



STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION

Tony Evers, Governor
Joel Brennan, Secretary
Dawn Vick, Division Administrator

VIA Email

December 29, 2020

Russ Geise, Chair
Town of Clayton
8348 County Road T
Larsen, WI 54947

Matthew Olson, Chair
Town of Winchester
8522 Park Way
Larsen, WI 54947

Dear Messrs. Geise and Olson,

The Department has reviewed the 2nd revised cooperative plan between the Towns of Clayton and Winchester to ensure that it complies with the statutory criteria in s. 66.0307(5), Wis. Stats.

The Department finds that the statutory standard remaining to be met is now met. Therefore, on behalf of the Department of Administration, I am pleased to provide your communities with our approval of your Cooperative Plan.

Congratulations on your success in reaching agreement, and on your communities' perseverance in making the needed additions and revisions to your cooperative plan to ensure that it complies with the statutory standards.

Should you have any questions concerning our approval, or subsequent cooperative plan questions, please do not hesitate to contact me or Erich Schmidtke at (608) 264-6102.

Sincerely,

Dawn Vick, Administrator
Division of Intergovernmental Relations

Enclosure

cc: Matt Parmentier, Town of Clayton Attorney
Haley Krautkramer, City of Menasha Clerk
Jane Booth, Village of Hortonville Clerk
Wendy Helgeson, Town of Greenville Clerk
Emily Miller, Town of Caledonia
Yvonne Zobel, Town of Winneconne Clerk
Holly Stevens, Town of Clayton
Jeannette Merten, Town of Oshkosh
Pamela Ubrig, City of Oshkosh
Stephanie Cheslock, City of Neenah

City of Appleton Clerk
Lyn Neuenfeldt, Town of Hortonville Clerk
Angie Cain, Town of Grand Chute Clerk
Jenny Dezeeuw, Town of Dale
Jacquin Stelzner, Village of Winneconne
Holly Stevens, Town of Winchester
Jennifer Brown, Town of Vinland
Deborah Stark, Town of Algoma
Ellen Skerke, Town of Neenah
Darla Fink, Village of Fox Crossing



WISCONSIN DEPARTMENT OF ADMINISTRATION

**REVIEW of the 2nd REVISED COOPERATIVE PLAN
under Section 66.0307, Wis. Stats.**

between the

**TOWNS OF CLAYTON and WINCHESTER
WINNEBAGO COUNTY**

December 29, 2020

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**STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION**

Tony Evers, Governor
Joel Brennan, Secretary
Dawn Vick, Division Administrator

This determination constitutes the Department's review of the second revised and resubmitted cooperative plan (2nd Revised Cooperative Plan) between the Towns of Clayton and Winchester under s. 66.0307(5), Wis. Stats.

It is the DETERMINATION OF THE DEPARTMENT OF ADMINISTRATION that:

Standard 1, Content of Cooperative Plan Sufficiently Detailed – Previously Met

Standard 2, Cooperative Plan Consistent with Comprehensive Plans and State and Local Laws and Regulations – Previously Met

Standard 3, Adequate Provision for Municipal Services – Met

Standard 4, Provision for Affordable Housing – [Repealed & Inapplicable]

Standard 5, Compactness of Plan Territory – Previously Met

Standard 6, Planning Period is Consistent with Cooperative Plan – Previously Met

The facts and analysis supporting these findings are discussed in the body of this determination. The Determination of the Department of Administration is as follows:

The Cooperative Plan is APPROVED.

Dated this 29th day of December 2020,

Dawn Vick
Administrator, Division of Intergovernmental Relations

NOTICE OF APPEAL RIGHTS

This Notice sets forth the requirements and procedures for obtaining judicial review of the attached decision of the Department. Any person aggrieved by a decision of the Department can seek judicial review of the decision under Wis. Stats. §§ 66.0307(9) and 227.52, *et seq.* A petition for judicial review must be filed in the Circuit Court within 30 days of the date of this decision. In addition, a copy of the petition for judicial review must also be served on the Department either personally or by certified mail within 30 days of the date of the decision. A petition for judicial review shall name the Department of Administration as the Respondent. Petitions for judicial review should be served on the Department's Secretary, Joel Brennan, at the following address:

Secretary Joel Brennan
Wisconsin Department of Administration
c/o DOA, Municipal Boundary Review
101 East Wilson Street, 9th Floor
PO Box 1645
Madison, WI 53701

Persons filing a petition for judicial review are advised to closely examine all provisions of Wis. Stat. §§ 227.52 and 227.53 to ensure strict compliance with the statutory requirements. The summary of appeal rights in this notice should not be relied upon as a substitute for the careful review of all applicable statutes, nor should it be relied upon as a substitute for obtaining the assistance of legal counsel.

Executive Summary

The Department previously reviewed the Original Cooperative Plan on July 16, 2020 and found that four of five statutory standards were not met. As a result, the Department returned the Original Cooperative Plan pursuant to s. 66.0307(5)(d), Wis. Stats., recommending that the Communities resubmit it with revisions and additional information relating to the unmet standards. On August 26, 2020, the Communities did re-submit the cooperative plan (Revised Cooperative Plan) with revisions and additional information. On September 25, 2020, the Department found all but one of the remaining statutory standards to be met. As a result, the Department returned the Revised Cooperative Plan pursuant to s. 66.0307(5)(d), Wis. Stats., recommending the Communities resubmit it with revisions related to the remaining unmet standard. On December 11, 2020, the Communities did resubmit.

Because the needed revision has been made, the Department finds that all the statutory standards are now met, and this 2nd Revised Cooperative Plan is approved.

Approval Criteria Applicable to the Department

A cooperative plan shall be approved by the Department if the Department determines that each of the review criteria in s. 66.0307(5)(c), Wis. Stats., is met. Nothing in the statutes authorizes the Department to waive any of these requirements.

This determination is limited to the statutory standard previously found not met. It does not re-review the Cooperative Plan in its entirety. Therefore, both this determination and the Department's previous determinations on July 16, 2020 and September 25th should be read together to constitute the Department's full review.

The following paragraphs describe how these review criteria apply to the Cooperative Plan. It is important to understand that this review document is not a complete restatement of the Plan. Those wanting to learn specific details, provisions, nuances, and conditions should look to the text of the Cooperative Plan itself, which is available from the communities as well as on the Department of Administration's website at: <http://doa.wi.gov/municipalboundaryreview>.

- (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 subds. 2 to 5. s. 66.0307(5)(c)1., Wis. Stats.***

Standard previously met.

- (2) ***Is the cooperative plan consistent with each participating municipality's comprehensive plan and with current state laws, municipal ordinances and administrative rules that apply to the territory affected by the plan? s. 66.0307(5)(c)2., Wis. Stats.***

Standard previously Met.

- (3) ***Is adequate provision made in the cooperative plan for delivery of necessary municipal services to the territory covered by the plan? s. 66.0307(5)(c)3., Wis. Stats.***

Section 10 states that each Community will be responsible for providing municipal services to residents within its boundaries. As a result, this Plan generally contemplates no shared services. However, the parties do intend to transfer ownership and operation of the existing Larsen-Winchester Sanitary District to the Town of Clayton immediately upon the effective date of this Plan. Clayton will also continue to serve Winchester territory within the sanitary district's boundaries, as well as extend service to Winchester landowners as the district's boundaries are amended over time.

As identified in the Department's previous determinations on July 16th and September 25th, 2020, a potential problem was that the Cooperative Plan initially intended the transfer to go to a prospective new village to be named the Village of Larson. However, this village of Larson does not yet exist, and will not exist when this Cooperative Plan becomes effective. Therefore, there is no Village of Larson entity to which to transfer ownership and operation of the sanitary district upon the effective date.

The Department recommended that the Communities correct this potential problem. In its Revised Cooperative Plan submitted on August 26, 2020, the Communities did correct the problem in one section of the Plan, but not in another. Specifically, Section 8 of the Plan was revised to transfer ownership and operation of the sanitary district to Clayton, however, Section 4 still transferred it to the prospective Village of Larson. This 2nd Revised Cooperative Plan now corrects Section 4 also, so that all Plan provisions now clearly state that transfer of ownership and operation will be to Clayton.

Because this needed revision has now been made, the Department finds that the standard in s. 66.0307(5)(c)3., Wis. Stats. is 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. s. 66.0307(5)(c)5., Wis. Stats.*

Standard previously met.

- (6) *Any proposed planning period exceeding 10 years is consistent with the plan. s. 66.0307(c)6., Wis. Stats.*

Standard previously Met

**INTERGOVERNMENTAL COOPERATIVE PLAN BETWEEN
THE TOWN OF CLAYTON AND THE TOWN OF WINCHESTER**

The Town of Clayton, a Wisconsin town located in Winnebago County, Wisconsin (“Clayton”) and the Town of Winchester, a Wisconsin town located in Winnebago County, Wisconsin (“Winchester”) hereby enter into this Intergovernmental Cooperative Plan (the “Plan”) under the authority of Wis. Stat. § 66.0307 and Wis. Stat. § 66.0301. Clayton and Winchester shall hereafter be referred to collectively as the “Parties”.

Recitals

- A. Clayton posted a Notice of Intent to Circulate a Petition for Incorporation on June 16, 2018, filed its incorporation petition in December 2018, and intends to incorporate as a village under Wis. Stat. § 66.0203 as soon as permitted to do so. Upon incorporation, the “Village of Larsen”, or other such name as the village arising from the aforementioned petition adopts, will exist with the boundaries as identified in the attached Exhibit A, or such other boundaries as approved pursuant to Wis. Stat. § 66.0203.
- B. The Parties have met several times to discuss the potential incorporation of Clayton and any possible concerns that may stem from Clayton’s incorporation.
- C. As a result of those meetings, the Parties have determined that it is in their collective best interests to enter into this Plan.
- D. The Parties have further determined that the arrangements described in this Plan will serve the purposes described in Wis. Stat. § 66.0307(3)(b) by building and accomplishing coordinated, adjusted, and harmonious development of the territory covered by the Plan in a manner that best promotes the public health, safety, morals, order, convenience, prosperity, and general welfare, as well as achieving efficiency and economy in the performance of governmental functions.
- E. Wis. Stat. § 66.0307(2)(a) through (d) require that cooperative plans be organized around “options” for future boundary changes. These options specify how boundary changes will occur under the cooperative plan. This Plan is organized around the option described in Wis. Stat. § 66.0307(2)(d), which allows a cooperative plan to provide that specified boundary lines may not be changed during the planning period. Specifically, upon incorporation of the Village of Larsen, the Village will not annex or attach any property located in Winchester, except as permitted herein, for the remainder of the term of this Plan.
- F. The Parties enter into this Plan for the purpose of establishing permanent boundaries, assuring orderly development and limiting extraterritorial zoning, land division, and official mapping controls within the boundaries of the Town of Winchester once the Village of Larsen is incorporated.

NOW, THEREFORE, in consideration of the above recitals, which are contractual, and for other good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, the Parties agree as follows:

Section 1: Participating Municipalities.

The Parties, whose respective boundaries as of the effective date of this Plan are shown in the “Cooperative Plan Area” map attached as Exhibit B, enter into this Plan under the authority of Wis. Stat. § 66.0307.

Section 2: Contact Persons.

The following persons and their successors are authorized to speak for their respective municipalities regarding this Plan.

- **Town of Clayton**
Town Chairperson
Russ Geise
920-427-4126
rgeise@centurytel.net

- **Town of Winchester**
Town Chairperson
Matthew J. Olson
920-836-1769

Section 3: Territory Subject to Plan.

This Plan will cover the “Cooperative Plan Area” as identified in Exhibit B.

Section 4: Purpose.

The Plan is intended to achieve the general purpose described in Wis. Stat. § 66.0307(3)(b), which is to guide and accomplish a coordinated, adjusted, and harmonious development of the territory covered by the Plan consistent with each existing participating municipality’s comprehensive plan. The Parties have further identified the following specific purposes of this Plan:

- a. Annexation waiver – Upon the incorporation of Clayton, the new “Village of Larsen” will not annex or attach any property of the Town of Winchester during the term of the Plan without the prior written consent of the Town of Winchester Board.

- b. Extraterritorial Jurisdiction - Upon the incorporation of Clayton, the new “Village of Larsen” agrees to waive certain portions of its extraterritorial jurisdiction within the Cooperative Plan Area. Extraterritorial jurisdiction is discussed in more detail in Section 6 below.

- c. Support for Incorporation – The Town of Winchester agrees to support Clayton’s incorporation, and agrees to waive any right to commence or maintain any action to contest or challenge the validity or enforceability of the incorporation.

- d. Joint Sanitary District – The parties intend for the existing Larsen-Winchester Sanitary District – whose current boundaries are shown in the attached Exhibit C – to be owned and operated by the Clayton immediately upon the effective date of this Plan.

Section 5: Consistency with Comprehensive Plans.

Currently, Clayton maintains a Comprehensive Plan developed under Wis. Stat. § 66.1001 entitled “*Town of Clayton Comprehensive Plan 2016-2036*.” Currently, Winchester maintains a Comprehensive Plan developed under Wis. Stat. § 66.1001 that was originally adopted in 2006 and amended in 2016.

This Plan is consistent with the Town of Clayton’s Comprehensive Plan in several aspects:

- Town of Clayton’s Comprehensive Plan states that “[b]order agreements will be sought with neighboring villages and cities.”
- The Comprehensive Plan also says that opportunities for further intergovernmental agreements and cooperation includes “[b]oundary agreements with nearby incorporated communities to stabilize the present town boundaries from annexations.”
- Town of Clayton’s Comprehensive Plan encourages the Town to “always monitor the pros and cons of incorporation as a strategy to maintain the current boundaries of the town and to provide urban services, along with the strategies of boundary agreements or cooperative agreements to provide urban services. “

Additionally, this Plan is also consistent with the Town of Winchester’s Comprehensive Plan in several aspects:

- The Town of Winchester’s Comprehensive Plan has a stated purpose for intergovernmental cooperation that says that “[t]he purpose of the intergovernmental cooperation chapter of the comprehensive plan is to describe current intergovernmental agreements, explore opportunities for future collaboration, and identify potential areas of conflict between the Town and its governmental neighbors.”
- The Town of Winchester’s Comprehensive Plan has an explicitly stated intergovernmental vision that “The Town of Winchester will continue to work with its municipal neighbors, Winnebago County, and the State of Wisconsin to pursue opportunities for cooperation and collaboration that lead to improved services and reduced costs for its residents, land owners, and business owners.”
- The Town of Winchester’s Comprehensive Plan states that a benefit of intergovernmental cooperation is “[i]ntergovernmental cooperation between and among cities, villages, towns, and counties often produces less expensive and more efficient governmental services.”

This Plan is consistent and compatible with existing plans, ordinances, codes, and statutes. The Plan was developed in recognition of the multiple jurisdictions with an interest in the Cooperative Plan Area. This Plan will allow the Parties to move forward in planning for the

delivery of services to their respective areas so that there will not be competition between the Parties, property owners, and developers.

Section 6: Extraterritorial Jurisdiction Authority.

The Parties acknowledge that Clayton will have the ability to exercise statutory extraterritorial zoning, planning and land division review authority once it incorporates into the Village of Larsen pursuant to Wis. Stats. § 62.23(2), § 62.23(7a), § 236.10(1)(b) and § 236.02(5). Once incorporated, the Village of Larsen may exercise its extraterritorial jurisdiction throughout the Cooperative Plan Area subject to the following limitations.

- a. The Village of Larsen agrees to waive its extraterritorial platting and land division review authority throughout the Cooperative Plan Area.
- b. The Village of Larsen agrees to waive its extraterritorial zoning authority under Wis. Stat. § 62.23(7a) throughout the Cooperative Plan Area. However, the Village reserves the right to exercise its extraterritorial planning authority under Wis. Stat. § 62.23(2), but only insofar as it relates to public utilities, roadway issues, and other issues that are mutually agreed upon by the parties.
- c. The Parties shall record with the Winnebago County Register of Deeds resolutions providing for the waivers of the Village of Larsen's extraterritorial jurisdiction powers described in this Plan as soon as practicable upon the incorporation of the Village of Larsen.
- d. The Village of Larsen shall not rescind this waiver for the duration of the Plan term without first obtaining the written approval of the Town of Winchester.

Section 7: Annexations.

Once incorporated, the Village of Larsen will not annex or attach any territory from the Cooperative Plan Area without the prior written consent of the Town of Winchester Town Board, which consent may be withheld or conditioned at the sole discretion of Winchester. A written request for consent will be submitted to Winchester upon receipt of an annexation petition. Winchester will respond in writing to such a request within 45 days. Winchester's failure to approve a request within such 45-day period shall constitute a denial.

Section 8: Larsen-Winchester Sanitary District.

The Parties agree that immediately upon the effective date of this Plan, all assets and liabilities of the Larsen-Winchester Sanitary District will be transferred to and assumed by Clayton. The parties further agree that at such time, the responsibility for continuing the operation of the District shall be vested in Clayton. The parties agree to take such further action and execute such further documents as necessary to accomplish the transfer. Clayton will defend, indemnify, and hold harmless the Town of Winchester against all claims, losses, and damages arising from the operation and management of the Larsen-Winchester Sanitary District following the transfer.

Clayton agrees that upon the transfer of the Larsen-Winchester Sanitary District, it will continue providing services to properties served by the District within the Town of Winchester as of the date of transfer and will also extend services to any property located in the Town of Winchester that is also located within the Larsen-Winchester Sewer Service Area, or its successor, as it is amended from time-to-time, without conditioning services on annexation; provided, however, that the Clayton has adequate capacity to provide such services or other such conditions as are reasonable and customary for the provision of such services.

It may be necessary from time-to-time for Clayton to invoke special assessment proceedings and to levy special assessments upon property located within the Town of Winchester for the design, installation, repair, replacement, or extension of infrastructure located within the Town of Winchester. The Town of Winchester agrees to take all action necessary for the Clayton to levy and carry out those special assessments within the Town of Winchester.

The parties agree that upon transfer of the Larsen-Winchester Sanitary District, Town of Winchester users who receive services from Clayton will be subject to the same connection charges, service charges, volume charges, and other rates and charges as those in effect within the Clayton. The parties acknowledge that the Clayton's rates and charges may change from time-to-time and that any changes will also apply to Town of Winchester users who receive services from Clayton. Clayton will not discriminate between Town of Winchester users and Town of Clayton users in the creation and implementation of its rates, charges, and special assessments.

The parties further agree that upon the effective date of this Plan, the Larsen-Winchester Sanitary District Commission will become a five-member commission with members to be determined by Clayton. The Parties agree that by adopting this Agreement they are resolving to implement a five-member commission. The parties agree to take such further action and execute such further documents as necessary to implement a five-member commission. The Town of Winchester agrees that they will not appoint any person to the Commission who has not been approved or nominated by the Town of Clayton.

Section 9: Compactness.

Because Section 7 establishes a general prohibition on annexations or attachments of territory from Winchester, its boundaries will remain the same or substantially the same as they currently are. That is, this plan maintains the existing boundary between the party municipalities except for any annexations expressly authorized by the Town of Winchester under Section 7, above. Similarly, the general prohibition on annexations and attachments will limit additional growth of the Village of Larsen into the Town of Winchester during the term of this Plan. The compactness of the Village of Larsen will also be examined as part of its incorporation process.

Section 10: Services.

Except as otherwise specifically provided herein, each of the parties will be responsible for providing municipal services within its boundaries. That is, this Plan contemplates no shared services other than those specifically described herein or otherwise approved by the parties through other intergovernmental agreements.

Section 11: Dispute Resolution.

