant adverse environmental consequences

The City and Town indicate in Section 19 that no new environmental effects of a significant nature will result from the proposed boundary changes.

### Housing

The City is a very active participant in the Community Development Block Grant Program, including operating acquisition, rehabilitation, new construction, home buyer assistance, rental assistance, Section 8 vouchers, homeless assistance and homeless prevention programs. As older areas of the Town within the City Growth Area attach to the City, these residents will be able to utilize varied housing services from the City, and the City certifies that its' current public housing policies "do not appear to be excessive, exclusionary, or discriminatory nor do they duplicate any other policies...", and the City will continue its pro-active position, regarding affordable housing, by continuing to provide both financial and technical assistance to affordable housing activities and projects."<sup>11</sup>

### Alternatives considered

As the content of this Plan was negotiated by the Town and the City starting from prior plans and agreements developed by the City and Town, some of which date back to the 1970's, and the formation of the Village of Pleasant Prairie in the late 1980's, no major alternatives were deemed necessary for consideration. This is a unique circumstance insofar as both units of government early on accepted the historically agreed upon boundary, and utilized this de facto boundary in their respective planning and infrastructure development activities, as well as in the development of the "2005 Intergovernmental Agreement for Orderly Development by and between City of Kenosha and Kenosha Water Utility, and Town of Somers, Somers Water Utility and Somers Sewer Utility District." As a consequence, the land planning conducted for more than a decade for the respective boundary areas is consistent on both sides of the proposed municipal limit line. The durability of the de facto boundary is illustrated by the fact that, during negotiations, only 4 parcels became exceptions to this historic boundary.

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<sup>10</sup> "Cooperative Plan," Section 16.

<sup>11</sup> "Cooperative Plan," Section 21.

***(6) Any proposed planning period exceeding 10 years is consistent with the plan.***

The 30-year duration of the Plan is determined by the Department to be consistent with the activities agreed upon by the City and Town, including the objective and agreed-upon method of protecting existing town residential property owners from attachment against their will, and for the projected build-out to occur in conjunction with the provision of full urban services by the City and Town utilizing the “2005 Intergovernmental Agreement for Orderly Development by and between City of Kenosha and Kenosha Water Utility, and Town of Somers, Somers Water Utility and Somers Sewer Utility District,” which becomes effective upon state acceptance of this Cooperative Plan.

## Approval

This "Cooperative Plan" meets the statutory criteria of s. 66.0307, Wis. Stats. Pursuant to authority found in s. 66.0307(5), Wis. Stats., the Wisconsin Department of Administration hereby approves the "City of Kenosha/Town of Somers Cooperative Plan Under Section 66.0307, Wisconsin Statutes."

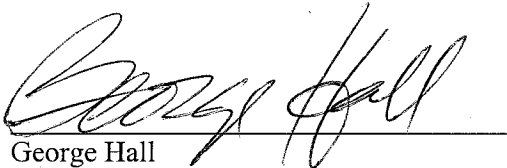
Henceforth, amendments or revisions to the "Cooperative Plan" can only occur with the approval of the Town of Somers and the City of Kenosha, and with the concurrence of the Wisconsin Department of Administration or any successor agency granted the authority to administer the provisions of s. 66.0307(8), Wis. Stats. This "Cooperative Plan" is effective from today's date, and remains in effect pursuant to the language and terms contained therein.

Dated this 8th day of August, 2005.

By the Wisconsin Department of Administration:



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Laura Arbuckle  
Administrator  
Division of Intergovernmental Relations  
Wisconsin Department of Administration



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George Hall  
Municipal Boundary Review  
Division of Intergovernmental Relations  
Wisconsin Department of Administration



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Mark Saunders  
Deputy Counsel  
Wisconsin Department of Administration