

Request for Annexation Review

Wisconsin Department of Administration

WI Dept. of Administration
Municipal Boundary Review
PO Box 1645, Madison WI 53701
608-264-6102
wimunicipalboundaryreview@wi.gov
<https://doa.wi.gov/municipalboundaryreview>

Petitioner Information

Name: **Research Products Corporation**

Phone: **608-310-6105**

Email: **cory.recknor@aprilaire.com**

RECEIVED

June 22, 2022

Municipal Boundary Review
Wisconsin Dept. of Admin.

Contact Information if different than petitioner:

Representative's Name: **Michael J. Lawton**

Phone: **608-286-7236**

E-mail: **mlawton@boardmanclark.com**

1. Town where property is located: **Vienna**

2. Petitioned City or Village: **DeForest**

3. County where property is located: **Dane**

4. Population of the territory to be annexed: **-0-**

5. Area (in acres) of the territory to be annexed: **123.6**

6. Tax parcel number(s) of territory to be annexed (if the territory is part or all of an existing parcel):
090923180750; 090924286700; 090924287800; 090924289300

Include these required items with this form:

1. Legal Description meeting the requirements of [s.66.0217 \(1\) \(c\)](#) [see attached annexation guide]
2. Map meeting the requirements of [s. 66.0217 \(1\) \(g\)](#) [see attached annexation guide]
3. Signed Petition or Notice of Intent to Circulate [see attached annexation guide]
4. Check or money order covering review fee [see next page for fee calculation]

Annexation Review Fee Schedule

A Guide for Calculating the Fee Required by ss.16.53 (4) and 66.0217, Wis. Stats.

Required Fees

There is an initial filing fee and a variable review fee

\$350 Initial Filing Fee (required with the first submittal of all petitions)
\$200 – 2 acres or less
\$350 – 2.01 acres or more

\$1400 Review Fee (required with all annexation submittals except those that consist ONLY of road right-of-way)
\$200 – 2 acres or less
\$600 – 2.01 to 10 acres
\$800 – 10.01 to 50 acres
\$1,000 – 50.01 to 100 acres
\$1,400 – 100.01 to 200 acres
\$2,000 – 200.01 to 500 acres
\$4,000 – Over 500 acres

\$1750 TOTAL FEE DUE (Add the Filing Fee to the Review Fee)

Include check or money order, payable to: Department of Administration

DON'T attach the check with staples, tape, ...

THE DEPARTMENT WILL NOT PROCESS
AN ANNEXATION PETITION THAT IS NOT ACCOMPANIED
BY THE REQUIRED FEE.

THE DEPARTMENT'S 20-DAY STATUTORY REVIEW PERIOD
COMMENCES UPON RECEIPT OF THE PETITION AND REVIEW FEE

Shaded Area for Office Use Only

Date fee & form received: 6-22-22

Payer: Boardman & Clark LLP

Check Number: 59427

Check Date: 6-15-22

Amount: \$1750.00

**NOTICE OF INTENTION TO CIRCULATE PETITION FOR DIRECT
ANNEXATION UNDER WIS. STATS. SECTIONS 66.0217(3) AND (4)**

The undersigned, Research Products Corporation, hereby gives notice of its intention to circulate a petition for direct annexation under Wis. Stats. sections 66.0217(3) and (4), for the annexation of the territory proposed to be annexed which is legally described on Exhibit A attached hereto and incorporated by reference herein and graphically described on the scale map attached hereto as Exhibit B and incorporated by reference herein, by which the territory which will be the subject of the petition will be detached from the Town of Vienna, Dane County, Wisconsin, and annexed to the Village of DeForest, Dane County, Wisconsin. Research Products Corporation is causing this Notice to be published and is an owner of land within the territory proposed to be annexed. The post-office address of Research Products Corporation is 1015 East Washington Avenue, Madison, Wisconsin 53703.

A copy of the scale map attached hereto as Exhibit B may be inspected at the office of the Town Clerk for the Town of Vienna and the office of the Village Clerk for the Village of DeForest.

Dated: June 9, 2022.