All disputes over the interpretation, application or enforceability of this Agreement shall be resolved according to the following dispute resolution procedures:

- a. If the dispute cannot be resolved by the personnel directly involved, the parties will consider the following mediation process before invoking formal arbitration:
 - i. Each party will designate a representative with appropriate authority to be its representative in the mediation of the dispute.
 - ii. Either representative may request the assistance of a qualified mediator. If the parties cannot agree on the qualified mediator within five days of the request for a mediator, a qualified mediator will be appointed by the Municipal Boundary Review Director of the Office of Land Information Services of the State of Wisconsin Department of Administration, or his successor.
 - iii. The mediation session shall take place within 30 days of the appointment of the respective representative designated by the parties, or the designation of a mediator, whichever occurs last.
 - iv. In the event that a mediator is used, each party shall provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved at least 10 days prior to the first scheduled mediation session. The Parties will also produce all information reasonably required for the mediator to understand the issues presented. The mediator may require the Parties to supplement such information.
 - v. The mediator does not have authority to impose a settlement upon the Parties but will attempt to help the Parties reach a satisfactory resolution of their dispute. To the extent authorized by law, the mediation session(s) are private. The Parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the Parties and with the consent of the mediator. The Parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding, views expressed or suggestions made by the other party with respect to a possible settlement of the dispute, or admissions made by the other party in the course of mediation proceedings.
 - vi. The expenses of a mediator, if any, shall be borne equally by the Parties.
- b. If unresolved after (a) above, either Party may seek a judicial determination of the matter by the filing of an action in the Circuit Court of Winnebago County, State of Wisconsin according statute.

Section 12: Consistency with State, Federal, and Local Laws.

This Plan is consistent with current state and federal law, shoreland zoning ordinances, municipal regulations, and administrative rules that apply to the Parties. This Plan will be interpreted consistent with applicable law, and it acknowledges that other sources of law may supersede the Plan. The intent of the Plan is to avoid conflict with any applicable law.

Section 13: Severability

The provisions of this Plan are severable. In the event that any provision is held to be invalid or unconstitutional, or if the application of any provision to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or application of the Plan, which can be given lawful effect without the invalid or unconstitutional provisions or application.

Section 14: Effective Date and Planning Period.

This Plan shall take effect upon its approval by the Wisconsin Department of Administration, regardless of whether the Town of Clayton has incorporated at the time. The planning period shall be 50 years for all provisions, unless the Parties, or their successors in interest, agree otherwise by written instrument consistent with applicable law at the time of its execution. The 50-year planning period is necessary in order to implement the prohibition on annexations, the waiver of Larsen's extraterritorial jurisdiction for the period agreed upon by the parties, and is also consideration for the transfer of the Larsen-Winchester Sanitary District in accordance with Section 8, above. Upon expiration of the 50-year period, this Plan shall be automatically renewed for two additional 25-year periods unless either party gives prior written notice to the other at least one year prior, but not more than two years prior, to the expiration of the current term that it intends not to renew this Plan. The parties expressly agree that the provisions of this Plan related to the parties' post-incorporation relationship apply both to the currently-pending incorporation petition as well as to any subsequent incorporation that occurs during the term of this Plan.

Section 15: Miscellaneous.

- a. No Third-Party Beneficiary. This Plan is intended to be solely between the Parties. There are no intended third-party beneficiaries of this Plan. Nothing in this Plan shall be interpreted as giving to any person or entity not a party to this Plan any legal or equitable right whatsoever.
- b. Administration. This Plan shall be administered on behalf of each party by that party's Town Chairperson or designee.
- c. Further Acts. The Parties agree to take any further actions and execute such further documents as are necessary to accomplish the actions contemplated by this Plan.
- d. Third-Party Actions. In the event of a court action by a third party challenging the validity or enforceability of this Plan, the Parties shall cooperate to vigorously defend this Plan. If only one party is named in the relevant action, the other party will seek to

intervene and the named party will support such intervention. No settlement of any action is permitted without the approval of the governing bodies of both Parties.

- e. References. Any reference to a particular agency, organization, municipality or official shall be interpreted as applying to any successor agency, organization, municipality or official to which the contemplated functions are transferred. Except as expressly stated otherwise, any reference in this Plan to a particular ordinance or statute shall be interpreted as applying to such statute or ordinance as recreated or amended from time to time.
- f. Authority. Each party represents that it has the authority to enter into this Plan and that all necessary procedures have been followed to authorize this Plan. Each person signing this Plan represents and warrants that he or she is duly authorized to do so.
- g. Amendment. The procedure for amending this Plan shall be that as set forth in Wis. Stat. § 66.0307(8).
- h. Continued Enforceability. The enforceability of this Plan is not affected by statutory amendments, changes in the forms of governments of the Parties, or changes in the elected officials of the Parties. This Plan shall be construed to be binding upon the Parties' respective successors, agents and employees. This Plan shall be binding on both the Town of Clayton as well as any successor Village incorporated from Town of Clayton territory.
- i. Performance Standard. This Plan requires the Parties to act or to refrain from acting on a number of matters. The Parties acknowledge that this Plan imposes on them a duty of good faith and fair dealing. In addition, whenever consent or approval is required by a party, the consent or approval shall not be unreasonably withheld, delayed, or conditioned.
- j. Counterparts. This Plan may be signed in one or more counterparts, each of which, taken together, shall be deemed the same document. Furthermore, facsimile and digital pdf signatures constitute the same as an original signature.

IN WITNESS THEREOF, the Parties certify that this Plan has been duly approved by their respective governing bodies in accordance with all applicable state and local laws, regulations and ordinances, and that each party has caused their duly authorized officers to execute this Plan.

Dated this 19TH day of OCTOBER, 2020.


TOWN OF WINCHESTER

Attest: 
Town Clerk

By: 
Town Chairperson

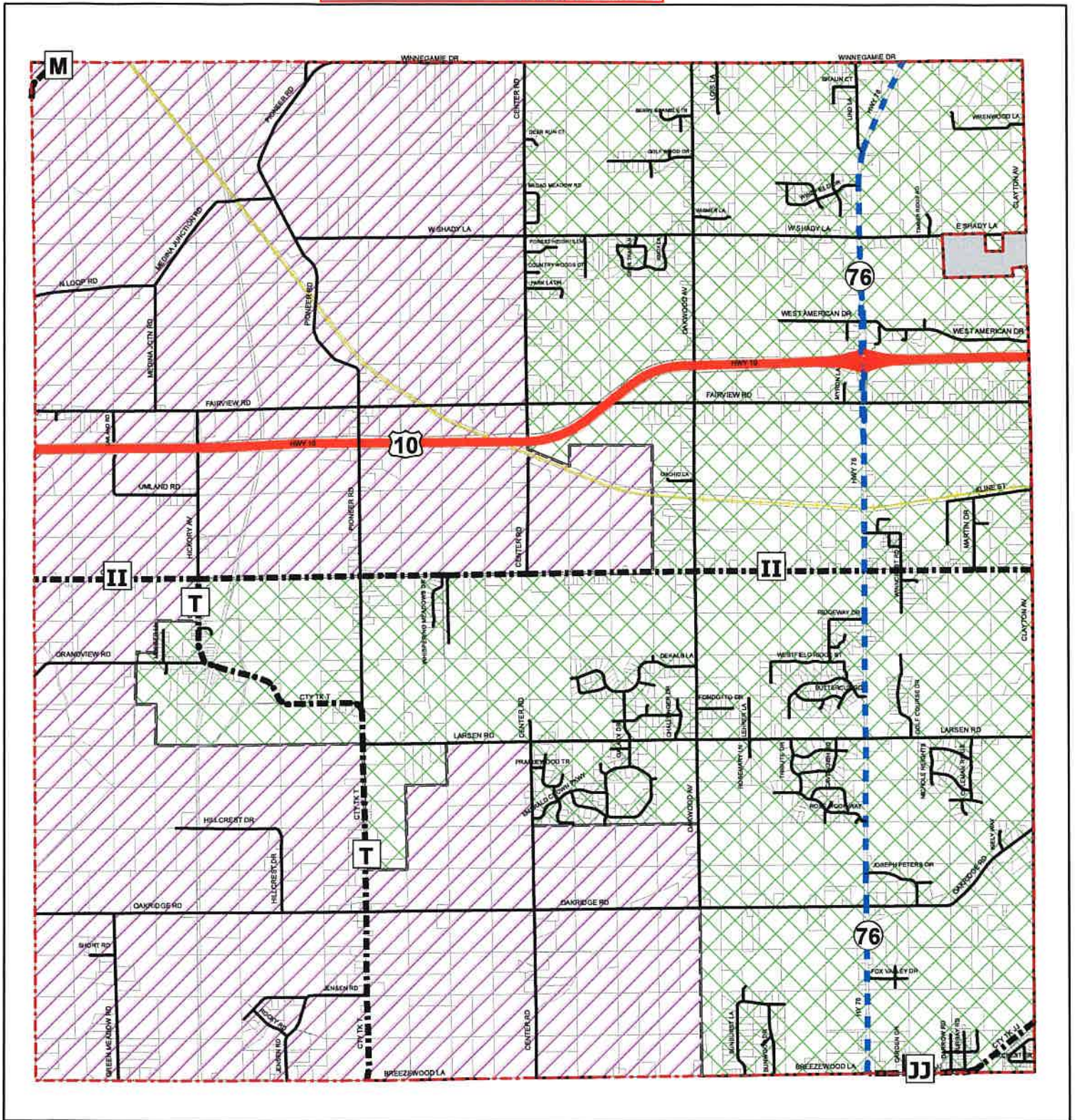
Dated this 21ST day of OCTOBER, 2020.

TOWN OF CLAYTON







Attest: 
Town Clerk

By: 
Town Chairperson




EXHIBIT A TO Boundary Agreement



Map Features

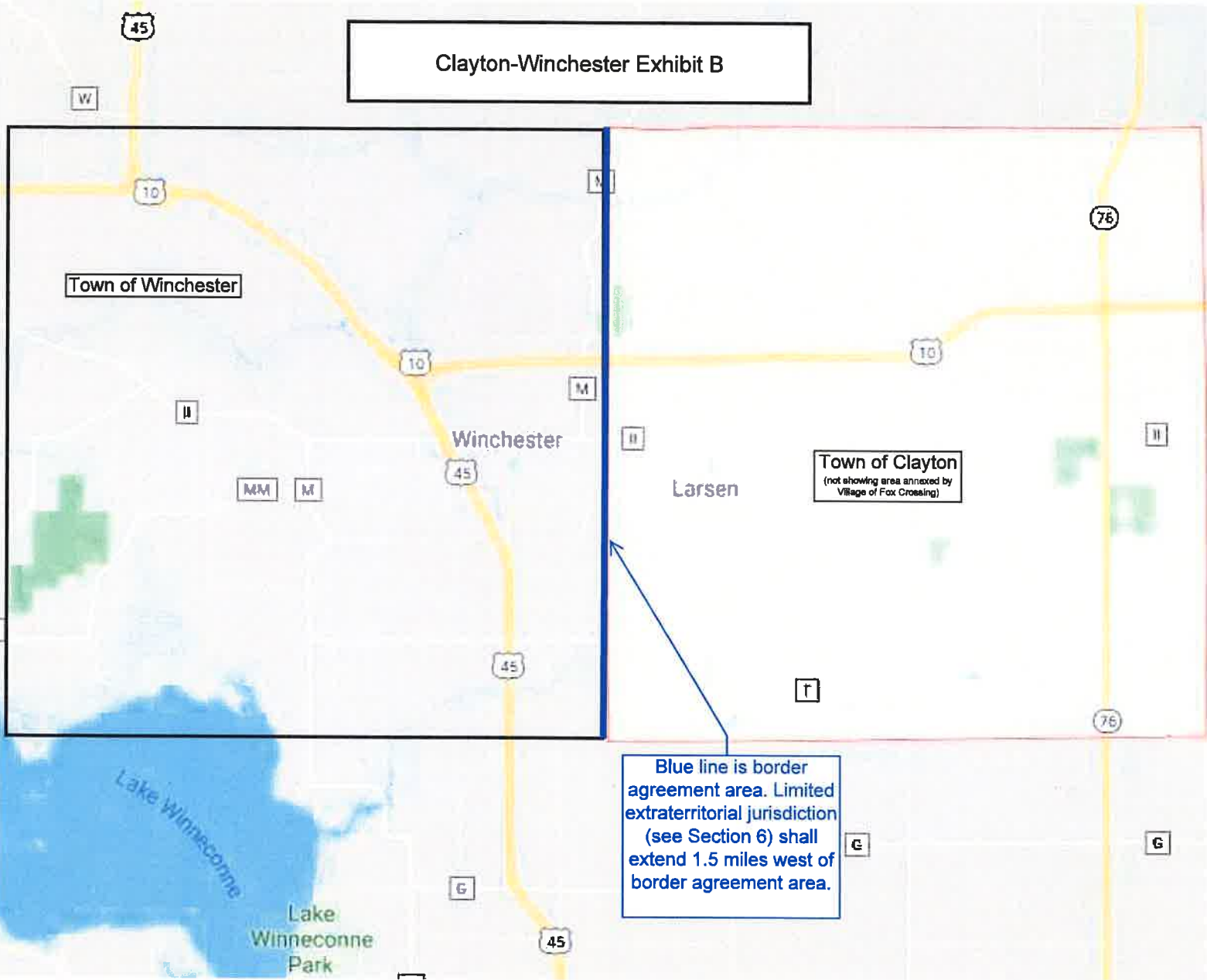
-  Parcel Line
-  Railroad Centerline
-  Local Road
-  County Road
-  State Highway
-  Federal Highway

Municipal Areas

-  Town of Clayton
-  Village of Clayton
-  Village of Fox Crossing



Clayton-Winchester Exhibit B



Town of Winchester

Winchester

Larsen

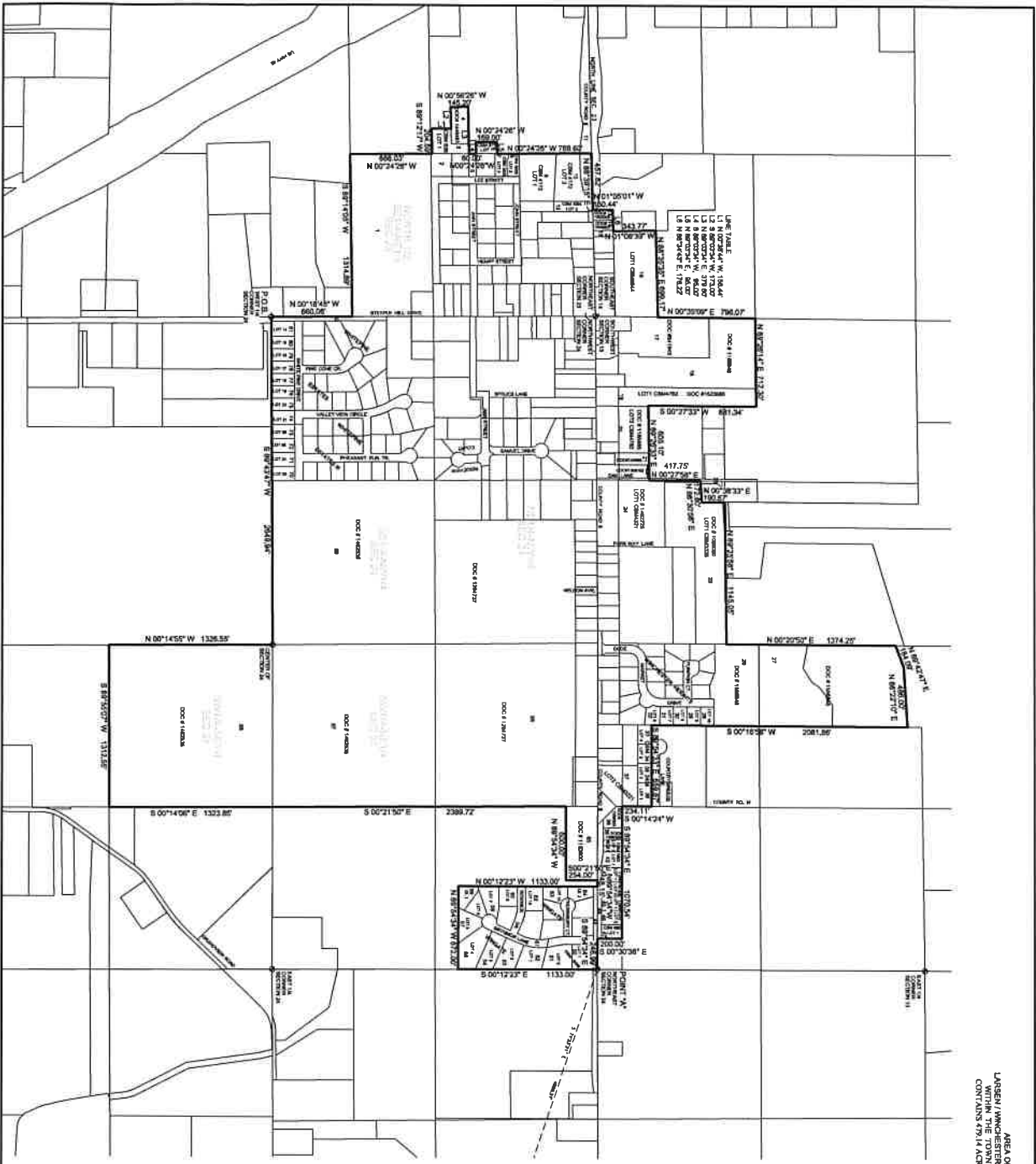
Town of Clayton
(not showing area annexed by
Village of Fox Crossing)

Lake Winneconne

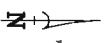
Lake Winneconne Park

Blue line is border agreement area. Limited extraterritorial jurisdiction (see Section 6) shall extend 1.5 miles west of border agreement area.

CLAYTON-WINCHESTER EXHIBIT C



AREA OF THE
LARSEN-WINCHESTER SANITARY DISTRICT
WITHIN THE TOWN OF WINCHESTER,
COUNTY OF WINNEBAGO, WISCONSIN



SCALE: AS SHOWN TO
INDICATE CORNER POSITIONS
1" = 100'

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DRAWING NO. 1-0049-008	DATE DEC 2013	LARSEN-WINCHESTER SANITARY DISTRICT WINCHESTER BOUNDARY WINNEBAGO COUNTY, WISCONSIN	DRAWN BY MJE	CHECKED MJE	APPROVED MJE
			NO.	DATE	REVISION
Martenson & Eisele, Inc. 1377 Midway Road Menasha, WI 54952 www.martenson-eisele.com info@martenson-eisele.com 920.731.0381 1.800.236.0381					



**STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION**

Tony Evers, Governor
Joel Brennan, Secretary
Dawn Vick, Division Administrator

VIA Email

September 25, 2020

Russ Geise, Chair
Town of Clayton
8348 County Road T
Larsen, WI 54947

Matthew Olson, Chair
Town of Winchester
8522 Park Way
Larsen, WI 54947

Dear Messrs. Geise and Olson,

The Department has reviewed the revised cooperative plan between the Towns of Clayton and Winchester to ensure that it complies with the statutory criteria in s. 66.0307(5), Wis. Stats. The Department finds that the revised cooperative plan now meets four of the five statutory criteria. However, the remaining unmet standard requires additional clarifying information and revision. Therefore, under authority in s. 66.0307(5)(d), Wis. Stats. the Department is again returning the proposed cooperative plan to the Towns with the recommendation that it be re-submitted to include the specific revision which is identified in the body of the enclosed determination.

According to the statute, you have 90 days from today's date to re-submit the plan. Should you have any questions about this process or our enclosed review determination, please contact Erich Schmidtke at (608) 264-6102.

Sincerely,

Dawn Vick, Administrator
Division of Intergovernmental Relations

Enclosure

cc: Matt Parmentier, Town of Clayton Attorney
Haley Krautkramer, City of Menasha Clerk
Jane Booth, Village of Hortonville Clerk
Wendy Helgeson, Town of Greenville Clerk
Emily Miller, Town of Caledonia
Yvonne Zobel, Town of Winneconne Clerk
Holly Stevens, Town of Clayton
Jeannette Merten, Town of Oshkosh
Pamela Ubrig, City of Oshkosh
Stephanie Cheslock, City of Neenah

City of Appleton Clerk
Lyn Neuenfeldt, Town of Hortonville Clerk
Angie Cain, Town of Grand Chute Clerk
Jenny Dezeeuw, Town of Dale
Jacquin Stelzner, Village of Winneconne
Holly Stevens, Town of Winchester
Jennifer Brown, Town of Vinland
Deborah Stark, Town of Algoma
Ellen Skerke, Town of Neenah
Darla Fink, Village of Fox Crossing



WISCONSIN DEPARTMENT OF ADMINISTRATION

**REVIEW of the REVISED COOPERATIVE PLAN
under Section 66.0307, Wis. Stats.**

between the

**TOWNS OF CLAYTON and WINCHESTER
WINNEBAGO COUNTY**

September 25, 2020

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**STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION**

Tony Evers, Governor
Joel Brennan, Secretary
Dawn Vick, Division Administrator

This determination constitutes the Department's review of the revised and resubmitted cooperative plan (Revised Cooperative Plan) between the Towns of Clayton and Winchester under s. 66.0307, Wis. Stats. The Department previously reviewed the cooperative plan (Original Cooperative Plan) on July 16, 2020 and found that four statutory standards were not met. As a result, the Department returned the Original Cooperative Plan pursuant to s. 66.0307(5)(d), Wis. Stats., recommending that the Communities resubmit it with revisions and additional information relating to the unmet standards. On August 26, 2020, the Communities did re-submit the Revised Cooperative plan with revisions and additional information.

It is the DETERMINATION OF THE DEPARTMENT OF ADMINISTRATION that when considering the Revised Cooperative Plan under Section 66.0307(5), Wis. Stats.:

Standard 1, Content of Cooperative Plan Sufficiently Detailed – Met

Standard 2, Cooperative Plan Consistent with Comprehensive Plans and State and Local Laws and Regulations – Met

Standard 3, Adequate Provision for Municipal Services – Not Met

Standard 4, Provision for Affordable Housing – [Repealed & Inapplicable]

Standard 5, Compactness of Plan Territory – Met

Standard 6, Planning Period is Consistent with Cooperative Plan – Previously Met

The facts and analysis supporting these findings are discussed in the body of this determination. The Determination of the Department of Administration is as follows:

Pursuant to s. 66.0307(5)(d) Wis. Stats., the Department is returning the proposed cooperative plan to the Towns of Clayton and Winchester with the recommendation that it be re-submitted with the revision discussed in the body of this determination.

The Department believes that this cooperative plan, if revised, may constitute a cooperative plan that complies with each of the above statutory standards. According to s. 66.0307(5)(d) Wis. Stats., the Communities have 90 days from today's date in which to resubmit another revised cooperative plan to the Department.

Dated this 25th day of September 2020,

Dawn Vick
Administrator, Division of Intergovernmental Relations

NOTICE OF APPEAL RIGHTS

This Notice sets forth the requirements and procedures for obtaining judicial review of the attached decision of the Department. Any person aggrieved by a decision of the Department can seek judicial review of the decision under Wis. Stats. §§ 66.0307(9) and 227.52, *et seq.* A petition for judicial review must be filed in the Circuit Court within 30 days of the date of this decision. In addition, a copy of the petition for judicial review must also be served on the Department either personally or by certified mail within 30 days of the date of the decision. A petition for judicial review shall name the Department of Administration as the Respondent. Petitions for judicial review should be served on the Department's Secretary, Joel Brennan, at the following address:

Secretary Joel Brennan
Wisconsin Department of Administration
c/o DOA, Municipal Boundary Review
101 East Wilson Street, 9th Floor
PO Box 1645
Madison, WI 53701

Persons filing a petition for judicial review are advised to closely examine all provisions of Wis. Stat. §§ 227.52 and 227.53 to ensure strict compliance with the statutory requirements. The summary of appeal rights in this notice should not be relied upon as a substitute for the careful review of all applicable statutes, nor should it be relied upon as a substitute for obtaining the assistance of legal counsel.

Executive Summary

The Department previously reviewed the Original Cooperative Plan on July 16, 2020 and found that four of five statutory standards were not met. As a result, the Department returned the Original Cooperative Plan pursuant to s. 66.0307(5)(d), Wis. Stats., recommending that the Communities resubmit it with revisions and additional information relating to the unmet standards.

Because much of this needed information has been provided, the Department finds that four of the five statutory standards are now met. Only one of the statutory standards remains unmet – the *Services* standard in s. 66.0307(5)(c)(3), Wis. Stats. – because ambiguous provisions related to transfer of the sanitary district have not been resolved. However, the Department believes that if these ambiguous provisions are clarified, this remaining standard could also be met. For this reason, the Department again returns the cooperative plan to the Communities pursuant to s. 66.0307(5)(d) Wis. Stats., recommending that it be revised and resubmitted.

Approval Criteria Applicable to the Department

A cooperative plan shall be approved by the Department if the Department determines that each of the review criteria in s. 66.0307(5)(c), Wis. Stats., is met. Nothing in the statutes authorizes the Department to waive any of these requirements.

This determination is limited to the items previously found not met. It is not a re-review of the Cooperative Plan in its entirety. Therefore, both this determination and the Department's previous determination on July 16, 2020 should be read together to constitute the Department's full review.

The following paragraphs describe how these review criteria apply to the Cooperative Plan. It is important to understand that this review document is not a complete restatement of the Plan. Those wanting to learn specific details, provisions, nuances, and conditions should look to the text of the Cooperative Plan itself, which is available from the communities as well as on the Department of Administration's website at: <http://doa.wi.gov/municipalboundaryreview>.

(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 5. s. 66.0307(5)(c)1., Wis. Stats.

The Original Cooperative Plan was generally found to contain sufficient detail. However, two exceptions were a lack of information provided to show consistency between the Cooperative Plan and the Communities' comprehensive plans, as well as lack of specificity about the boundary line between the Communities.

The Department had also suggested that since the intent of this Cooperative Plan is to generally maintain the status quo between the Communities should Clayton or a portion of Clayton incorporate as a village, that the Communities may want to strengthen the Plan's successor clause in Section 15(h) to include the possibility of a new village. This was done in the resubmitted plan.

Since the needed information has now been provided, specifics of which are described below, the Department finds that the Revised Cooperative Plan provides sufficient content and detail to find the standard in s. 66.0307(5)(c)1, Wis. Stats. to be met.

- (2) ***Is the cooperative plan consistent with each participating municipality's comprehensive plan and with current state laws, municipal ordinances and administrative rules that apply to the territory affected by the plan? s. 66.0307(5)(c)2., Wis. Stats.***

The Original Cooperative Plan stated that both Communities have comprehensive plans but provided no specifics on how or whether the Cooperative Plan is consistent with these plans. This Revised Cooperative Plan provides minimal but sufficient information on the Communities' comprehensive plans and these plans' consistency with this Cooperative Plan.

The *Town of Clayton Comprehensive Plan 2016-2036* is consistent with the Revised Cooperative Plan in several aspects:

- Recommends seeking border agreements with neighboring municipalities.
- Encourages Clayton to consider incorporation as a strategy to maintain the current boundaries of the town and provide urban services, and
- Encourages Clayton to consider developing boundary agreements as a strategy for providing urban services.

The *Town of Winchester Comprehensive Plan* was originally adopted in 2006 and amended in 2016 and is consistent with the Revised Cooperative Plan in the following aspect:

- Recommends that Winchester work with its municipal neighbors, Winnebago County, and the State of Wisconsin on cooperative and collaborative efforts to improve services and reduce costs for residents, landowners, and business owners.

Because the needed information regarding consistency with comprehensive plans has been provided, the Department determines that this Revised Cooperative Plan is consistent with the Communities' comprehensive plans and that the standard in s. 66.0307(5)(c)2., Wis. Stats. is met.

- (3) ***Is adequate provision made in the cooperative plan for delivery of necessary municipal services to the territory covered by the plan? s. 66.0307(5)(c)3., Wis. Stats.***

Section 10 states that each Community will be responsible for providing municipal services to residents within its boundaries. As a result, this Plan generally contemplates no shared services. However, the parties do intend to transfer ownership and operation of the existing Larsen-Winchester Sanitary District to the Village of Larsen immediately upon the effective date of this Plan. Larsen will also continue to

serve Winchester territory within the sanitary district's boundaries, as well as extend service to Winchester landowners as the district's boundaries are amended over time.

As identified in the Department's previous determination on July 16, 2020, a potential problem with transferring ownership and operation of the sanitary district to the prospective Village of Larson upon the effective date of this Cooperative Plan is that the Village of Larson may not yet exist. The Communities should revise the Revised Cooperative Plan to correct this potential problem. Specifically, while Section 8 does state that ownership of the sanitary district will transfer to Clayton, Section 4 continues to state that ownership will transfer to Larsen.

Because Sections 4 and 8 conflict, resulting in ambiguity and confusion, the Department finds that the standard in s. 66.0307(5)(c)3., Wis. Stats., continues to be not 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. s. 66.0307(5)(c)5., Wis. Stats.***

The Department requested clarification in its previous July 16, 2020 determination on whether the Plan maintains the boundary between Clayton and Winchester for the duration of the planning period. Language was added to Section 9 of the Revised Cooperative Plan to clarify that the Plan does maintain the existing boundary between the Communities during the Planning period. As a result of this added language, the Department finds the standard in s. 66.0307(5)(c)5., Wis. Stats. to be met.

- (6) ***Any proposed planning period exceeding 10 years is consistent with the plan. s. 66.0307(c)6., Wis. Stats.***

Standard previously Met

**INTERGOVERNMENTAL COOPERATIVE PLAN BETWEEN
THE TOWN OF CLAYTON AND THE TOWN OF WINCHESTER**

The Town of Clayton, a Wisconsin town located in Winnebago County, Wisconsin (“Clayton”) and the Town of Winchester, a Wisconsin town located in Winnebago County, Wisconsin (“Winchester”) hereby enter into this Intergovernmental Cooperative Plan (the “Plan”) under the authority of Wis. Stat. § 66.0307 and Wis. Stat. § 66.0301. Clayton and Winchester shall hereafter be referred to collectively as the “Parties”.

Recitals

- A. Clayton posted a Notice of Intent to Circulate a Petition for Incorporation on June 16, 2018, filed its incorporation petition in December 2018, and intends to incorporate as a village under Wis. Stat. § 66.0203 as soon as permitted to do so. Upon incorporation, the “Village of Larsen”, or other such name as the village arising from the aforementioned petition adopts, will exist with the boundaries as identified in the attached Exhibit A, or such other boundaries as approved pursuant to Wis. Stat. § 66.0203.
- B. The Parties have met several times to discuss the potential incorporation of Clayton and any possible concerns that may stem from Clayton’s incorporation.
- C. As a result of those meetings, the Parties have determined that it is in their collective best interests to enter into this Plan.
- D. The Parties have further determined that the arrangements described in this Plan will serve the purposes described in Wis. Stat. § 66.0307(3)(b) by building and accomplishing coordinated, adjusted, and harmonious development of the territory covered by the Plan in a manner that best promotes the public health, safety, morals, order, convenience, prosperity, and general welfare, as well as achieving efficiency and economy in the performance of governmental functions.
- E. Wis. Stat. § 66.0307(2)(a) through (d) require that cooperative plans be organized around “options” for future boundary changes. These options specify how boundary changes will occur under the cooperative plan. This Plan is organized around the option described in Wis. Stat. § 66.0307(2)(d), which allows a cooperative plan to provide that specified boundary lines may not be changed during the planning period. Specifically, upon incorporation of the Village of Larsen, the Village will not annex or attach any property located in Winchester, except as permitted herein, for the remainder of the term of this Plan.
- F. The Parties enter into this Plan for the purpose of establishing permanent boundaries, assuring orderly development and limiting extraterritorial zoning, land division, and official mapping controls within the boundaries of the Town of Winchester once the Village of Larsen is incorporated.

NOW, THEREFORE, in consideration of the above recitals, which are contractual, and for other good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, the Parties agree as follows:

Section 1: Participating Municipalities.

The Parties, whose respective boundaries as of the effective date of this Plan are shown in the “Cooperative Plan Area” map attached as Exhibit B, enter into this Plan under the authority of Wis. Stat. § 66.0307.

Section 2: Contact Persons.

The following persons and their successors are authorized to speak for their respective municipalities regarding this Plan.

- **Town of Clayton**
Town Chairperson
Russ Geise
920-427-4126
rgeise@centurytel.net

- **Town of Winchester**
Town Chairperson
Matthew J. Olson
920-836-1769

Section 3: Territory Subject to Plan.

This Plan will cover the “Cooperative Plan Area” as identified in Exhibit B.

Section 4: Purpose.

The Plan is intended to achieve the general purpose described in Wis. Stat. § 66.0307(3)(b), which is to guide and accomplish a coordinated, adjusted, and harmonious development of the territory covered by the Plan consistent with each existing participating municipality’s comprehensive plan. The Parties have further identified the following specific purposes of this Plan:

- a. Annexation waiver – Upon the incorporation of Clayton, the new “Village of Larsen” will not annex or attach any property of the Town of Winchester during the term of the Plan without the prior written consent of the Town of Winchester Board.

- b. Extraterritorial Jurisdiction - Upon the incorporation of Clayton, the new “Village of Larsen” agrees to waive certain portions of its extraterritorial jurisdiction within the Cooperative Plan Area. Extraterritorial jurisdiction is discussed in more detail in Section 6 below.

- c. Support for Incorporation – The Town of Winchester agrees to support Clayton’s incorporation, and agrees to waive any right to commence or maintain any action to contest or challenge the validity or enforceability of the incorporation.

- d. Joint Sanitary District – The parties intend for the existing Larsen-Winchester Sanitary District – whose current boundaries are shown in the attached Exhibit C – to be owned and operated by the Village of Larsen immediately upon the effective date of this Plan.

Section 5: Consistency with Comprehensive Plans.

Currently, Clayton maintains a Comprehensive Plan developed under Wis. Stat. § 66.1001 entitled “*Town of Clayton Comprehensive Plan 2016-2036.*” Currently, Winchester maintains a Comprehensive Plan developed under Wis. Stat. § 66.1001 that was originally adopted in 2006 and amended in 2016.

This Plan is consistent with the Town of Clayton’s Comprehensive Plan in several aspects:

- Town of Clayton’s Comprehensive Plan states that “[b]order agreements will be sought with neighboring villages and cities.”
- The Comprehensive Plan also says that opportunities for further intergovernmental agreements and cooperation includes “[b]oundary agreements with nearby incorporated communities to stabilize the present town boundaries from annexations.”
- Town of Clayton’s Comprehensive Plan encourages the Town to “always monitor the pros and cons of incorporation as a strategy to maintain the current boundaries of the town and to provide urban services, along with the strategies of boundary agreements or cooperative agreements to provide urban services. “

Additionally, this Plan is also consistent with the Town of Winchester’s Comprehensive Plan in several aspects:

- The Town of Winchester’s Comprehensive Plan has a stated purpose for intergovernmental cooperation that says that “[t]he purpose of the intergovernmental cooperation chapter of the comprehensive plan is to describe current intergovernmental agreements, explore opportunities for future collaboration, and identify potential areas of conflict between the Town and its governmental neighbors.”
- The Town of Winchester’s Comprehensive Plan has an explicitly stated intergovernmental vision that “The Town of Winchester will continue to work with its municipal neighbors, Winnebago County, and the State of Wisconsin to pursue opportunities for cooperation and collaboration that lead to improved services and reduced costs for its residents, land owners, and business owners.”
- The Town of Winchester’s Comprehensive Plan states that a benefit of intergovernmental cooperation is “[i]ntergovernmental cooperation between and among cities, villages, towns, and counties often produces less expensive and more efficient governmental services.”

This Plan is consistent and compatible with existing plans, ordinances, codes, and statutes. The Plan was developed in recognition of the multiple jurisdictions with an interest in the Cooperative Plan Area. This Plan will allow the Parties to move forward in planning for the delivery of services

to their respective areas so that there will not be competition between the Parties, property owners, and developers.

Section 6: Extraterritorial Jurisdiction Authority.

The Parties acknowledge that Clayton will have the ability to exercise statutory extraterritorial zoning, planning and land division review authority once it incorporates into the Village of Larsen pursuant to Wis. Stats. § 62.23(2), § 62.23(7a), § 236.10(1)(b) and § 236.02(5). Once incorporated, the Village of Larsen may exercise its extraterritorial jurisdiction throughout the Cooperative Plan Area subject to the following limitations.

- a. The Village of Larsen agrees to waive its extraterritorial platting and land division review authority throughout the Cooperative Plan Area.
- b. The Village of Larsen agrees to waive its extraterritorial zoning authority under Wis. Stat. § 62.23(7a) throughout the Cooperative Plan Area. However, the Village reserves the right to exercise its extraterritorial planning authority under Wis. Stat. § 62.23(2), but only insofar as it relates to public utilities, roadway issues, and other issues that are mutually agreed upon by the parties.
- c. The Parties shall record with the Winnebago County Register of Deeds resolutions providing for the waivers of the Village of Larsen's extraterritorial jurisdiction powers described in this Plan as soon as practicable upon the incorporation of the Village of Larsen.
- d. The Village of Larsen shall not rescind this waiver for the duration of the Plan term without first obtaining the written approval of the Town of Winchester.

Section 7: Annexations.

Once incorporated, the Village of Larsen will not annex or attach any territory from the Cooperative Plan Area without the prior written consent of the Town of Winchester Town Board, which consent may be withheld or conditioned at the sole discretion of Winchester. A written request for consent will be submitted to Winchester upon receipt of an annexation petition. Winchester will respond in writing to such a request within 45 days. Winchester's failure to approve a request within such 45-day period shall constitute a denial.

Section 8: Larsen-Winchester Sanitary District.

The Parties agree that immediately upon the effective date of this Plan, all assets and liabilities of the Larsen-Winchester Sanitary District will be transferred to and assumed by Clayton. The parties further agree that at such time, the responsibility for continuing the operation of the District shall be vested in Clayton. The parties agree to take such further action and execute such further documents as necessary to accomplish the transfer. Clayton will defend, indemnify, and hold harmless the Town of Winchester against all claims, losses, and damages arising from the operation and management of the Larsen-Winchester Sanitary District following the transfer.

Clayton agrees that upon the transfer of the Larsen-Winchester Sanitary District, it will continue providing services to properties served by the District within the Town of Winchester as of the

date of transfer and will also extend services to any property located in the Town of Winchester that is also located within the Larsen-Winchester Sewer Service Area, or its successor, as it is amended from time-to-time, without conditioning services on annexation; provided, however, that the Clayton has adequate capacity to provide such services or other such conditions as are reasonable and customary for the provision of such services.

It may be necessary from time-to-time for Clayton to invoke special assessment proceedings and to levy special assessments upon property located within the Town of Winchester for the design, installation, repair, replacement, or extension of infrastructure located within the Town of Winchester. The Town of Winchester agrees to take all action necessary for the Clayton to levy and carry out those special assessments within the Town of Winchester.

The parties agree that upon transfer of the Larsen-Winchester Sanitary District, Town of Winchester users who receive services from Clayton will be subject to the same connection charges, service charges, volume charges, and other rates and charges as those in effect within the Clayton. The parties acknowledge that the Clayton's rates and charges may change from time-to-time and that any changes will also apply to Town of Winchester users who receive services from Clayton. Clayton will not discriminate between Town of Winchester users and Town of Clayton users in the creation and implementation of its rates, charges, and special assessments.