RESEARCH PRODUCTS CORPORATION
1015 East Washington Avenue
Madison, Wisconsin 53703

By: 
Dale Philippi, President/Chief Executive Officer

**ANNEXATION DESCRIPTION
TOWN OF VIENNA
DANE COUNTY, WISCONSIN**

Located in the SE ¼ of the SE ¼ of Section 14, the NE ¼ of the NE ¼, the SE ¼ of the NE ¼ of Section 23, the NE ¼ of the NW ¼ and the NW ¼ of the NW ¼ of Section 24, T9N, R9E, Town of Vienna, Dane County, Wisconsin, described as follows:

COMMENCING at the North Quarter Corner of Section 24;

thence West, 250.36 feet along the North line of the NW ¼ of said Section 24 to the intersection with the Northerly extension of the West line of Evco Circle;

thence South, 280.00 feet along said northerly extension and the West line of Evco Circle to the Southeast corner of Lot 2, Certified Survey Map No. 3442;

thence West, 300 feet along the South line of Lot 2, Certified Survey Map No. 3442 to the Southwest Corner thereof;

thence North, 280 feet along the West line of Lot 2, Certified Survey Map No. 3442 to intersection of the centerline of CTH "V";

thence West along the centerline of CTH "V" to the easterly right-of-way line of Interstate Highway 39, 90 and 94;

thence S03°16'02"E, 276 feet along the east right-of-way line of Interstate Highway 39, 90 and 94 to the **POINT OF BEGINNING**.

thence Westerly to the northeast corner of Lot 1, CSM 15029;

thence continuing Westerly, 447.02 feet along the north line of Lot 1, CSM No. 15029 to the east right-of-way line of Elephant Trail;

thence North, 3.21 feet along the east right-of-way line of Elephant Trail to the north right-of-way line of said Elephant Trail;

thence West, 466 feet along the north right-of-way line of Elephant Trail and it's westerly projection to the west right-of-way line of Hickory Lane;

thence South, 86 feet along the west right-of-way line of Hickory Lane to the westerly projection of the north line of Lot 2, CSM No. 15029;

thence East, 240 feet along the north line of Lot 2, CSM No. 15029 and it's westerly projection to the northeast corner of said Lot 2;

thence South, 100.00 feet along the east line of Lot 2, CSM No. 15029 to the southeast corner of said Lot 2;

thence West, 240 feet along the south line of Lot 2, CSM No. 15029 and it's westerly projection to the west right-of-way line of Hickory Lane;

thence South along the west right-of-way line of Hickory Lane to the north right-of-way line of Linde Lane;

thence Westerly, Northwesterly and Northerly along the northerly, northeasterly and easterly right-of-way lines of Linde Lane to the south right-of-way line of CTH "V";
thence North to the north right-of-way line of CTH "V";
thence Westerly along the north right-of-way line of CTH "V" to the west line of the SE ¼ of the SE ¼ of Section 14, T9N, R9E;
thence South to the northwest corner of Lot 4, CSM No. 11362;
thence continuing South, 2596.03 feet along the west line of Lot 4, CSM No. 11362 to the southwest corner of said Lot 4;
thence East, 1350 feet along the south line of Lot 4, CSM No. 11362 and it's easterly projection to the east right-of-way line of Hickory Lane;
thence North, 1157 feet along the east right-of-way line of Hickory Lane to the south line of CSM No. 11050;
thence East, 1671.13 feet along the south line of CSM No. 11050 to the southeast corner of said CSM and the west right-of-way line of I 39, 90 and 94;
thence continuing East to the southwest corner of Evco Subdivision and the east right-of-way line of I 39-90 and 94;
thence Northerly along the east right-of-way line of I 39, 90 and 94 to the **POINT OF BEGINNING.**

Containing 123.6 acres (more or less)

This description was prepared from record information and is not the results of an actual field survey.

SEE ANNEXATION MAP

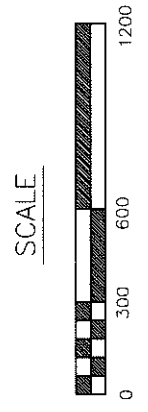
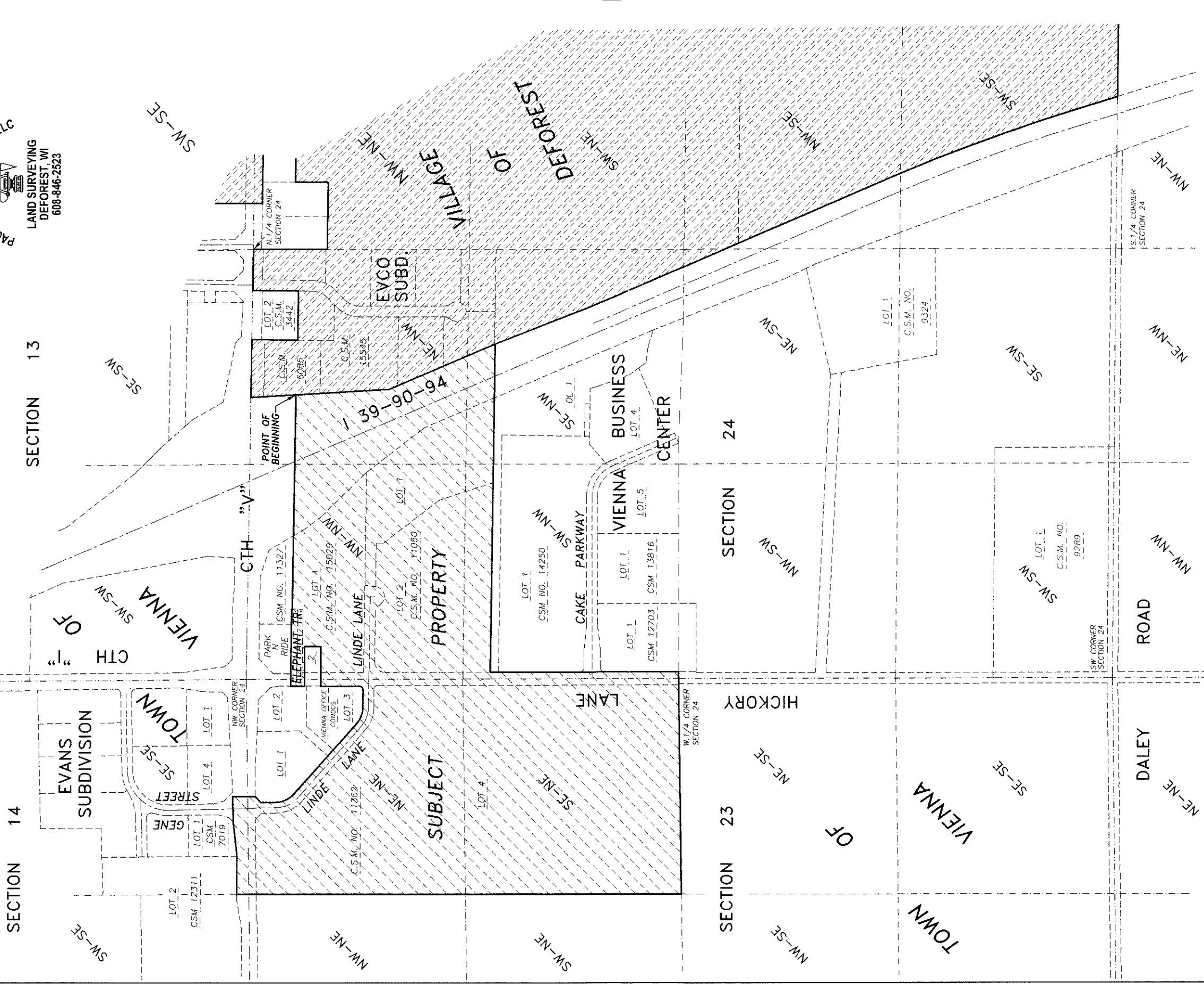
This description prepared by:
Paulson & Associates, LLC
Daniel A. Paulson
Professional Land Surveyor

June 7, 2022

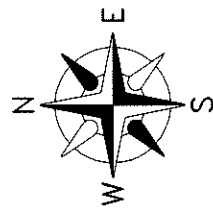
EXHIBIT "A"

ANNEXATION SCALE MAP

SECTIONS 14, 23 & 24, T9N, R9E,
TOWN OF VIENNA, DANE COUNTY, WISCONSIN
123.6 ACRES



SCALE



PAULSON & ASSOCIATES, LLC
136 W. HOLUM STREET DeForest, WI 53532 (608)846-2523

ANNEXATION SCALE MAP

BEING A PART OF SECTIONS 14, 23 & 24, T9N, R9E,
TOWN OF VIENNA
DANE COUNTY, WISCONSIN.