The parties further agree that upon the effective date of this Plan, the Larsen-Winchester Sanitary District Commission will become a five-member commission with members to be determined by Clayton. The Parties agree that by adopting this Agreement they are resolving to implement a five-member commission. The parties agree to take such further action and execute such further documents as necessary to implement a five-member commission. The Town of Winchester agrees that they will not appoint any person to the Commission who has not been approved or nominated by the Town of Clayton.

Section 9: Compactness.

Because Section 7 establishes a general prohibition on annexations or attachments of territory from Winchester, its boundaries will remain the same or substantially the same as they currently are. That is, this plan maintains the existing boundary between the party municipalities except for any annexations expressly authorized by the Town of Winchester under Section 7, above. Similarly, the general prohibition on annexations and attachments will limit additional growth of the Village of Larsen into the Town of Winchester during the term of this Plan. The compactness of the Village of Larsen will also be examined as part of its incorporation process.

Section 10: Services.

Except as otherwise specifically provided herein, each of the parties will be responsible for providing municipal services within its boundaries. That is, this Plan contemplates no shared services other than those specifically described herein or otherwise approved by the parties through other intergovernmental agreements.

Section 11: Dispute Resolution.

All disputes over the interpretation, application or enforceability of this Agreement shall be resolved according to the following dispute resolution procedures:

- a. If the dispute cannot be resolved by the personnel directly involved, the parties will consider the following mediation process before invoking formal arbitration:
 - i. Each party will designate a representative with appropriate authority to be its representative in the mediation of the dispute.
 - ii. Either representative may request the assistance of a qualified mediator. If the parties cannot agree on the qualified mediator within five days of the request for a mediator, a qualified mediator will be appointed by the Municipal Boundary Review Director of the Office of Land Information Services of the State of Wisconsin Department of Administration, or his successor.
 - iii. The mediation session shall take place within 30 days of the appointment of the respective representative designated by the parties, or the designation of a mediator, whichever occurs last.
 - iv. In the event that a mediator is used, each party shall provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved at least 10 days prior to the first scheduled mediation session. The Parties will also produce all information reasonably required for the mediator to understand the issues presented. The mediator may require the Parties to supplement such information.
 - v. The mediator does not have authority to impose a settlement upon the Parties but will attempt to help the Parties reach a satisfactory resolution of their dispute. To the extent authorized by law, the mediation session(s) are private. The Parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the Parties and with the consent of the mediator. The Parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding, views expressed or suggestions made by the other party with respect to a possible settlement of the dispute, or admissions made by the other party in the course of mediation proceedings.
 - vi. The expenses of a mediator, if any, shall be borne equally by the Parties.
- b. If unresolved after (a) above, either Party may seek a judicial determination of the matter by the filing of an action in the Circuit Court of Winnebago County, State of Wisconsin according statute.

Section 12: Consistency with State, Federal, and Local Laws.

This Plan is consistent with current state and federal law, shoreland zoning ordinances, municipal regulations, and administrative rules that apply to the Parties. This Plan will be interpreted consistent with applicable law, and it acknowledges that other sources of law may supersede the Plan. The intent of the Plan is to avoid conflict with any applicable law.

Section 13: Severability

The provisions of this Plan are severable. In the event that any provision is held to be invalid or unconstitutional, or if the application of any provision to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or application of the Plan, which can be given lawful effect without the invalid or unconstitutional provisions or application.

Section 14: Effective Date and Planning Period.

This Plan shall take effect upon its approval by the Wisconsin Department of Administration, regardless of whether the Town of Clayton has incorporated at the time. The planning period shall be 50 years for all provisions, unless the Parties, or their successors in interest, agree otherwise by written instrument consistent with applicable law at the time of its execution. The 50-year planning period is necessary in order to implement the prohibition on annexations, the waiver of Larsen's extraterritorial jurisdiction for the period agreed upon by the parties, and is also consideration for the transfer of the Larsen-Winchester Sanitary District in accordance with Section 8, above. Upon expiration of the 50-year period, this Plan shall be automatically renewed for two additional 25-year periods unless either party gives prior written notice to the other at least one year prior, but not more than two years prior, to the expiration of the current term that it intends not to renew this Plan. The parties expressly agree that the provisions of this Plan related to the parties' post-incorporation relationship apply both to the currently-pending incorporation petition as well as to any subsequent incorporation that occurs during the term of this Plan.

Section 15: Miscellaneous.


- a. No Third-Party Beneficiary. This Plan is intended to be solely between the Parties. There are no intended third-party beneficiaries of this Plan. Nothing in this Plan shall be interpreted as giving to any person or entity not a party to this Plan any legal or equitable right whatsoever.
- b. Administration. This Plan shall be administered on behalf of each party by that party's Town Chairperson or designee.
- c. Further Acts. The Parties agree to take any further actions and execute such further documents as are necessary to accomplish the actions contemplated by this Plan.
- d. Third-Party Actions. In the event of a court action by a third party challenging the validity or enforceability of this Plan, the Parties shall cooperate to vigorously defend this Plan. If only one party is named in the relevant action, the other party will seek to intervene and the named party will support such intervention. No settlement of any action is permitted without the approval of the governing bodies of both Parties.

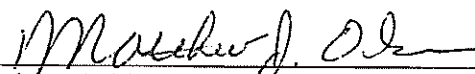
- e. References. Any reference to a particular agency, organization, municipality or official shall be interpreted as applying to any successor agency, organization, municipality or official to which the contemplated functions are transferred. Except as expressly stated otherwise, any reference in this Plan to a particular ordinance or statute shall be interpreted as applying to such statute or ordinance as recreated or amended from time to time.
- f. Authority. Each party represents that it has the authority to enter into this Plan and that all necessary procedures have been followed to authorize this Plan. Each person signing this Plan represents and warrants that he or she is duly authorized to do so.
- g. Amendment. The procedure for amending this Plan shall be that as set forth in Wis. Stat. § 66.0307(8).
- h. Continued Enforceability. The enforceability of this Plan is not affected by statutory amendments, changes in the forms of governments of the Parties, or changes in the elected officials of the Parties. This Plan shall be construed to be binding upon the Parties' respective successors, agents and employees. This Plan shall be binding on both the Town of Clayton as well as any successor Village incorporated from Town of Clayton territory.
- i. Performance Standard. This Plan requires the Parties to act or to refrain from acting on a number of matters. The Parties acknowledge that this Plan imposes on them a duty of good faith and fair dealing. In addition, whenever consent or approval is required by a party, the consent or approval shall not be unreasonably withheld, delayed, or conditioned.
- j. Counterparts. This Plan may be signed in one or more counterparts, each of which, taken together, shall be deemed the same document. Furthermore, facsimile and digital pdf signatures constitute the same as an original signature.

IN WITNESS THEREOF, the Parties certify that this Plan has been duly approved by their respective governing bodies in accordance with all applicable state and local laws, regulations and ordinances, and that each party has caused their duly authorized officers to execute this Plan.

Dated this 17th day of August, 2020.

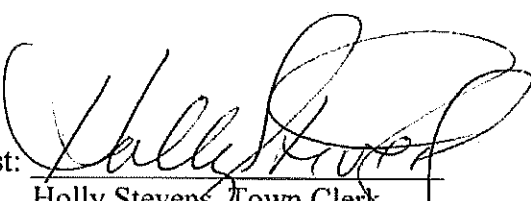
TOWN OF WINCHESTER

Attest: 
Holly Stevens, Town Clerk

By: 
Matthew J. Olson, Town Chairperson

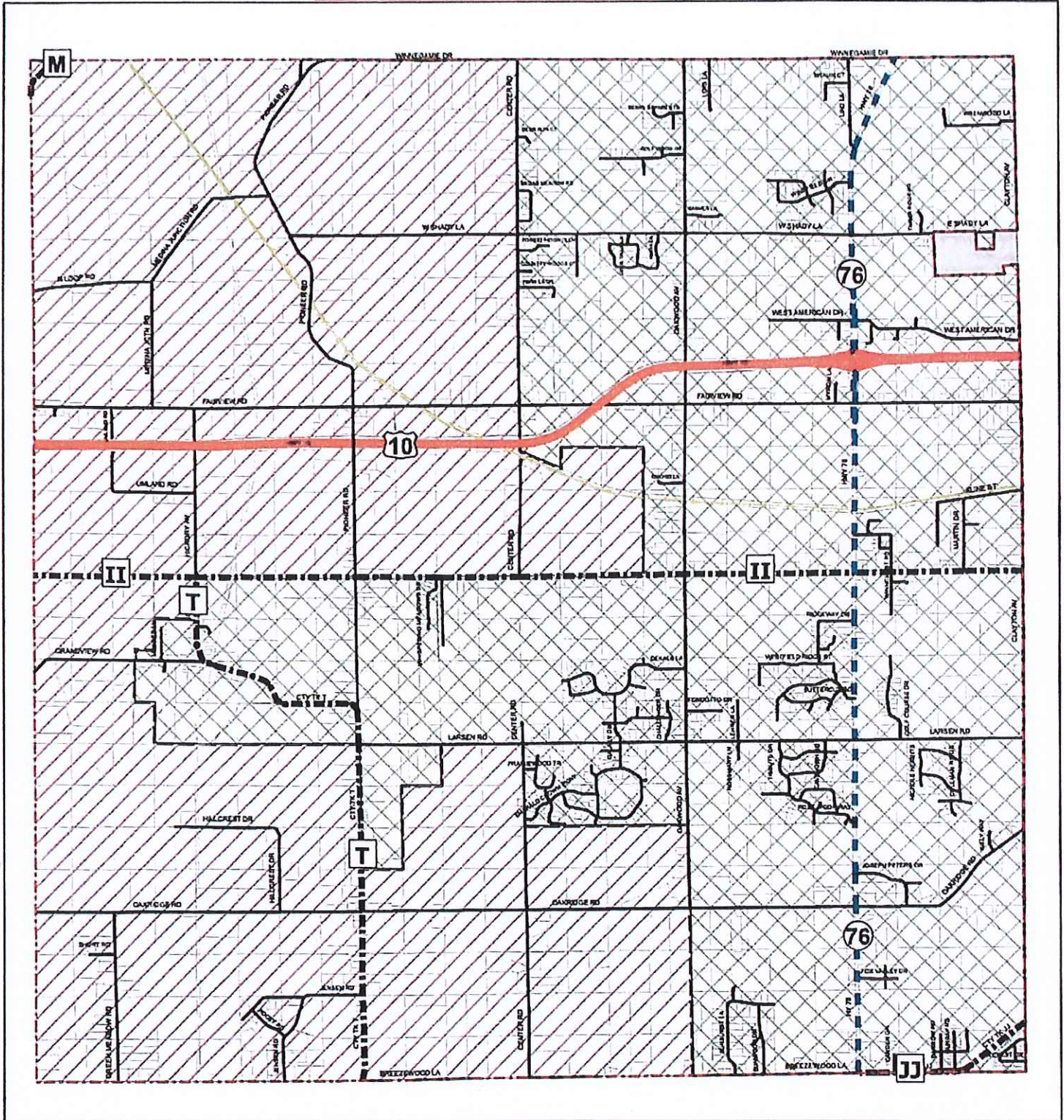
Dated this 19th day of August, 2020.

TOWN OF CLAYTON






Attest: 
Holly Stevens, Town Clerk

By: 
Russ Geise, Town Chairperson



EXHIBIT A TO BOUNDARY AGREEMENT

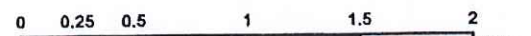


Map Features

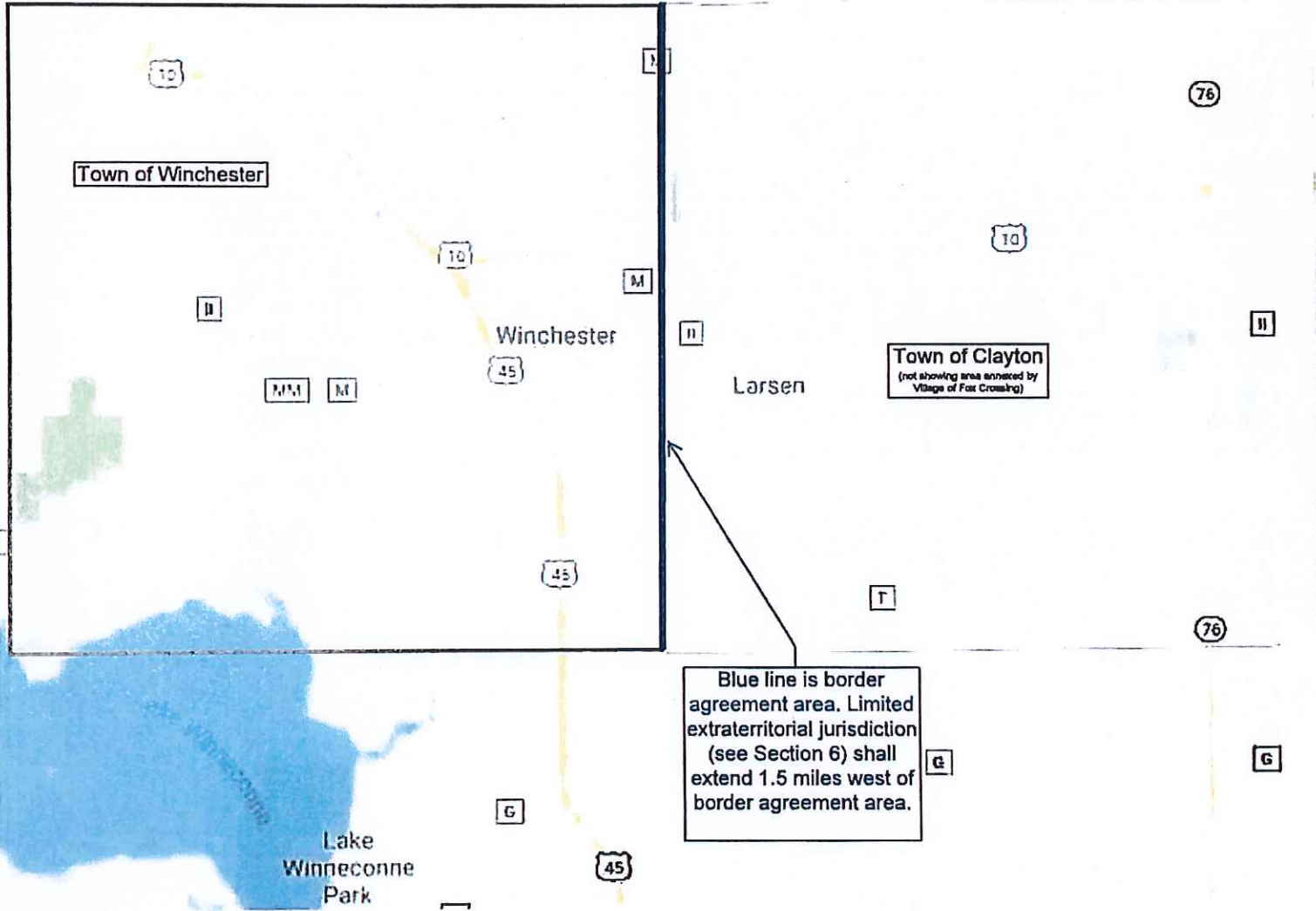
-  Parcel Line
-  Railroad Centerline
-  Local Road
-  County Road
-  State Highway

Municipal Areas

-  Town of Clayton
-  Village of Clayton
-  Village of Fox Crossing

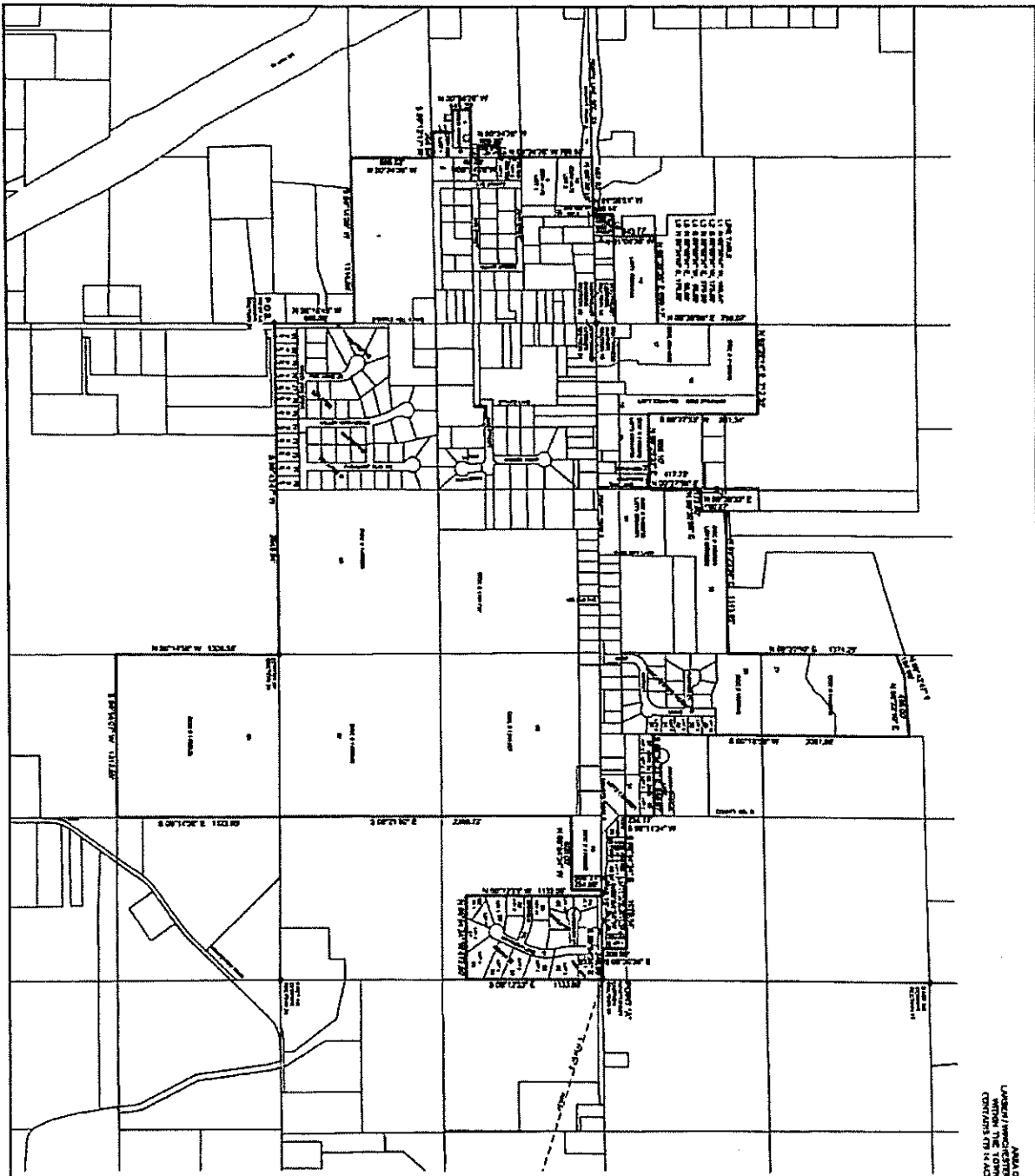


Clayton-Winchester Exhibit B



Blue line is border agreement area. Limited extraterritorial jurisdiction (see Section 6) shall extend 1.5 miles west of border agreement area.