JOB NO. 22-118	DRAWN BY: DAP
REF:12-096	DATE: 06-03-22
DRAWING NO. 2	
REVISIONS: 6-9-22	

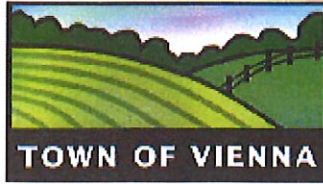
EXHIBIT "B"

SHEET 1 OF 1

Z:\jms\jobs\2012\12-096 DeForest-Vienna\DWG\22-118 Annexation

Town Board

Jerry Marx, Chair
Steve Ruegsegger
Gary Endres
Tim Hoege
Sherri Meinholz



Kathleen Clark
Clerk
tovclerk@centurytel.net

Nicole Roessler
Treasurer
tovtreas@centurytel.net

Lori Breiwa
Deputy Clerk/Deputy Treasurer
tovdep@centurytel.net

7161 County Road I
DeForest, WI 53532
Office: (608) 846-3800 Fax: (608) 846-3829
www.vienna-wis.com

July 6, 2022

Dear Mr. Schmidtke:

Accompanying this letter please find the Town of Vienna's responses to the Annexation Questionnaire you sent on June 23, 2022. In addition to the Questionnaire responses, please consider the following as the Town of Vienna's position on whether this annexation. The Town believes this annexation is not in the public interest for the following reasons:

- (1) Annexation is not necessary for these properties to receive services. These properties have, since the early 2000's had both sewer and water available to them by way of a joint agreement between the Town and Village. These properties are also part of the Village of DeForest Extraterritorial Zoning Jurisdiction. Both the Town and the Village are served by the same Fire Department. Despite having extended utilities to this area, the Village has decided to let the agreement between the Town and Village continuing joint utility service to expire and it is not allowing connections to water without annexation despite service already existing in the area. At this time the Town has taken the position that its obligations to provide sewer service are coextensive with the Villages. One of the owners of property in the proposed annexation filed a complaint with the PSC against the Town and Village. The PSC made no ruling as to the Town, but held that the Village could deny water without annexation. We believe the PSC's decision was incorrect, but the Town was not in a position to challenge the decision. The Town's Attorney, Matthew J. Fleming, prepared a detailed legal argument. Accompanying this letter is his argument to the PSC. In short, we believe the Village is engaging in undue influence by requiring annexation to obtain water service that has already been extended to the area and for which special assessments have already been paid.
- (2) We do not believe this area is contiguous to the Village. These lands are nearly 400 feet away from existing Village boundaries and cannot be reached from the Village without traveling through the Town. The distance across Interstate 90/94, which is owned in fee by the State of Wisconsin, is far greater than the 23 foot separation allowed by the court in *Lyons v. Lake Geneva*, 56 Wis. 2d 331, 202 N.W.2d 228 (1972). Rather, it is more similar to the 400 feet of water that the court disapproved of in *Town of Delavan v. City of Delavan*, 176 Wis. 2d 516, 500 N.W.2d 268 (1993).

Thank you for your consideration. Please let me know if you have any questions.

Regards,

Kathleen Clark
Town of Vienna Clerk

Annexation Review Questionnaire

Wisconsin Department of Administration

WI Dept. of Administration
Municipal Boundary Review
PO Box 1645
Madison WI 53701
608-264-6102 Fax: 608-264-6104
wimunicipalboundaryreview@wi.gov
<http://doa.wi.gov/municipalboundaryreview>

Petitioner: **Research Products Corporation**

Petition Number: **14513**

1. Territory to be annexed: From **TOWN OF VIENNA** To **VILLAGE OF DEFOREST**

2. Area (Acres): 126.6

3. Pick one: Property Tax Payments

OR Boundary Agreement

a. Annual town property tax on territory to be annexed:

\$ 1,515.68

a. Title of boundary agreement _____

b. Year adopted _____

b. Total that will be paid to Town

(annual tax multiplied by 5 years): 7,578.40

c. Participating jurisdictions _____

c. Paid by: Petitioner City Village

d. Statutory authority (pick one)

s.66.0307 s.66.0225 s.66.0301

Other: _____

4. Resident Population: _____ Electors: _____ Total: _____

5. Approximate **present land use** of territory:

Residential: _____% Recreational: _____% Commercial: _____% Industrial: _____%

Undeveloped: 100 %

6. If territory is undeveloped, what is the **anticipated use**?

Residential: _____% Recreational: _____% Commercial: 100 % Industrial: _____%

Other: _____%

Comments: _____

7. Has a preliminary or final plat been submitted to the Plan Commission: Yes No

Plat Name: _____

8. What is the **nature of land use adjacent** to this territory in the city or village?

HIGHWAY I90/94 INTERSTATE

In the town?: COMMERCIAL & AGRICULTURE

9. What are the **basic service needs** that precipitated the request for annexation?

Sanitary sewer Water supply Storm sewers

Police/Fire protection EMS Zoning

Other: _____

10. Is the city/village or town capable of providing needed utility services?

City/Village Yes No Town Yes No

If yes, approximate timetable for providing service: City/Village Town

Sanitary Sewers immediately
or, write in number of years. _____ _____

Water Supply immediately
or, write in number of years. _____ _____

Will provision of sanitary sewers and/or water supply to the territory proposed for annexation require capital expenditures (i.e. treatment plant expansion, new lift stations, interceptor sewers, wells, water storage facilities)?

Yes No UNKNOWN. VILLAGE MAY NEED TO EXTEND SANITARY SEWER

If yes, identify the nature of the anticipated improvements and their probable costs: _____

11. Planning & Zoning:

a. Do you have a comprehensive plan for the City/Village/Town? Yes No

Is this annexation consistent with your comprehensive plan? Yes No

b. How is the annexation territory now zoned? AGRICULTURAL & INDUSTRIAL

c. How will the land be zoned and used if annexed? COMMERCIAL OR INDUSTRIAL

12. Elections: New ward or Existing ward? Will the annexation create a new ward or join an existing ward? For more information, please contact the Wisconsin Election Commission at (608) 266-8005, elections@wi.gov or see their annexation checklist here: <http://elections.wi.gov/forms/el-100>

13. Other relevant information and comments bearing upon the public interest in the annexation:

PLEASE SEE COVER LETTER. ALSO INCLUDED: CORRESPONDENCE WITH PSC; PRDR BOUNDARY AGREEMENT; SPECIAL ASSESSMENT REPORT FOR WATER/SEWER EXTENDED TO TERRITORY TO BE ANNEXED; VILLAGE PROPOSAL DATED MARCH 1ST

Prepared by: Town City Village

Please RETURN PROMPTLY to:

Name: KATHLEEN CLARK

wimunicipalboundaryreview@wi.gov

Email: TOVCLERK@CENTURYTEL.NET

Municipal Boundary Review

Phone: 608-846-3800

PO Box 1645, Madison WI 53701

Date: JULY 6, 2022

Fax: (608) 264-6104

(March 2018)

33 East Main Street
Suite 500
Madison, WI 53703-3095

Mailing Address:

P.O. Box 2038
Madison, WI 53701-2038

Phone:

608.257.7181

Fax:

608.257.2508

www.murphydesmond.com

Matthew J. Fleming
Direct Line 608.268.5606
Facsimile 608.257.2508
mfleming@murphydesmond.com



2 May 2022

Via PSC E-Services Portal

Kayleigh Chiono
Wisconsin Public Service Commission
4822 Madison Yards Way
Madison, WI 53705

Re: Case No. 236835

Dear Ms. Chiono:

The Town believes its obligation to serve Complainant's property is coextensive with the Village of DeForest's. The Village of DeForest, however, has informed Complainant and other property owners in the Town that DeForest will not allow connection to water service already extended to the area, without annexation.