CLAYTON-WINCHESTER EXHIBIT C



AREA OF THE
LARSEN-WINCHESTER SANITARY DISTRICT
WITHIN THE TOWN OF WINCHESTER
COUNTY, WISCONSIN

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<p>BO-18007-1 1/24/2008</p>	<p>LARSEN-WINCHESTER SANITARY DISTRICT WINCHESTER BOUNDARY</p> <p>WINNEBAGO COUNTY, WISCONSIN</p>	<table border="1"> <tr> <th>DATE</th> <th>BY</th> <th>CHECKED</th> <th>APPROVED</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table>	DATE	BY	CHECKED	APPROVED					<p>Martenson & Eisele, Inc.</p> <p>1377 Midway Road Marquette, WI 54851 www.martenson-eisele.com info@martenson-eisele.com 605.731.0341 1.800.238.0281</p> <p>Planning Surveying Engineering Architecture</p>
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**STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION**

Tony Evers, Governor
Joel Brennan, Secretary
Dawn Vick, Division Administrator

VIA Email

July 16, 2020

Russ Geise, Chair
Town of Clayton
8348 County Road T
Larsen, WI 54947

Matthew Olson, Chair
Town of Winchester
8522 Park Way
Larsen, WI 54947

Dear Messrs. Geise and Olson,

The Department has reviewed the proposed cooperative plan between the Towns of Clayton and Winchester to ensure that it complies with the statutory criteria in s. 66.0307(5), Wis. Stats. The Department finds that these statutory criteria are not currently met, but that with additional information and revisions, they could be met. Therefore, under authority in s. 66.0307(5)(d), Wis. Stats. the Department is returning the proposed cooperative plan to the Towns with the recommendation that it be re-submitted to include the specific revisions which are identified in the body of the enclosed determination.

According to the statute, you have 90 days from today's date to re-submit the plan. Should you have any questions about this process or our enclosed review determination, please contact Erich Schmidtke at (608) 264-6102.

Sincerely,

Dawn Vick, Administrator
Division of Intergovernmental Relations

Enclosure

cc: Matt Parmentier, Town of Clayton Attorney
Haley Krautkramer, City of Menasha Clerk
Jane Booth, Village of Hortonia Clerk
Wendy Helgeson, Town of Greenville Clerk
Emily Miller, Town of Caledonia
Yvonne Zobel, Town of Winneconne Clerk
Holly Stevens, Town of Clayton
Jeannette Merten, Town of Oshkosh
Pamela Ubrig, City of Oshkosh
Stephanie Cheslock, City of Neenah

City of Appleton Clerk
Lyn Neuenfeldt, Town of Hortonia Clerk
Angie Cain, Town of Grand Chute Clerk
Jenny Dezeeuw, Town of Dale
Jacquin Stelzner, Village of Winneconne
Holly Stevens, Town of Winchester
Jennifer Brown, Town of Vinland
Deborah Stark, Town of Algoma
Ellen Skerke, Town of Neenah
Darla Fink, Village of Fox Crossing



WISCONSIN DEPARTMENT OF ADMINISTRATION

**REVIEW of the COOPERATIVE PLAN
under Section 66.0307, Wis. Stats.**

between the

**TOWNS OF CLAYTON and WINCHESTER
WINNEBAGO COUNTY**

July 16, 2020

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**STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION**

Tony Evers, Governor
Joel Brennan, Secretary
Dawn Vick, Division Administrator

This determination constitutes the Department's review of the proposed cooperative plan between the Towns of Clayton and Winchester under s. 66.0307, Wis. Stats. The Department is charged with reviewing cooperative plans for compliance with public interest standards set forth in s. 66.0307(5)(c), Wis. Stats.

In summary, it is the DETERMINATION OF THE DEPARTMENT OF ADMINISTRATION that when considering the proposed cooperative plan under Section 66.0307(5), Wis. Stats.:

Standard 1, Content of Cooperative Plan Sufficiently Detailed – Not Met

Standard 2, Cooperative Plan Consistent with Comprehensive Plans and State and Local Laws and Regulations – Not Met

Standard 3, Adequate Provision for Municipal Services – Not Met

Standard 4, Provision for Affordable Housing – [Repealed & Inapplicable]

Standard 5, Compactness of Plan Territory – Not Met

Standard 6, Planning Period is Consistent with Cooperative Plan – Met

The facts and analysis supporting these findings are discussed in the body of this determination. The Determination of the Department of Administration is as follows:

Pursuant to s. 66.0307(5)(d) Wis. Stats., the Department is returning the proposed cooperative plan to the Towns of Clayton and Winchester with the recommendation that it be re-submitted with the revision discussed in the body of this determination.

The Department believes that this cooperative plan, if revised, may constitute a cooperative plan that complies with each of the above statutory standards. According to s. 66.0307(5)(d) Wis. Stats., the Communities have 90 days from today's date in which to resubmit their revised cooperative plan to the Department.

Dated this 16th day of July 2020,

Dawn Vick
Administrator, Division of Intergovernmental Relations

NOTICE OF APPEAL RIGHTS

This Notice sets forth the requirements and procedures for obtaining judicial review of the attached decision of the Department. Any person aggrieved by a decision of the Department can seek judicial review of the decision under Wis. Stats. §§ 66.0307(9) and 227.52, *et seq.* A petition for judicial review must be filed in the Circuit Court within 30 days of the date of this decision. In addition, a copy of the petition for judicial review must also be served on the Department either personally or by certified mail within 30 days of the date of the decision. A petition for judicial review shall name the Department of Administration as the Respondent. Petitions for judicial review should be served on the Department's Secretary, Joel Brennan, at the following address:

Secretary Joel Brennan
Wisconsin Department of Administration
c/o DOA, Municipal Boundary Review
101 East Wilson Street, 9th Floor
PO Box 1645
Madison, WI 53701

Persons filing a petition for judicial review are advised to closely examine all provisions of Wis. Stat. §§ 227.52 and 227.53 to ensure strict compliance with the statutory requirements. The summary of appeal rights in this notice should not be relied upon as a substitute for the careful review of all applicable statutes, nor should it be relied upon as a substitute for obtaining the assistance of legal counsel.

Executive Summary

Pursuant to s. 66.0307(5)(a), Wis. Stats., the Wisconsin Department of Administration (Department), has received the *Intergovernmental Cooperative Plan between the Town of Clayton and Town of Winchester* (Cooperative Plan).

In 2018 the Town of Clayton began the process for incorporating a portion of its territory as the Village of Larson. This Cooperative Plan is limited in scope and primarily intended to mitigate any negative impacts from Clayton's potential incorporation. Specifically, upon incorporation the new Village of Larson agrees not to annex or attach Town of Winchester territory, or exercise extraterritorial authority or official mapping controls. In exchange, Winchester agrees to support Clayton's incorporation effort. The Cooperative Plan would also transfer ownership of the existing Larsen-Winchester Sanitary District to the prospective Village of Larson.

The Cooperative Plan process was commenced in 2019, with authorizing resolutions passed by the Town of Winchester and Town of Clayton (Communities) on July 15 and 17, 2019, respectively.

On October 23, 2019, the Town of Clayton held the required joint public hearing at the Clayton Town Hall. No public comments were received for the proposed Cooperative Plans. Approval resolutions were passed by Winchester on January 6, 2020 and January 15, 2020 by Clayton. On April 17, 2020, the Communities forwarded the Cooperative to the Department for review. No public hearing before the Department was held or requested pursuant to s. 66.0307(5)(b), Wis. Stats.

The Department is unable to determine whether the Cooperative Plan complies with all of the statutory standards. As a result, the Department is returning the Cooperative plan to the Towns of Clayton and Winchester (Communities) with the recommendation that it be re-submitted with this needed information. The Communities have 90 days from today's date in which to resubmit a revised cooperative plan to the Department.

Approval Criteria Applicable to the Department

A cooperative plan shall be approved by the Department if the Department determines that each of the review criteria in s. 66.0307(5)(c), Wis. Stats., is met. Nothing in the statutes authorizes the Department to waive any of these requirements.

The following paragraphs describe how these review criteria apply to the Cooperative Plan. It is important to understand that this review document is not a complete restatement of the Plan. Those wanting to learn specific details, provisions, nuances, and conditions should look to the text of the Cooperative Plan itself, which is available from the communities as well as on the Department of Administration's website at: <http://doa.wi.gov/municipalboundaryreview>.

- (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 5. s. 66.0307(5)(c)1., Wis. Stats.***

As mentioned, this Cooperative Plan is limited in scope and requires little in terms of action items. The few provisions that the Plan does contain are generally sufficiently detailed, complete, and free of ambiguity. Two exceptions are lack of information provided to show consistency between the Cooperative Plan and the Communities' comprehensive plans, and lack of specificity about whether the boundary line between the Communities is maintained during the planning period. Because of this needed information, the Department finds that the standard in s. 66.0307(5)(c)1., Wis. Stats. is not met.

Additionally, since the intent of this Cooperative Plan is to maintain the boundaries between the Communities should Clayton or a portion of Clayton incorporate as a village, the Communities may want to strengthen the Plan's successor clause in Section 15(h) to include the possibility of a new village.

- (2) *Is the cooperative plan consistent with each participating municipality's comprehensive plan and with current state laws, municipal ordinances and administrative rules that apply to the territory affected by the plan? s. 66.0307(5)(c)2., Wis. Stats.***

The Cooperative Plan states that both Communities have comprehensive plans but provides no specifics to show how or whether the Cooperative Plan is consistent with these plans. If consistency does not exist, then the Communities may need to amend their comprehensive plans.

The Cooperative Plan states that it is fully consistent with current state and federal laws, county shoreland zoning ordinances, municipal regulations and administrative rules that apply to the territory affected by the Plan. East Central Wisconsin Regional Planning Commission (ECWRPC) submitted their required comment letter on July 13th, 2020 finding that the Cooperative Plan is consistent with regional plans and helps promote cooperation between local communities.

Because no information has been provided to show consistency between the Cooperative Plan and the Communities' comprehensive plans, the Department finds that the standard in s. 66.0307(5)(c)2., Wis. Stats. is not met.

(3) *Is adequate provision made in the cooperative plan for delivery of necessary municipal services to the territory covered by the plan? s. 66.0307(5)(c)3., Wis. Stats.*

Section 10 states that each Community will be responsible for providing municipal services to residents within its boundaries. As a result, this Plan generally contemplates no shared services.

The parties do intend to transfer ownership and operation of the existing Larsen-Winchester Sanitary District, whose boundaries are shown at Exhibit C, to the prospective Village of Larsen immediately upon the effective date of this Plan. Additionally, the Village of Larsen will continue to serve Winchester territory within the sanitary district's boundaries. Larsen will also extend service to Winchester landowners as the district's boundaries are amended over time and should adequate capacity exist. Larson will not condition this service on annexation.

A potential problem with transferring ownership and operation of the sanitary district to the prospective Village of Larson upon the effective date of this Cooperative Plan is that the Village of Larson will not yet exist. As a result, there may not be a Village of Larson to accept transfer of the sanitary district upon this Cooperative Plan's effective date. The Communities should revise this provision to correct this potential problem.

The purpose of the Cooperative Plan is not generally related to services. However, because the one provision related to services – transfer of the sanitary district - is potentially problematic as designed, the Department finds that the standard in s. 66.0307(5)(c)3., Wis. Stats., is not 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. s. 66.0307(5)(c)5., Wis. Stats.*

The Cooperative Plan prohibits annexation of Winchester territory by the prospective Village of Larson, which leads one to infer that boundaries between the Communities will be maintained under s. 66.0307(2)(d), Wis. Stats. Furthermore, the Cooperative Plan states that boundaries will “remain the same or substantially the same as they currently are.” However, the Plan needs to expressly state whether it maintains the boundary between the two Communities for the duration of the planning period.

The Cooperative Plan makes no changes to an already regular and compact municipal boundary line. However, this standard requires the Department to evaluate the shape

of the boundaries that are “changed” or “maintained” and more information is needed to specify whether the Cooperative Plan does maintain the boundary between the two Communities. Inferring that the boundary is maintained is not enough to meet the standard. As a result, the Department finds the standard in s. 66.0307(5)(c)5., Wis. Stats. is not met.

(6) *Any proposed planning period exceeding 10 years is consistent with the plan.* s. 66.0307(c)6., Wis. Stats.

The Cooperative Plan takes effect upon Department approval and continues in effect for 50-years for all provisions. The Communities state that 50-years are needed to implement transfer of the sanitary district and continue service to Winchester landowners. Also, 50 years was the negotiated duration that the prospective Village of Larson is prohibited from exercising annexation, extraterritorial jurisdiction, and official mapping controls within the Winchester. The Cooperative Plan provides that upon expiration of the 50-year planning period, the Plan will automatically renew for two additional 25-year periods unless either Community gives prior written notice not to renew. The Department recommends that this provision be revised to require proactive steps to renew the Cooperative Plan, rather than have renewal occur automatically. The Department has observed Wisconsin communities whose intergovernmental agreements renewed without their being aware of it, and without their desiring renewal, due to this type of automatic renewal provision. In this case, where the Plan’s duration is long at 50-years, the problems of unwanted automatic renewal may be greater as elected officials and staff may forget the existence of the Cooperative Plan.

Because the planning period is consistent with of Cooperative Plan’s terms, the Department finds that the standard in s. 66.0307(5)(c)6., Wis. Stats. is met. However, the Department recommends that the automatic renewal provision be revised to require proactive steps to renew the Cooperative Plan.

**INTERGOVERNMENTAL COOPERATIVE PLAN BETWEEN
THE TOWN OF CLAYTON AND THE TOWN OF WINCHESTER**

The Town of Clayton, a Wisconsin town located in Winnebago County, Wisconsin (“Clayton”) and the Town of Winchester, a Wisconsin town located in Winnebago County, Wisconsin (“Winchester”) hereby enter into this Intergovernmental Cooperative Plan (the “Plan”) under the authority of Wis. Stat. § 66.0307 and Wis. Stat. § 66.0301. Clayton and Winchester shall hereafter be referred to collectively as the “Parties”.

Recitals

- A. Clayton posted a Notice of Intent to Circulate a Petition for Incorporation on June 16, 2018, filed its incorporation petition in December 2018, and intends to incorporate as a village under Wis. Stat. § 66.0203 as soon as permitted to do so. Upon incorporation, the “Village of Larsen”, or other such name as the village arising from the aforementioned petition adopts, will exist with the boundaries as identified in the attached Exhibit A, or such other boundaries as approved pursuant to Wis. Stat. § 66.0203.
- B. The Parties have met several times to discuss the potential incorporation of Clayton and any possible concerns that may stem from Clayton’s incorporation.
- C. As a result of those meetings, the Parties have determined that it is in their collective best interests to enter into this Plan.
- D. The Parties have further determined that the arrangements described in this Plan will serve the purposes described in Wis. Stat. § 66.0307(3)(b) by building and accomplishing coordinated, adjusted, and harmonious development of the territory covered by the Plan in a manner that best promotes the public health, safety, morals, order, convenience, prosperity, and general welfare, as well as achieving efficiency and economy in the performance of governmental functions.
- E. Wis. Stat. § 66.0307(2)(a) through (d) require that cooperative plans be organized around “options” for future boundary changes. These options specify how boundary changes will occur under the cooperative plan. This Plan is organized around the option described in Wis. Stat. § 66.0307(2)(d), which allows a cooperative plan to provide that specified boundary lines may not be changed during the planning period. Specifically, upon incorporation of the Village of Larsen, the Village will not annex or attach any property located in Winchester, except as permitted herein, for the remainder of the term of this Plan.
- F. The Parties enter into this Plan for the purpose of establishing permanent boundaries, assuring orderly development and limiting extraterritorial zoning, land division, and official mapping controls within the boundaries of the Town of Winchester once the Village of Larsen is incorporated.

NOW, THEREFORE, in consideration of the above recitals, which are contractual, and for other good and valuable consideration, the receipt and sufficiency of which is mutually acknowledged, the Parties agree as follows:

Section 1: Participating Municipalities.

The Parties, whose respective boundaries as of the effective date of this Plan are shown in the “Cooperative Plan Area” map attached as Exhibit B, enter into this Plan under the authority of Wis. Stat. § 66.0307.

Section 2: Contact Persons.

The following persons and their successors are authorized to speak for their respective municipalities regarding this Plan.

- **Town of Clayton**
Town Chairperson
Russ Geise
920-427-4126
rgeise@centurytel.net

- **Town of Winchester**
Town Chairperson
Matthew J. Olson
920-836-1769

Section 3: Territory Subject to Plan.

This Plan will cover the “Cooperative Plan Area” as identified in Exhibit B.

Section 4: Purpose.

The Plan is intended to achieve the general purpose described in Wis. Stat. § 66.0307(3)(b), which is to guide and accomplish a coordinated, adjusted, and harmonious development of the territory covered by the Plan consistent with each existing participating municipality’s comprehensive plan. The Parties have further identified the following specific purposes of this Plan:

- a. Annexation waiver – Upon the incorporation of Clayton, the new “Village of Larsen” will not annex or attach any property of the Town of Winchester during the term of the Plan without the prior written consent of the Town of Winchester Board.

- b. Extraterritorial Jurisdiction - Upon the incorporation of Clayton, the new “Village of Larsen” agrees to waive certain portions of its extraterritorial jurisdiction within the Cooperative Plan Area. Extraterritorial jurisdiction is discussed in more detail in Section 6 below.

- c. Support for Incorporation – The Town of Winchester agrees to support Clayton’s incorporation, and agrees to waive any right to commence or maintain any action to contest or challenge the validity or enforceability of the incorporation.

- d. Joint Sanitary District – The parties intend for the existing Larsen-Winchester Sanitary District – whose current boundaries are shown in the attached Exhibit C – to be owned and operated by the Village of Larsen immediately upon the effective date of this Plan.

Section 5: Consistency with Comprehensive Plans.

Currently, Clayton maintains a Comprehensive Plan developed under Wis. Stat. § 66.1001 entitled “*Town of Clayton Comprehensive Plan 2016-2036.*” Currently, Winchester maintains a Comprehensive Plan developed under Wis. Stat. § 66.1001 that was originally adopted in 2006 and amended in 2016.

This Plan is consistent and compatible with existing plans, ordinances, codes, and statutes. The Plan was developed in recognition of the multiple jurisdictions with an interest in the Cooperative Plan Area. This Plan will allow the Parties to move forward in planning for the delivery of services to their respective areas so that there will not be competition between the Parties, property owners, and developers.

Section 6: Extraterritorial Jurisdiction Authority.

The Parties acknowledge that Clayton will have the ability to exercise statutory extraterritorial zoning, planning and land division review authority once it incorporates into the Village of Larsen pursuant to Wis. Stats. § 62.23(2), § 62.23(7a), § 236.10(1)(b) and § 236.02(5). Once incorporated, the Village of Larsen may exercise its extraterritorial jurisdiction throughout the Cooperative Plan Area subject to the following limitations.

- a. The Village of Larsen agrees to waive its extraterritorial platting and land division review authority throughout the Cooperative Plan Area.
- b. The Village of Larsen agrees to waive its extraterritorial zoning authority under Wis. Stat. § 62.23(7a) throughout the Cooperative Plan Area. However, the Village reserves the right to exercise its extraterritorial planning authority under Wis. Stat. § 62.23(2), but only insofar as it relates to public utilities, roadway issues, and other issues that are mutually agreed upon by the parties.
- c. The Parties shall record with the Winnebago County Register of Deeds resolutions providing for the waivers of the Village of Larsen’s extraterritorial jurisdiction powers described in this Plan as soon as practicable upon the incorporation of the Village of Larsen.
- d. The Village of Larsen shall not rescind this waiver for the duration of the Plan term without first obtaining the written approval of the Town of Winchester.

Section 7: Annexations.

Once incorporated, the Village of Larsen will not annex or attach any territory from the Cooperative Plan Area without the prior written consent of the Town of Winchester Town Board, which consent may be withheld or conditioned at the sole discretion of Winchester. A written request for consent will be submitted to Winchester upon receipt of an annexation

petition. Winchester will respond in writing to such a request within 45 days. Winchester's failure to approve a request within such 45-day period shall constitute a denial.