This is not a matter where DeForest is conditioning the extension of water service to property on annexation to DeForest. To the contrary, DeForest long ago decided to provide water service in this area of the Town. Pursuant to that decision, it has installed water service lines and levied special assessments on the Complainant's property, as well as every other parcel to which that water service has been extended. Because DeForest has committed to serving this area and special assessments have been levied for the benefits provided by said utilities, the Town believes DeForest is legally committed to allow connection to that service with no other preconditions. The Town is willing to allow sewer connection, but believes its obligations extend no further than DeForest's. The Commission should exercise its jurisdiction to require DeForest to provide water service to the Complainant. In that event, the Town will follow suit.

A. **Jurisdiction.**

Pursuant to Wis. Stats. §§196.01(5)(a)1. and 196.02(1), most governmental units providing sewer service do not have their sewer rates approved by the Commission. Therefore, the Commission's jurisdiction over this complaint as to the Town, is limited to complaints

under Wis. Stats. §66.0821(5) from users of the sewer service. Complainant is not currently a “user” of the Town’s sewer services and, thus, it is questionable whether the PSC has jurisdiction over this complaint as it applies to the Town. Water utilities, are public utilities under Wis. Stats. §196.01(5)(a). Pursuant to Wis. Stats. §196.58(5) the PSC may require extensions of water service and may regulate the service of water utilities.

Jurisdictional questions notwithstanding, the Town of Vienna remains prepared to provide sewer service to Complainant’s property, and any other to which service has been extended, provided it is not property being unlawfully coerced into annexation by DeForest’s demand of annexation as a pre-condition of access to existing water service.

B. History.

In 1998, the Village of DeForest and Town of Vienna entered into an agreement to jointly develop areas within both municipalities in the area of, and on both sides of, the I-90/94 – County Hwy V interchange. That agreement resulted in the extension of sewer and water facilities to the joint development area. Extension of sewer and water facilities to the area including Complainant’s property occurred in 2003. Attached as Exhibit A is the final assessment report for the water main loop for this area. Complainant’s property is shown on Fig. 1 of Exhibit A. as parcels #6 and #3, (“Linde 3.72 acres” and “Kinzler 6.15 acres”). The assessments on Complainant’s property were levied in the amount of \$31,186.44. Those assessments have been paid in full.

The 1998 Agreement was replaced in 2013. A copy of that replacement agreement is attached hereto as Exhibit B. That agreement expired in 2019. In February of 2019, Village President, Judd Blau wrote to Town Chair Lonnie Breggeman to discuss renewal of the Agreement which was to expire in March of 2019¹. Mr. Blau’s letter mentioned changes in state law relating to extraterritorial land divisions that would impact related provisions of the Agreement. It mentioned nothing about changes to utility service. Communications through the remainder of 2019 were largely between the parties’ attorneys and resulted in stand-alone agreements regarding subdivision review signed in 2019. With no impending development activity and the onset of the COVID-19 pandemic, issues relating to utilities were placed on the back-burner.

In late summer of 2021, interest arose in development of some of the parcels in the service area. Town Clerk Kathy Clark sent an email to the Village Administrator and Village President inquiring about providing water service on September 9, 2021. The Village President responded that the Village was not interested in providing service, but was willing

¹ Current Village President is Jane Cahill Wolfgram. Current Town Board Chair is Jerry Marx.

to talk about “appropriate planning and some compromise” that might be possible. The Town of Vienna made several inquiries about what kind of agreement might be possible. Due, presumably, in part to a change in the Village Administrator, the Town received no responses for the remainder of 2021 and into 2022.

After reaching out again, on March 1, 2022, the Town received a letter from the new Village Administrator, Bill Chang. That letter is attached hereto as Exhibit C. This Village’s proposal was to offer to annex all the lands in the service area within the Town, including properties that were already connected to water service and developed. In return the Village offered an undefined revenue sharing agreement that would last for only 10 years and which would only apply to lands on the west side of the interstate. Needless to say immediately giving up a substantial amount of developed tax base in the Town was not attractive to the Town. Meanwhile, the Village made it known to Complainant, the Town and other property owners in the service area that it would not allow connection to existing water service without annexation.