Section 8: Larsen-Winchester Sanitary District.

The Parties agree that immediately upon the effective date of this Plan, all assets and liabilities of the Larsen-Winchester Sanitary District will be transferred to and assumed by Clayton. The parties further agree that at such time, the responsibility for continuing the operation of the District shall be vested in Clayton. The parties agree to take such further action and execute such further documents as necessary to accomplish the transfer. Clayton will defend, indemnify, and hold harmless the Town of Winchester against all claims, losses, and damages arising from the operation and management of the Larsen-Winchester Sanitary District following the transfer.

Clayton agrees that upon the transfer of the Larsen-Winchester Sanitary District, it will continue providing services to properties served by the District within the Town of Winchester as of the date of transfer and will also extend services to any property located in the Town of Winchester that is also located within the Larsen-Winchester Sewer Service Area, or its successor, as it is amended from time-to-time, without conditioning services on annexation; provided, however, that the Clayton has adequate capacity to provide such services or other such conditions as are reasonable and customary for the provision of such services.

It may be necessary from time-to-time for Clayton to invoke special assessment proceedings and to levy special assessments upon property located within the Town of Winchester for the design, installation, repair, replacement, or extension of infrastructure located within the Town of Winchester. The Town of Winchester agrees to take all action necessary for the Clayton to levy and carry out those special assessments within the Town of Winchester.

The parties agree that upon transfer of the Larsen-Winchester Sanitary District, Town of Winchester users who receive services from Clayton will be subject to the same connection charges, service charges, volume charges, and other rates and charges as those in effect within the Clayton. The parties acknowledge that the Clayton's rates and charges may change from time-to-time and that any changes will also apply to Town of Winchester users who receive services from Clayton. Clayton will not discriminate between Town of Winchester users and Town of Clayton users in the creation and implementation of its rates, charges, and special assessments.

The parties further agree that upon the effective date of this Plan, the Larsen-Winchester Sanitary District Commission will become a five-member commission with members to be determined by Clayton. The Parties agree that by adopting this Agreement they are resolving to implement a five member commission. The parties agree to take such further action and execute such further documents as necessary to implement a five member commission. The Town of Winchester agrees that they will not appoint any person to the Commission who has not been approved or nominated by the Town of Clayton.

Section 9: Compactness.

Because Section 7 establishes a general prohibition on annexations or attachments of territory from Winchester, its boundaries will remain the same or substantially the same as they currently

are. Similarly, the general prohibition on annexations and attachments will limit additional growth of the Village of Larsen into the Town of Winchester during the term of this Plan. The compactness of the Village of Larsen will also be examined as part of its incorporation process.

Section 10: Services.

Except as otherwise specifically provided herein, each of the parties will be responsible for providing municipal services within its boundaries. That is, this Plan contemplates no shared services other than those specifically described herein or otherwise approved by the parties through other intergovernmental agreements.

Section 11: Dispute Resolution.

All disputes over the interpretation, application or enforceability of this Agreement shall be resolved according to the following dispute resolution procedures:

- a. If the dispute cannot be resolved by the personnel directly involved, the parties will consider the following mediation process before invoking formal arbitration:
 - i. Each party will designate a representative with appropriate authority to be its representative in the mediation of the dispute.
 - ii. Either representative may request the assistance of a qualified mediator. If the parties cannot agree on the qualified mediator within five days of the request for a mediator, a qualified mediator will be appointed by the Municipal Boundary Review Director of the Office of Land Information Services of the State of Wisconsin Department of Administration, or his successor.
 - iii. The mediation session shall take place within 30 days of the appointment of the respective representative designated by the parties, or the designation of a mediator, whichever occurs last.
 - iv. In the event that a mediator is used, each party shall provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved at least 10 days prior to the first scheduled mediation session. The Parties will also produce all information reasonably required for the mediator to understand the issues presented. The mediator may require the Parties to supplement such information.
 - v. The mediator does not have authority to impose a settlement upon the Parties but will attempt to help the Parties reach a satisfactory resolution of their dispute. To the extent authorized by law, the mediation session(s) are private. The Parties and their representatives may attend mediation sessions. Other persons may attend only with the permission of the Parties and with the consent of the mediator. The Parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding, views expressed or suggestions made by the other party with respect to a possible

settlement of the dispute, or admissions made by the other party in the course of mediation proceedings.

- vi. The expenses of a mediator, if any, shall be borne equally by the Parties.
- b. If unresolved after (a) above, either Party may seek a judicial determination of the matter by the filing of an action in the Circuit Court of Winnebago County, State of Wisconsin according statute.

Section 12: Consistency with State, Federal, and Local Laws.

This Plan is consistent with current state and federal law, shoreland zoning ordinances, municipal regulations, and administrative rules that apply to the Parties. This Plan will be interpreted consistent with applicable law, and it acknowledges that other sources of law may supersede the Plan. The intent of the Plan is to avoid conflict with any applicable law.

Section 13: Severability

The provisions of this Plan are severable. In the event that any provision is held to be invalid or unconstitutional, or if the application of any provision to any person or circumstance is held to be invalid or unconstitutional, such holding shall not affect the other provisions or application of the Plan, which can be given lawful effect without the invalid or unconstitutional provisions or application.

Section 14: Effective Date and Planning Period.

This Plan shall take effect upon its approval by the Wisconsin Department of Administration. The planning period shall be 50 years for all provisions, unless the Parties, or their successors in interest, agree otherwise by written instrument consistent with applicable law at the time of its execution. The 50-year planning period is necessary in order to implement the prohibition on annexations, the waiver of Larsen's extraterritorial jurisdiction for the period agreed upon by the parties, and is also consideration for the transfer of the Larsen-Winchester Sanitary District in accordance with Section 8, above. Upon expiration of the 50-year period, this Plan shall be automatically renewed for two additional 25-year periods unless either party gives prior written notice to the other at least one year prior, but not more than two years prior, to the expiration of the current term that it intends not to renew this Plan. The parties expressly agree that the provisions of this Plan related to the parties' post-incorporation relationship apply both to the currently-pending incorporation petition as well as to any subsequent incorporation that occurs during the term of this Plan.

Section 15: Miscellaneous.

- a. No Third-Party Beneficiary. This Plan is intended to be solely between the Parties. There are no intended third-party beneficiaries of this Plan. Nothing in this Plan shall be interpreted as giving to any person or entity not a party to this Plan any legal or equitable right whatsoever.

- b. Administration. This Plan shall be administered on behalf of each party by that party's Town Chairperson or designee.
- c. Further Acts. The Parties agree to take any further actions and execute such further documents as are necessary to accomplish the actions contemplated by this Plan.
- d. Third-Party Actions. In the event of a court action by a third party challenging the validity or enforceability of this Plan, the Parties shall cooperate to vigorously defend this Plan. If only one party is named in the relevant action, the other party will seek to intervene and the named party will support such intervention. No settlement of any action is permitted without the approval of the governing bodies of both Parties.
- e. References. Any reference to a particular agency, organization, municipality or official shall be interpreted as applying to any successor agency, organization, municipality or official to which the contemplated functions are transferred. Except as expressly stated otherwise, any reference in this Plan to a particular ordinance or statute shall be interpreted as applying to such statute or ordinance as recreated or amended from time to time.
- f. Authority. Each party represents that it has the authority to enter into this Plan and that all necessary procedures have been followed to authorize this Plan. Each person signing this Plan represents and warrants that he or she is duly authorized to do so.
- g. Amendment. The procedure for amending this Plan shall be that as set forth in Wis. Stat. § 66.0307(8).
- h. Continued Enforceability. The enforceability of this Plan is not affected by statutory amendments, changes in the forms of governments of the Parties, or changes in the elected officials of the Parties. This Plan shall be construed to be binding upon the Parties' respective successors, agents and employees.
- i. Performance Standard. This Plan requires the Parties to act or to refrain from acting on a number of matters. The Parties acknowledge that this Plan imposes on them a duty of good faith and fair dealing. In addition, whenever consent or approval is required by a party, the consent or approval shall not be unreasonably withheld, delayed, or conditioned.
- j. Counterparts. This Plan may be signed in one or more counterparts, each of which, taken together, shall be deemed the same document. Furthermore, facsimile and digital pdf signatures constitute the same as an original signature.

IN WITNESS THEREOF, the Parties certify that this Plan has been duly approved by their respective governing bodies in accordance with all applicable state and local laws, regulations and ordinances, and that each party has caused their duly authorized officers to execute this Plan.

TOWN OF CLAYTON

DATED: 01-15-2020

APPROVED:

By: 
Russ Geise, Town Chairman

ATTEST: 
Holly Stevens, Town Clerk

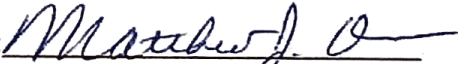
Approved: 01-15-2020


Posted: _____

TOWN OF WINCHESTER

DATE: 01-06-2020

APPROVED:

By: 
Matthew J. Olson, Town Chairman

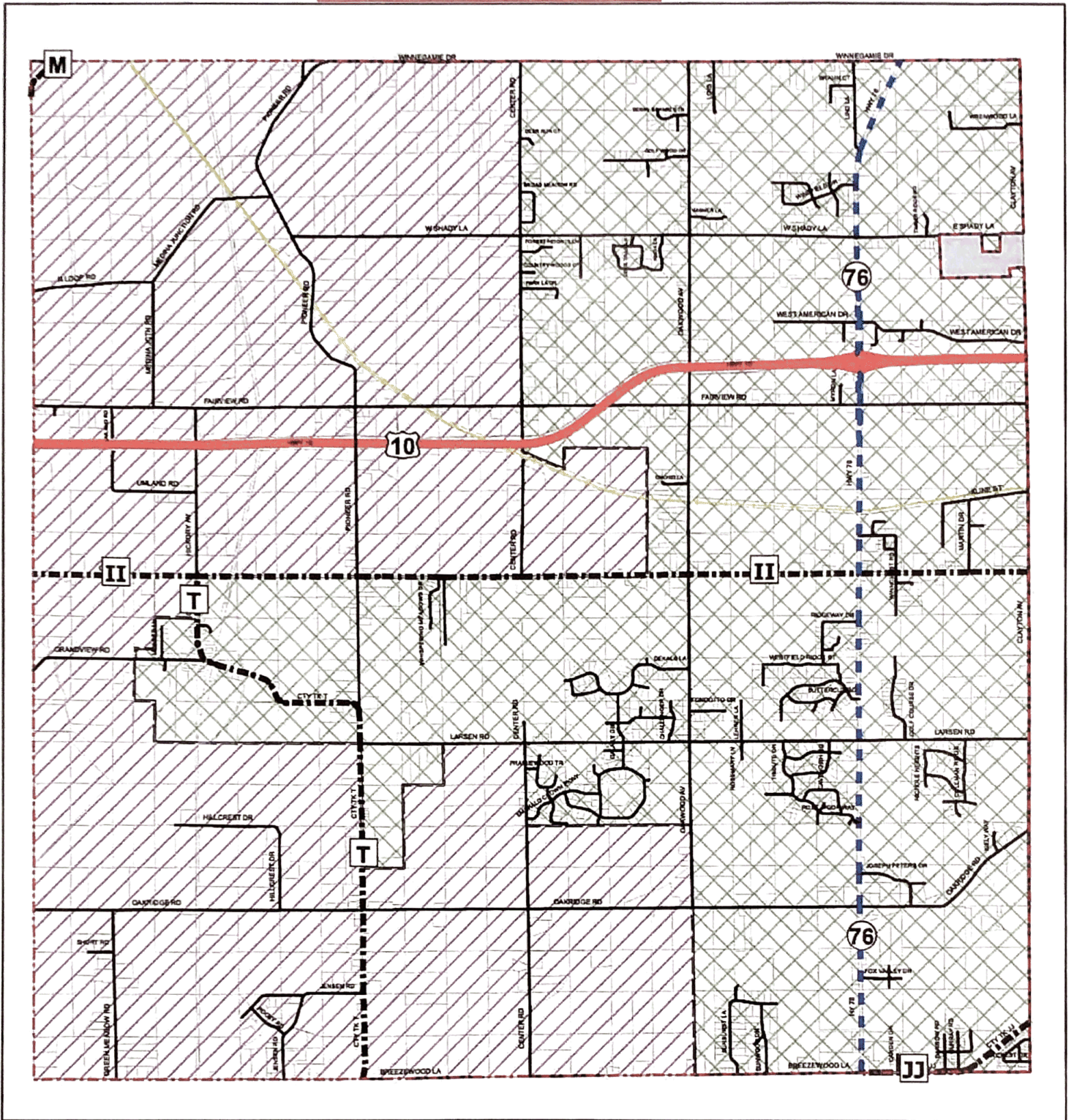
ATTEST: 
Holly Stevens, Town Clerk

Approved: 01-06-2020







Posted: _____

33849426_3.DOCX




EXHIBIT A TO BOUNDARY AGREEMENT

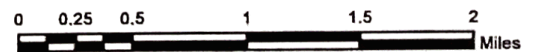


Map Features

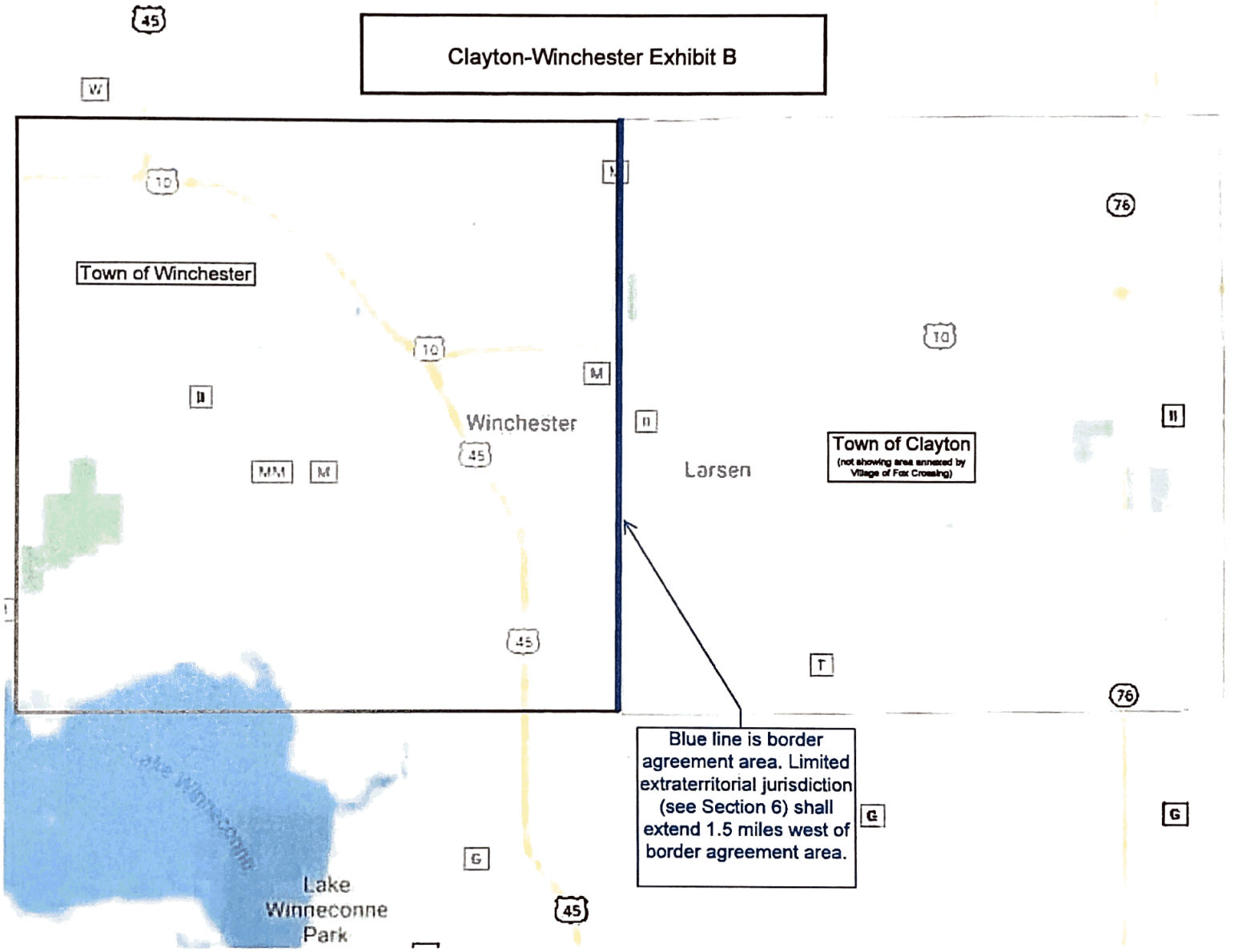
-  Parcel Line
-  Railroad Centerline
-  Local Road
-  County Road
-  State Highway
-  Federal Highway

Municipal Areas

-  Town of Clayton
-  Village of Clayton
-  Village of Fox Crossing

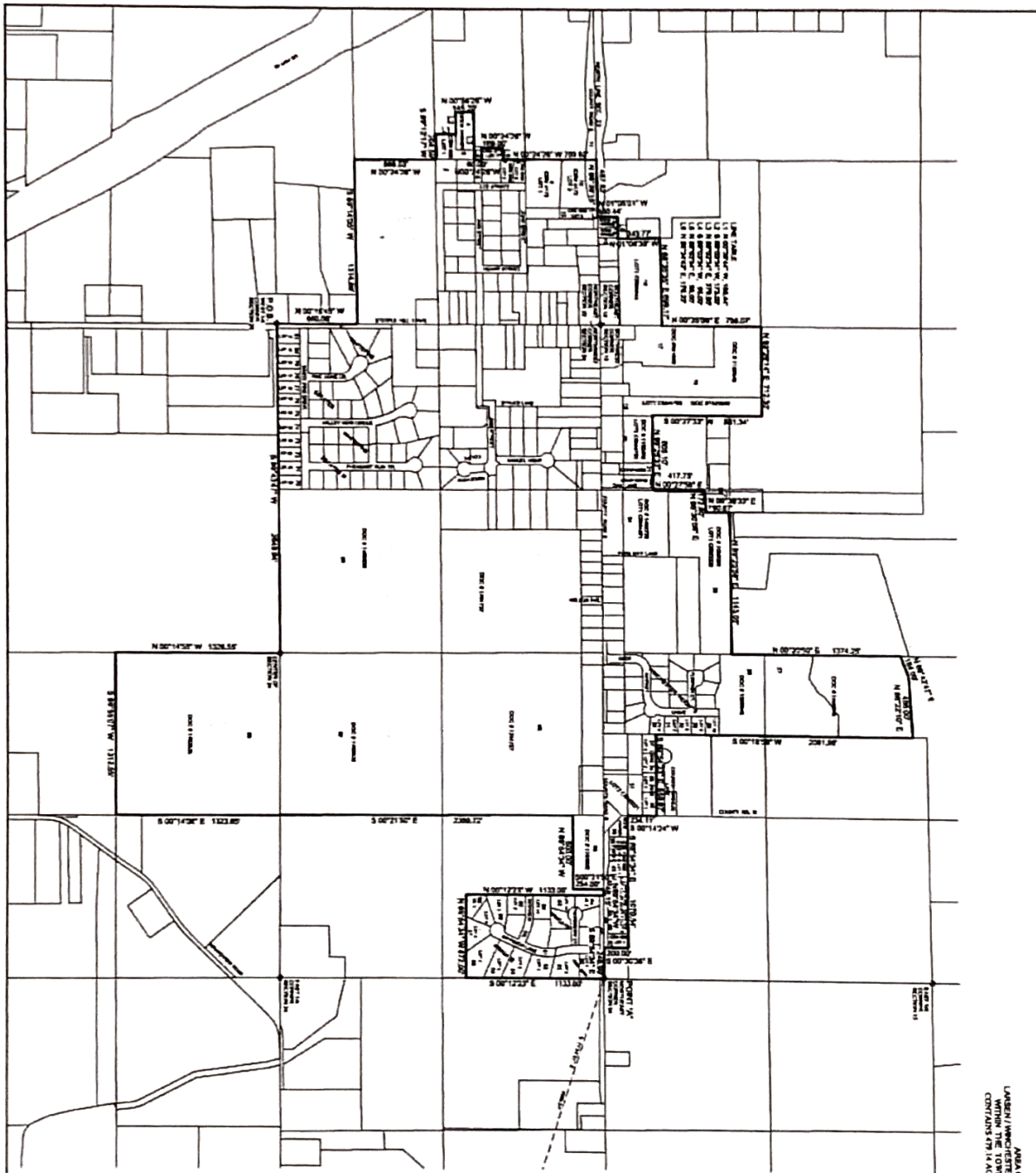


Clayton-Winchester Exhibit B



Blue line is border agreement area. Limited extraterritorial jurisdiction (see Section 6) shall extend 1.5 miles west of border agreement area.

CLAYTON-WINCHESTER EXHIBIT C



AREA OF THE
LARSEN-WINCHESTER SANITARY DISTRICT
WITHIN THE TOWN OF WINCHESTER
CONTAINING 794.14 ACRES MORE OR LESS.



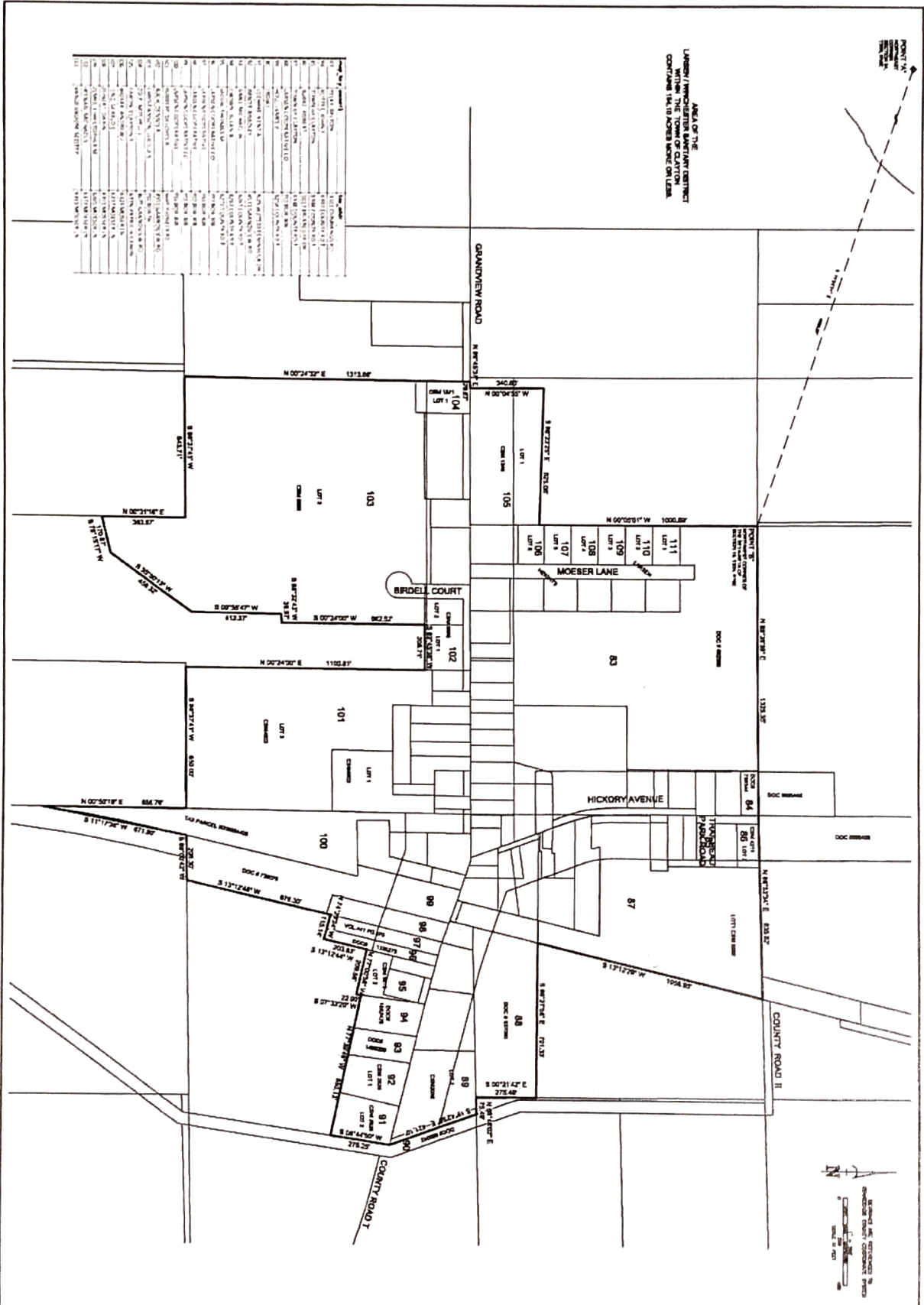
Lot No.	Area (Acres)	Owner
1	0.12	John Doe
2	0.15	Jane Smith
3	0.18	Bob Johnson
4	0.20	Alice Brown
5	0.22	Charlie White
6	0.25	Diana Green
7	0.28	Frank Black
8	0.30	Grace Gray
9	0.32	Henry Blue
10	0.35	Ivy Red
11	0.38	Jack Purple
12	0.40	Karen Yellow
13	0.42	Liam Orange
14	0.45	Mia Silver
15	0.48	Noah Gold
16	0.50	Olivia Bronze
17	0.52	Peter Platinum
18	0.55	Quinn Nickel
19	0.58	Rachel Copper
20	0.60	Sam Tin
21	0.62	Tina Lead
22	0.65	Uma Zinc
23	0.68	Victor Iron
24	0.70	Wendy Steel
25	0.72	Xavier Aluminum
26	0.75	Yara Silicon
27	0.78	Zoe Carbon
28	0.80	Adam Nitrogen
29	0.82	Bella Oxygen
30	0.85	Carl Hydrogen
31	0.88	Dora Helium
32	0.90	Ethan Neon
33	0.92	Fiona Argon
34	0.95	George Krypton
35	0.98	Hannah Xenon
36	1.00	Ian Radon
37	1.02	Jessica Uranium
38	1.05	Kevin Plutonium
39	1.08	Laura Americium
40	1.10	Max Neptunium
41	1.12	Nora Polonium
42	1.15	Oscar Astatine
43	1.18	Patricia Francium
44	1.20	Quinn Radium
45	1.22	Sam Actinium
46	1.25	Tina Thorium
47	1.28	Uma Protactinium
48	1.30	Victor Uranium
49	1.32	Wendy Neptunium
50	1.35	Xavier Plutonium
51	1.38	Yara Americium
52	1.40	Zoe Curium
53	1.42	Adam Berkelium
54	1.45	Bella Californium
55	1.48	Carl Einsteinium
56	1.50	Dora Fermium
57	1.52	Ethan Mendelevium
58	1.55	Fiona Nobelium
59	1.58	George Lawrencium
60	1.60	Hannah Rutherfordium
61	1.62	Ian Dubnium
62	1.65	Jessica Seaborgium
63	1.68	Kevin Bohrium
64	1.70	Laura Hassium
65	1.72	Max Tennessine
66	1.75	Nora Oganesson
67	1.78	Oscar Ununseptium
68	1.80	Patricia Ununoctium
69	1.82	Quinn Ununpentium
70	1.85	Sam Ununhexium
71	1.88	Tina Ununseptium
72	1.90	Uma Ununoctium
73	1.92	Victor Ununpentium
74	1.95	Wendy Ununhexium
75	1.98	Xavier Ununseptium
76	2.00	Yara Ununoctium
77	2.02	Zoe Ununpentium
78	2.05	Adam Ununhexium
79	2.08	Bella Ununseptium
80	2.10	Carl Ununoctium
81	2.12	Dora Ununpentium
82	2.15	Ethan Ununhexium
83	2.18	Fiona Ununseptium
84	2.20	George Ununoctium
85	2.22	Hannah Ununpentium
86	2.25	Ian Ununhexium
87	2.28	Jessica Ununseptium
88	2.30	Kevin Ununoctium
89	2.32	Laura Ununpentium
90	2.35	Max Ununhexium
91	2.38	Nora Ununseptium
92	2.40	Oscar Ununoctium
93	2.42	Patricia Ununpentium
94	2.45	Quinn Ununhexium
95	2.48	Sam Ununseptium
96	2.50	Tina Ununoctium
97	2.52	Uma Ununpentium
98	2.55	Victor Ununhexium
99	2.58	Wendy Ununseptium
100	2.60	Xavier Ununoctium

LARSEN-WINCHESTER SANITARY DISTRICT WINCHESTER BOUNDARY WINNEBAGO COUNTY, WISCONSIN		DRAWN BY M.E.	CHECKED M.E.	APPROVED M.E.
DATE DEC 2018		REVISION		

Martenson & Eisele, Inc.
 1377 Midway Road
 Menasha, WI 54952
 www.martenson-eisele.com
 info@martenson-eisele.com
 920.721.0311 1.800.728.0311

Planning
 Environmental
 Surveying
 Engineering
 Architecture

9081900-1
 1-001-000-1



AREA OF THE
LARSEN-WINCHESTER SANITARY DISTRICT
CONTAINS 14.18 ACRES MORE OR LESS.

Lot No.	Area (Acres)	Owner
80	0.12	Doc & Emms
81	0.12	Doc & Emms
82	0.12	Doc & Emms
83	0.12	Doc & Emms
84	0.12	Doc & Emms
85	0.12	Doc & Emms
86	0.12	Doc & Emms
87	0.12	Doc & Emms
88	0.12	Doc & Emms
89	0.12	Doc & Emms
90	0.12	Doc & Emms
91	0.12	Doc & Emms
92	0.12	Doc & Emms
93	0.12	Doc & Emms
94	0.12	Doc & Emms
95	0.12	Doc & Emms
96	0.12	Doc & Emms
97	0.12	Doc & Emms
98	0.12	Doc & Emms
99	0.12	Doc & Emms
100	0.12	Doc & Emms
101	0.12	Doc & Emms
102	0.12	Doc & Emms
103	0.12	Doc & Emms
104	0.12	Doc & Emms
105	0.12	Doc & Emms
106	0.12	Doc & Emms
107	0.12	Doc & Emms
108	0.12	Doc & Emms
109	0.12	Doc & Emms
110	0.12	Doc & Emms
111	0.12	Doc & Emms

LARSEN-WINCHESTER SANITARY DISTRICT CLAYTON BOUNDARY WINNEBAGO COUNTY, WISCONSIN		DRAWN BY: _____ CHECKED: _____ APPROVED: _____ NO. DATE REVISION	Martenson & Eisele, Inc. 1777 Midway Road Marinette, WI 54852 www.martenson-eisele.com info@martenson-eisele.com 920.731.0281 1.800.236.0281	Planning Environmental Surveying Engineering Architecture
SCALE: _____ DATE: DEC 2013 PROJECT: _____ DRAWING NO.: _____	1-000-0-000 1-000-0-000			

**RESOLUTION OF THE TOWN OF WINCHESTER, WINNEBAGO COUNTY,
WISCONSIN AUTHORIZING PARTICIPATION IN THE
PREPARATION OF A COOPERATIVE PLAN
WITH THE TOWN OF CLAYTON**

WHEREAS, the Town of Winchester ("Town") and the Town of Clayton ("Clayton") both located in Winnebago County, Wisconsin, wish to enter into a cooperative plan for the purpose of addressing the terms and conditions of the potential incorporation of a portion of Clayton; and

WHEREAS, Wis. Stat. § 66.0307 authorizes adjoining municipalities to set the boundaries between and among themselves upon adopting, and having approved by the Wisconsin Department of Administration, a cooperative plan in accordance with the procedures and requirements of Wis. Stat. § 66.0307; and

WHEREAS, the cooperative plan will have the general purpose of guiding and accomplishing a coordinated adjusted and harmonious development of the territory covered by the plan in order to best promote the public health, safety, and general welfare together with the future needs of the Town and Clayton; and

WHEREAS, cooperative planning is in the best interests of the Town and Clayton as participating municipalities; and

WHEREAS, the purpose of this resolution is to authorize participation in the cooperative planning process described in Wis. Stat. § 66.0307;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board, pursuant to Wis. Stat. § 66.0307(4)(a), does hereby authorize participation in the preparation of a cooperative boundary agreement and cooperative plan as defined in Wis. Stat. § 66.0307;

FURTHER RESOLVED, that promptly upon the adoption of this resolution, the Town Clerk shall forward a copy of this resolution to the parties listed in Wis. Stat. § 66.0307(4)(a); and

FURTHER RESOLVED, that at least 60 days after the adoption of the last resolution by a participating municipality and at least 60 days before submitting a cooperative plan to the State for review and approval, the Town, together with Clayton, shall hold a joint hearing on the proposed cooperative plan. Notice of the hearing shall be given by the Town and Clayton by Class 3 notice; and

FURTHER RESOLVED, that the Town Clerk and the Town Attorney are authorized and directed to take all other necessary and appropriate action consistent with this authorizing resolution.

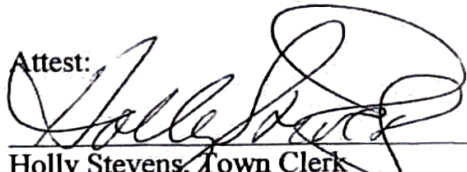
Adopted this 15th day of July, 2019.

TOWN OF WINCHESTER

By:


Matthew J Olson, Town Chairperson

Attest:


Holly Stevens, Town Clerk

RESOLUTION 2019-008

RESOLUTION OF THE TOWN OF CLAYTON, WINNEBAGO COUNTY,
WISCONSIN AUTHORIZING PARTICIPATION IN THE
PREPARATION OF A COOPERATIVE PLAN
WITH THE TOWN OF WINCHESTER, TOWN OF NEENAH, TOWN OF WINNECONNE AND
WOWN OF VINLAND

WHEREAS, the Town of Clayton (the "Town"), the Town of Winchester, the Town of Neenah, the Town of Winneconne and the Town of Vinland, all located in Winnebago County, Wisconsin (collectively the "Participating Municipalities"), wish to enter into separate cooperative plans for the purpose of addressing the terms and conditions of the incorporation of the Town; and

WHEREAS, Wis. Stat. § 66.0307 authorizes adjoining municipalities to set the boundaries between and among themselves upon adopting, and having approved by the Wisconsin Department of Administration, a cooperative plan in accordance with the procedures and requirements of Wis. Stat. § 66.0307; and

WHEREAS, the cooperative plans between the Town and each of the Participating Municipalities will have the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the plans in order to best promote the public health, safety, and general welfare together with the future needs of the Participating Municipalities; and

WHEREAS, cooperative planning is in the best interests of the Participating Municipalities; and

WHEREAS, the purpose of this resolution is to authorize participation in the cooperative planning process described in Wis. Stat. § 66.0307;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board, pursuant to Wis. Stat. § 66.0307(4)(a), does hereby authorize participation with each of the Participating Municipalities in the preparation of cooperative boundary agreements and cooperative plans as defined in Wis. Stat. § 66.0307;

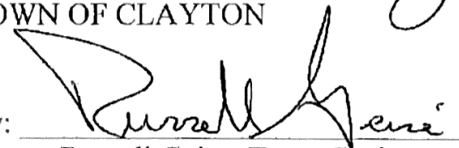
FURTHER RESOLVED, that promptly upon the adoption of this resolution, the Town Clerk shall forward a copy of this resolution to the parties listed in Wis. Stat. § 66.0307(4)(a); and


FURTHER RESOLVED, that at least 60 days after the adoption of the last resolution by one of the Participating Municipalities and at least 60 days before submitting cooperative plans to the State for review and approval, the Town, together with the other Participating Municipalities, shall hold a joint hearing on the proposed cooperative plans. Notice of the hearing shall be given by each of the Participating Municipalities by Class 3 notice; and

FURTHER RESOLVED, that the Town Clerk and the Town Attorney are authorized and directed to take all other necessary and appropriate action consistent with this authorizing resolution.

Adopted this 17th day of July, 2019.

TOWN OF CLAYTON

By: 
Russell Geise, Town Chairperson


Attest: 
Holly Stevens, Town Clerk

STATE OF WISCONSIN
BROWN COUNTY


DEMPSEY, EDGARTON, ST. PETER,
10 FOREST AVE
FOND DU LAC WI 549354111

I, being duly sworn, doth depose and say I am an authorized representative of the Appleton Post Crescent, a newspaper published at Appleton, Wisconsin and that an advertisement of which the annexed is a true copy, taken from said paper, which was published therein on:

Account Number: GWM-0000004308
Order Number: 0003820718
No. of Affidavits: 1
Total Ad Cost: \$140.55
Published Dates: 10/02/19, 10/09/19, 10/16/19

(Signed)  (Date) 10/21/19
Legal Clerk

Signed and sworn before me



My commission expires 8-25-23

SHELLY HORA
Notary Public
State of Wisconsin

DEMPSEY, EDGARTON, ST. PETER,
Re: PH 10-/-23-/-19

**LEGAL NOTICE
JOINT NOTICE OF PUBLIC HEARING
REGARDING COOPERATIVE PLANS
INVOLVING THE TOWNS OF
CLAYTON, WINNECONNE,
WINCHESTER, AND VINLAND**

PURSUANT TO WIS. STAT. § 66.0307
PLEASE TAKE NOTICE that a joint public hearing will be held on October 23, 2019 at 6:00 p.m. at the Town of Clayton Town Hall, 8348 County Road T, Larsen, Wisconsin, regarding three Cooperative Plan Agreements pursuant to Wis. Stat. § 66.0307. Interested parties may publicly comment on the Agreements during the hearing and may submit written comments on the Agreements before, at, or within 20 days following the hearing. Comments will be considered by the parties before the Agreements are finalized and submitted to the State of Wisconsin Department of Administration.

The Agreements include provisions affecting the common boundary lines among the parties, their extraterritorial authority, and shared services. Copies of the Agreements are available for review by contacting the Town Clerks as follows:

Yvonne Zobel, Town of Winneconne
Clerk

920-582-3260

ln.winn@northne.net

Holly Stevens, Town of Winchester and
Clayton Clerk

920-836-2948

clerk@townofwinchestervi.com

Jennifer Brown, Town of Vinland Clerk

920-235-6953

vinlandclerk@ntd.net

 **Public Notices**

This notice is being provided jointly by the parties as required under Wis. Stat. § 66.0307(4)(b).

Dated this 2nd day of October, 2019.