C. Argument

1. The Village has power to decide where to extend service, but must provide service to areas it has elected to serve.

In denying water service to Complainant’s property, DeForest relies upon a combination of its refusal to renew its intergovernmental agreement with the Town of Vienna and a local ordinance adopted, ostensibly, under Wis. Stats. §66.0813(3)(a). Under Wis. Stats. §66.0813(3)(a), DeForest may “by ordinance fix the limits of utility service in unincorporated areas.” Any such ordinance is required to “delineate the area within which service will be provided.” (Emphasis supplied). Section 8.03 of the DeForest Code of Ordinances provides as follows:

8.03 OUTSIDE WATER SERVICES. No water service shall be extended outside the Village limits except by written agreement between the Village and one or more contiguous municipalities.

Because DeForest has decided not to renew its agreement with the Town, it believes it can disclaim its obligation as a public utility to serve the area it has already obligated itself to serve. Moreover, DeForest’s demands unlawfully withhold benefits for which DeForest has already been compensated.

Complainant’s property, like all other properties in the service area, has had special assessments levied for the water service mains that currently abut the property. It is well

established that the validity of a special assessment depends upon benefits from the improvements for which the assessment is levied being “substantial, certain, and capable of being realized within a reasonable time.” *Wm. H. Heinemann Creameries, Inc. v. Kewaskum*, 275 Wis. 636, 641, 82 N.W.2d 902, 905 (1957). At the time these assessments were levied, the benefits from DeForest’s water service mains met that test. DeForest now claims the right to confiscate the benefits for which the owners have already paid in order to extract further concessions to which DeForest is not entitled.

Strictly speaking, Section 8.03 of the DeForest Code of Ordinances does not appear to be an ordinance authorized under Wis. Stats. §66.0813(3)(a) since the ordinance does not delineate any area within which service will be extended. Rather, DeForest claims for itself the right to delineate service areas by agreement rather than by ordinance. This is not what the statute authorizes. Further, by virtue of the agreements into which it enters, DeForest claims for itself the right to discontinue service in areas to which it has already extended service. This is an additional power absent from that conveyed under Wis. Stats. §66.0813(3)(a).

Not only does DeForest’s ordinance claim powers not authorized by statute, it appears to be a naked attempt to circumvent the limitations of the authority conveyed under Wis. Stats. §66.0813(3)(a). While DeForest may limit the service area in unincorporated areas by ordinance:

No ordinance under this paragraph is effective to limit any obligation to serve that existed at the time that the ordinance was adopted. Wis. Stats. §66.0823(3)(a).

Clearly the legislature intended that once a water utility committed to serving a certain area, that commitment could not be abandoned. Yet, that is precisely the power DeForest claims for itself.

2. Annexation law does not permit undue influence to coerce annexation.

DeForest will claim that it has not withdrawn any benefits, but rather merely requires annexation for those benefits to now be realized. DeForest, however, is not entitled to demand annexation. While DeForest had the right to refuse to extend service to any area in the Town as a threshold matter, it may not now withhold service in an area it is already serving or place new conditions upon access to benefits for which property owners have already paid. Annexation cannot be coerced in this manner.

Signing an annexation petition is not merely an exercise of a private property right. *Hoepker v. City of Madison Plan Commission*, 209 Wis. 2d 633, 647; 563 N.W.2d 145

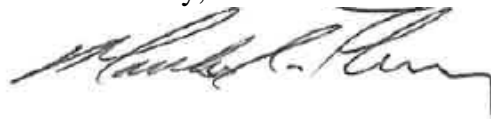
(1997). Rather, the right to participate in an annexation proceeding is more like a political right. *Id.* at 647. Accordingly, it is well established that “[m]unicipalities cannot coerce or unfairly induce an elector and/or property owner into agreeing to annexation.” *Id.* at 646 (Emphasis supplied). This also means that a municipality may not exert economic pressure to force annexation that is unrelated to any benefit that may only be gained by annexation. *Town of Brockway v. City of Black River Falls*, 2005 WI App 174, ¶40, 285 Wis. 2d 708, 735, 702 N.W.2d 418, 432.