Yvonne Zobel

Holly Stevens

Jennifer Brown

Run: Oct. 2, 9, 16, 2019

WNAXLP

Oshkosh
Northwestern
media
 A GANNETT COMPANY


LEGAL NOTICE
 JOINT NOTICE OF PUBLIC HEARING
 REGARDING COOPERATIVE PLANS
 INVOLVING THE TOWNS OF
 CLAYTON, WINNECONNE,
 WINCHESTER, AND VINLAND
 PURSUANT TO WIS. STAT. § 66.0307
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 Yvonne Zobel, Town of Winneconne Clerk
 920-582-3260
 In: winn@northnet.net
 Holly Stevens, Town of Winchester and Clayton Clerk
 920-836-2948
 clerk@townofwinchesterwi.com
 Jennifer Brown, Town of Vinland Clerk
 920-235-0953
 vinlandclerk@ntd.net
 This notice is being provided jointly by the parties as required under Wis. Stat. § 66.0307(4)(b).
 Dated this 2nd day of October, 2019.
 Yvonne Zobel
 Holly Stevens
 Jennifer Brown
 Run: Oct. 2, 9, 16, 2019 WNAXLP

STATE OF WISCONSIN
 BROWN COUNTY


DEMPSEY, EDGARTON, ST. PETER,
 10 FOREST AVE
 FOND DU LAC WI 549354111

Being duly sworn, doth depose and say that she/he is an authorized representative of the Oshkosh Northwestern, a daily newspaper published in the city of Oshkosh, in Winnebago County, Wisconsin, and that an advertisement of which the annexed is a true copy, taken from said paper, which was published therein on

Account Number: GWM-0000004308
 Order Number: 0003820725
 No. of Affidavits: 1
 Total Ad Cost: \$80.75
 Published Dates: 10/02/19, 10/09/19, 10/16/19

(Signed)  (Date) 10/21/19
 Legal Clerk

Signed and sworn before me



NANCY HEYRMAN
 Notary Public
 State of Wisconsin

My commission expires 5.15.25

DEMPSEY, EDGARTON, ST. PETER,
 Re: PH 10-2-25-19

JOINT PUBLIC HEARING

Towns of Clayton, Winneconne, Winchester, and Vinland
at the Town of Clayton Town Hall
8348 County Road T, Larsen, Wisconsin
October 23, 2019—6:00 p.m.

MINUTES

1. Call meeting to order. Roll call. Confirm meeting notice.

Town of Clayton Chair Geise called the meeting to order at 6:00 p.m.

Town of Clayton Assistant Administrator Straw confirmed the meeting was properly noticed.

Roll call:

Town of Clayton	
Chair Geise	PRESENT
Supervisor Lettau	PRESENT
Supervisor Grundman	PRESENT
Supervisor Schmidt	PRESENT
Supervisor Reif	PRESENT
Administrator Johnston	PRESENT
Asst Admin. Straw	PRESENT
Town of Vinland	
Chair Farrey	PRESENT
Supervisor Batley	PRESENT
Supervisor Devens	PRESENT
Clerk Brown	PRESENT
Treasurer Brazee	PRESENT
Town of Winchester	
Chair Olson	PRESENT
Supervisor Vander Zanden	PRESENT
Supervisor Joas	PRESENT
Clerk Stevens	PRESENT
Town of Winneconne	
Chair Snider	PRESENT
Supervisor Black	PRESENT
Supervisor Burghardt	EXCUSED
Supervisor Lang	EXCUSED
Supervisor Woods	PRESENT
Clerk Zobel	EXCUSED

Town of Clayton Legal Counsel
Attorney Ben Lafrombois, Von Briesen & Roper, S.C.

Towns of Vinland, Winchester, and Winneconne Legal Counsel
Attorney Matt Parmentier, Dempsey, Edgarton, St. Peter, Petak &
Rosenfeldt

Others in attendance:

Alice Joas, 8870 County Road M, Larsen
Kelly Wisnefske, 7812 County Road T, Larsen
Mike Pfankuch, 4556 Grandview Road, Larsen
Howie Miller, 5468 Grandview Road, Larsen
Lana Prusik, 9207 Pioneer Road, Larsen
Bob Schmeichel, Town of Neenah Chair

2. Welcome and introduction.

Town of Clayton Chair Geise welcomed everyone and turned the meeting over to Attorney Parmentier

3. Presentation of draft cooperative plans.

Attorney Parmentier reviewed the procedure for the process of developing Cooperative Plans.

Attorney Parmentier presented the Overview of the Cooperative Plans as follows:

1. Substantive Provisions Common to all Plans.

- a. Support for Incorporation. In exchange for the promises Clayton makes in the agreement, the other towns agree to support Clayton's incorporation efforts and waive their rights to contest the incorporation.
- b. Extraterritorial Land Division Review. Incorporated villages have statutory authority to regulate land divisions within 1.5 miles of their territorial boundaries. Under the cooperative plans, Clayton waives this authority upon its incorporation.
- c. Extraterritorial Zoning Authority. Incorporated villages can, with the participation of adjacent towns, enact extraterritorial zoning ordinances that control land use within 1.5 miles of their territorial boundaries. Under the cooperative plans, Clayton waives authority upon its incorporation.
- d. Extraterritorial Planning Authority. Incorporated villages must adopt "master plans" for development that can include areas outside of their boundaries that bear relation to the development of the village. Under the cooperative plans,

Clayton waives this authority upon its incorporation, except with respect to utilities and roadways, so that road extensions that cross municipal boundaries can be coordinated.

- e. Annexations. Annexation is the process by which an incorporated village can take territory from an adjacent town and bring it within the village's boundaries. Annexations can be voluntary (e.g., unanimous petition) or involuntary (e.g., majority petition). "Attachments" are annexations that occur under the terms of a boundary agreement. In either case, these processes result in lost tax base for the town that loses the territory and can lead to intergovernmental disputes. Under the cooperative plans, Clayton waives annexation and attachment authority throughout the towns unless the relevant town agrees in writing to the annexation.

2. Special Provisions.

- a. Vinland's JJ Keller Protection Provision. The plan between Clayton and Vinland includes a special provision that applies to the JJ Keller-owned property at the corner of Breezewood Lane and Hwy 76. The provision says that Clayton will provide sewer and water service to that property without requiring annexation or tax revenue sharing if the following conditions are met:
 - i The property owner requests sewer and/or water services.
 - ii The property is included in a relevant utility service area.
 - iii The Village has the utility infrastructure necessary to provide the requested utilities.
 - iv The Village has adequate capacity to provide the utility services.
- b. Winchester's Joint Sanitary District Provision. The plan between Clayton and Winchester includes a special provision regarding ownership and control of the Larsen-Winchester Sanitary District. Upon the effective date of the plan, ownership, assets, and liabilities of the District will be transferred to Clayton so that Clayton is solely responsible for the District. The parties agreed to the following regarding the operation of the District post-transfer:
 - i. The District will go to a five-member commission with commissioners chosen by Clayton.
 - ii. Clayton will continue providing services to properties within Winchester that were receiving services from the District prior to the transfer.
 - iii. Clayton will also provide service to new properties within Winchester as long as the property is located within its sewer service area.

- iv. New connections will not be conditioned upon annexation but are dependent on Clayton having adequate capacity to serve the property.
- v. Clayton will not discriminate against Winchester users in the connection fees, service charges, volume charges, and other rates that it charges.
- vi. Winchester will cooperate with Clayton if it is necessary for Clayton to levy any special assessments within Winchester for utility projects.

- c. Duration of Plans. The duration of the Winneconne and Vinland plans is 20 years. However, in consideration of Winchester's agreement to transfer ownership of its joint sanitary district, the Winchester plan is for a period of 50 years with two subsequent 25-year renewal options.

4. Public comments on cooperative plans.

Town of Clayton Chair Geise opened the Public Hearing for questions and comments.

No questions or comments were presented.

Town of Clayton Chair Geise closed the Public Hearing at 6:27 p.m.

5. Discussion of next steps in cooperative planning process.

Attorney Parmentier explained that this hearing starts a 20-day public comment period which allows for the public to submit comments or questions regarding any of the Cooperative Plans. He noted that submissions should be given to the Clerk of the relative municipality. He advised the Clerks to keep all submissions because the comments will become part of the Wisconsin Department of Administration submittal for review.

Attorney Parmentier noted that East Central Wisconsin Regional Planning Commission and Winnebago County will also be submitting written comment(s) regarding each plan during this comment period.

Town of Vinland Chair inquired regarding which department at the County receives the request and submits the comments. Attorney Parmentier explained that the request was submitted to the Clerk's office and would be forwarded to the Planning and Zoning Department for review of compliance with the County's Comprehensive Plan.

Town of Winchester Supervisor Vander Zanden inquired about the status of the Cooperative Plans if the Town of Clayton incorporation does not get approved. Attorney Parmentier explained that the agreements apply to any incorporation attempt.

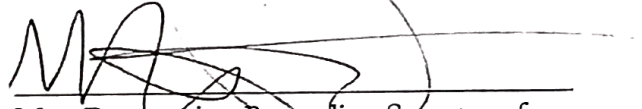
Attorney Parmentier also noted that this hearing starts the local plan review and approval process. He noted that each Town Board will review and approve their plans not less than 60 days and not more than 180 after this hearing.

6. Adjourn.

MOTION:

Motion by Town of Vinland Chair Farrey
Second by Town of Winchester Supervisor Joas
Motion to Adjourn at 6:33 p.m.
Motion carried by unanimous voice vote.

Respectfully Submitted,

A handwritten signature in black ink, appearing to be 'MA', written over a horizontal line. The signature is stylized and somewhat illegible.

Matt Parmentier, Recording Secretary for
Towns of Winneconne, Winchester, and
Vinland

Affidavit of Mailing for the Authorizing Resolution

TOWN OF CLAYTON
COUNTY OF WINNEBAGO
STATE OF WISCONSIN

I, Holly Stevens, Clerk of the Town of Clayton, County of Winnebago, State of Wisconsin, do hereby attest and affirm the following:

Upon adoption of RESOLUTION 2019-008 A Resolution of the Town of Clayton, Winnebago County, Wisconsin, Authorizing Participation in the Preparation of a Cooperative Plan with the Town of Winchester, Town of Neenah, Town of Winneconne, and Town of Vinland, distributed copies of the said resolution according to WI Stats. § 66.0307 (4)(a):

66.0307 Boundary change pursuant to approved cooperative plan.

(4) PROCEDURE FOR ADOPTING COOPERATIVE PLAN.

(a) Authorizing resolution. Each municipality that intends to participate in the preparation of a cooperative plan under this section shall adopt a resolution authorizing participation in the preparation of the plan. Notice of each resolution shall be given in writing, within 5 days after the resolution is adopted, to all of the following:

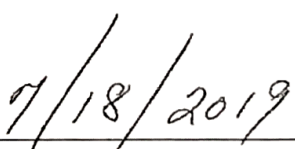
1. The department, the department of natural resources, the department of agriculture, trade and consumer protection and the department of transportation.
2. The clerks of any municipality, school district, technical college district, sewerage district or sanitary district which has any part of its territory within 5 miles of a participating municipality.
3. The clerk of each county in which a participating municipality is located.
4. Any county zoning agency under s. 59.69 (2) or regional planning commission whose jurisdiction includes a participating municipality.

The above-noted action was completed on July 18, 2019.

This affidavit is filed in the records of the Town Clerk for the Town of Clayton.



Holly Stevens, Clerk



Date

Affidavit of Mailing for the Authorizing Resolution

TOWN OF WINCHESTER
COUNTY OF WINNEBAGO
STATE OF WISCONSIN

I, Holly Stevens, Clerk of the Town of Winchester, County of Winnebago, State of Wisconsin, do hereby attest and affirm the following:

Upon adoption of RESOLUTION 2019 A Resolution of the Town of Winchester, Winnebago County, Wisconsin, Authorizing Participation in the Preparation of a Cooperative Plan with the Town of Clayton, distributed copies of the said resolution according to WI Stats. § 66.0307 (4)(a):

66.0307 Boundary change pursuant to approved cooperative plan.

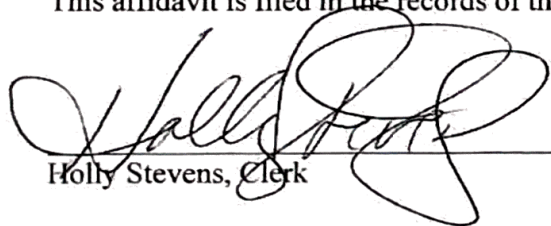
(4) PROCEDURE FOR ADOPTING COOPERATIVE PLAN.

(a) Authorizing resolution. Each municipality that intends to participate in the preparation of a cooperative plan under this section shall adopt a resolution authorizing participation in the preparation of the plan. Notice of each resolution shall be given in writing, within 5 days after the resolution is adopted, to all of the following:

1. The department, the department of natural resources, the department of agriculture, trade and consumer protection and the department of transportation.
2. The clerks of any municipality, school district, technical college district, sewerage district or sanitary district which has any part of its territory within 5 miles of a participating municipality.
3. The clerk of each county in which a participating municipality is located.
4. Any county zoning agency under s. 59.69 (2) or regional planning commission whose jurisdiction includes a participating municipality.

The above-noted action was completed on July 15, 2019.

This affidavit is filed in the records of the Town Clerk for the Town of Winchester.



Holly Stevens, Clerk

07/16/2019

Date

RESOLUTION OF THE TOWN OF WINCHESTER
APPROVING COOPERATIVE PLAN WITH THE TOWN OF CLAYTON

Recitals

WHEREAS, Wis. Stat. § 66.0307 authorizes adjoining municipalities to establish the boundaries between themselves upon adopting, and having approved by the Wisconsin Department of Administration, a cooperative plan in accordance with the procedures and requirements of Wis. Stat. § 66.0307; and

WHEREAS, the Town of Winchester and the Town of Clayton have determined that it is in their interest to enter into a cooperative plan under Wis. Stat. § 66.0307; and

WHEREAS, the cooperative plan prepared by the Towns has the general purpose of guiding and accomplishing a coordinated and harmonious development of the territory covered by the plan in order to best promote the public health, safety, and general welfare; and

WHEREAS, a joint hearing on the proposed cooperative plan was held on October 23, 2019; and

WHEREAS, the parties received no public comments before, at, or after the public hearing; and

WHEREAS, the purpose of this resolution is to approve the cooperative plan as described in Wis. Stat. § 66.0307.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Winchester does hereby approve the cooperative plan with the Town of Clayton, a copy of which is attached hereto and incorporated by reference, as defined in Wis. Stat. § 66.0307; and

FURTHER RESOLVED, that the proper Town officials are hereby authorized to take all other necessary and appropriate action consistent with this resolution and Wis. Stat. § 66.0301

Adopted this 6th day of January, 2020

TOWN OF WINCHESTER

By: 
Matthew J. Olson, Chairperson

Attest: 
Holly Stevens, Clerk

G. Discussion/Action: Town Board review and consideration of the Fox West Sewerage Commission Joinder Agreement.

The Board reviewed a draft copy of the Fox West Sewerage Commission Joinder Agreement. The document has been prepared by each Municipality’s respective legal Counsel. Chair Geise presented the document to the Town Board and Village Board President Youngquist presented the document to the Village Board. The Fox West Sewerage Commission Joinder Agreement allows the Town of Clayton and the Clayton Sanitary District #1 access to the Fox West facility for the treatment of wastewater upon acceptance by the Commission.

- Chair Geise noted that once the Town reaches 10 percent capacity in the plant, it will then get a seat on the Commission.

MOTION:

Motion by Supervisor Grundman

Second by Supervisor Wisnefske

Motion to approve the Fox West Sewerage Commission Joinder Agreement as presented.

ROLL CALL VOTE:

Supervisor Wisnefske	Aye
Supervisor Reif	Aye
Chair Geise	Aye
Supervisor Grundman	Aye
Supervisor Lettau	Aye

Motion carried by a 5-0 vote

H. Discussion/Action: Town Board review and consideration of the Intergovernmental Cooperative Plan with the Town of Winchester.

The Board reviewed a copy of the Intermunicipal Agreement with the Town of Winchester. The required public hearing relating to the agreement was held October 23, 2019. The agreement before the Board is the same agreement presented for the public hearing. The Winchester Town Board had approved the agreement Monday, January 6th, 2020.

- Chair Geise noted that good agreements make good neighbors and he feels this is a very good agreement

MOTION:

Motion by Supervisor Reif

Second by Supervisor Grundman

Motion to approve the Intergovernmental Cooperative Plan with the Town of Winchester as presented

ROLL CALL VOTE:

Supervisor Wisnefske	Aye
Supervisor Grundman	Aye
Supervisor Lettau	Aye

Supervisor Reif	Aye
Chair Geise	Aye

Motion carried by a 5-0 vote

- I. Discussion/Action: Town Board review and consideration of the Intergovernmental Cooperative Plan with the Town of Vinland.

The Board reviewed a copy of the Intermunicipal Agreement with the Town of Vinland. The required public hearing relating to the agreement was held October 23, 2019. The agreement before the Board is the same agreement presented for the public hearing. The Vinland Town Board is scheduled to consider the agreement on January 20, 2020.

- Chair Geise again noted that good agreements make good neighbors and this is a very good agreement for both Towns

MOTION:

Motion by Supervisor Reif

Second by Supervisor Lettau

Motion to approve the Intergovernmental Cooperative Plan with the Town of Vinland as presented

ROLL CALL VOTE:

Chair Geise	Aye
Supervisor Lettau	Aye
Supervisor Wisnefske	Aye
Supervisor Reif	Aye
Supervisor Grundman	Aye

Motion carried by a 5-0 vote

- J. Discussion/Action: Town Board review and consideration of the Intergovernmental Cooperative Plan with the Town of Winneconne.

The Board reviewed a copy of the Intermunicipal Agreement with the Town of Winneconne. The required public hearing relating to the agreement was held October 23, 2019. The agreement before the Board is the same agreement presented for the public hearing. The Winneconne Town Board is scheduled to consider the agreement on January 16, 2020.

MOTION:

Motion by Supervisor Grundman

Second by Supervisor Lettau

Motion to approve the Intergovernmental Cooperative Plan with the Town of Winneconne as presented

ROLL CALL VOTE:

Supervisor Reif	Aye
Supervisor Grundman	Aye

Supervisor Lettau	Aye
Chair Geise	Aye
Supervisor Wisnefske	Aye

Motion carried by a 5-0 vote

- K. Discussion/Action: Town Board review and consideration of the Building Inspector’s wage adjustment with regard to the addition of the Town of Winchester and Town of Dale Building Inspector’s Services.

The Board reviewed a copy of Intergovernmental Agreements for Building Inspection Services with the Towns of Winchester and Dale for your reference. The Town of Winchester Clerk was able to provide a four (4) year average cost of the Town of Winchester’s building permits (\$9,912.48) of which the Town of Clayton would collect 80% or \$7,929.98. The Town of Winchester generates 35 +/- building and mechanical permits annually including an average of 6 +/- new single-family dwellings. The staff can only presume that the Town of Dale’s building permits would be about the same. With the addition of the two communities our Building Inspector will be serving, the Administration is of the opinion the Building Inspector should be compensated for the additional workload. At this time, the Administration is proposing a one-time increase to the Building Inspector’s base wage of \$5,000.00 to bring his base pay to \$70,279.52. The total cost to the Town Budget would be an additional \$5,720.00 which includes the Social Security liability and the Town’s portion of the Wisconsin Retirement.

- Chair Geise noted that he has reservations regarding an immediate increase for the building inspector in light of the concerns expressed to him by the Towns of Winneconne and Vinland.
- Chair Geise explained that he would like to evaluate the performance of the inspector with the addition to his workload—if the service is good, an increase is warranted. If the quality of service declines, an increase cannot be taken back.
- Chair Geise said he would consider a smaller increase at this time and then to revisit the matter after some time has passed and the inspector’s performance can be evaluated.
- The Board considered other options for compensation, including goal-based increases and an end of year “bonus.”
- The Chair suggested the Board postpone the discussion until the next meeting in order to allow the Board time to consider the matter.

NO ACTION TAKEN—POSTPONED TO THE FEBRUARY 5, 2020 MEETING

- L. Discussion/Action: Town Board review and consideration of a contract amendment with Cedar Corporation for the Consulting Services of the Town Planner to assist with the Town’s Zoning Code Updates.

The Board reviewed the contract amendment with Cedar Corporation for the Consulting Services of the Town Planner (Ken Jaworski) to assist with the Town’s Zoning Code Updates. The cost estimate was \$5,600.00 plus reimbursable expenses of mileage (based on the IRS standard rate – for 2020 it is 57.5 cents per mile) and survey equipment at a rate of \$30.00 per hour. The estimate does not include zoning map changes which may be