Case-law holds that it is not undue influence to refuse to extend utilities to new areas without annexation, but it does not authorize the discontinuance of service in areas to which utilities have already been extended. Relying on the predecessor statute to Wis. Stats. §66.0813(3)(a), the Supreme Court in *Hallie v. Chippewa Falls*, 105 Wis. 2d 533, 540-42, 314 N.W.2d 321, 325-26 (1982) held that it was reasonable for a municipality to condition the extension of utility services upon annexation. DeForest, however, has already made the decision to extend utilities to certain areas of the Town. Wis. Stats. §66.0813 does not allow municipalities to discontinue service to areas they already serve and thus, *Hallie*, which rests upon the same statutory authority, cannot be relied upon to bless DeForest’s current annexation demands.

D. Conclusion.

“Every public utility has the obligation, within the scope of its undertaking, to furnish its service to all who reasonably require it.” *Milwaukee v. Pub. Serv. Com.*, 268 Wis. 116, 120, 66 N.W.2d 716, 718 (1954). “In the case of a municipal utility that jurisdiction is not limited to the boundaries of the municipality but extends to all areas where the utility has undertaken to serve. *Id.* DeForest has undertaken to serve certain areas in the Town of Vienna, has extended service and has been compensated for the benefits bestowed upon those Town of Vienna properties to which that service has been extended. Those property owners must be served without coercing them into annexing to the Village of DeForest.

Sincerely,



Matthew J. Fleming

214335

Cc: Attorney Al Reuter
Attorney Ron Trachtenberg
Clerk Kathy Clark, Vienna Town Clerk



J. La

V100-01A/V100-02A

Revised May 30, 2003

Mr. Bob Pulvermacher, Clerk
Town of Vienna
7161 CTH Hwy I
De Forest, WI 53532

Re: Water and Sewer Extensions - Phase II - Final Assessment Report

Dear Bob:

Enclosed is a copy of the final assessment report. The assessment numbers have been changed to reflect actual construction costs. The report consists of the following:

1. Figure 1 - An Assessment District Map
2. Exhibit 1 - Calculation of assessable costs, an assessment rate and a table of Assessments for all parcels in the assessment district
3. Exhibit 1A - Actual construction costs to be assessed on an area basis, to all properties in the assessment district
4. Exhibit 2 - Calculation of additional costs assessable only to Evans parcels # 242-9150-3 and 242-9651-7 and actual lengths of watermain and sanitary sewer.
5. Exhibit 2A - Actual construction costs for watermain and sanitary sewer assessable to Evans parcels # 242-9150-3 and 242-9651-7 only.

This project provides a benefit to all properties in the assessment district in that a water transmission line is made available to each parcel. Each parcel owner will be able to connect to this transmission line to construct future water distribution systems on his or her parcel.

Evans parcels # 242-9150-3 and 242-9651-7 receive an additional benefit in the following 2 ways:

1. Watermain shown on Figure 1 and in Exhibit 2 as reference numbers 12 and 15 form part of a water distribution system servicing Evans land only.



2. Sanitary sewer shown on Figure 1 and Exhibit 2 as reference number 12 and 13 provide sewer service to Evans land only.

Please note that Section E(1)(a and b) of Exhibit 1 shows the cost of the 2 water services - one for Stravisky at the gas station and one for Linde at the existing house on Hickory Lane. These costs are included in the final assessments shown in the table in Section D.

Also note that in Section F of Exhibit 1 the cost of the 8" watermain and 18" casing for the CTH V crossing east of Hickory Lane has been broken out as a Town cost, i.e. it is not included as an assessable cost.

The WI DOT Parcel (#242-8650-0) is no longer part of the assessment district. Costs formerly assessed to this parcel are now being distributed among the remaining parcels.

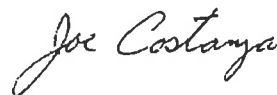
As you can see, final assessments have generally remained the same as preliminary assessments.

The overall assessment for the Evans parcels has increased by approximately \$9,500. This is due mainly to the following:

1. Additional select fill over water main and sewer in Future Street A
2. Assignment of some base course, shoulder and pavement costs on Hickory Lane to the Evans watermain
3. Higher than anticipated Engineering, Legal, and Administrative costs

This increase is approximately 3.5% of the total Evans assessment. I suggest a letter be written to Mr. Evans asking him to sign off on the increase so that assessments need not be reopened.

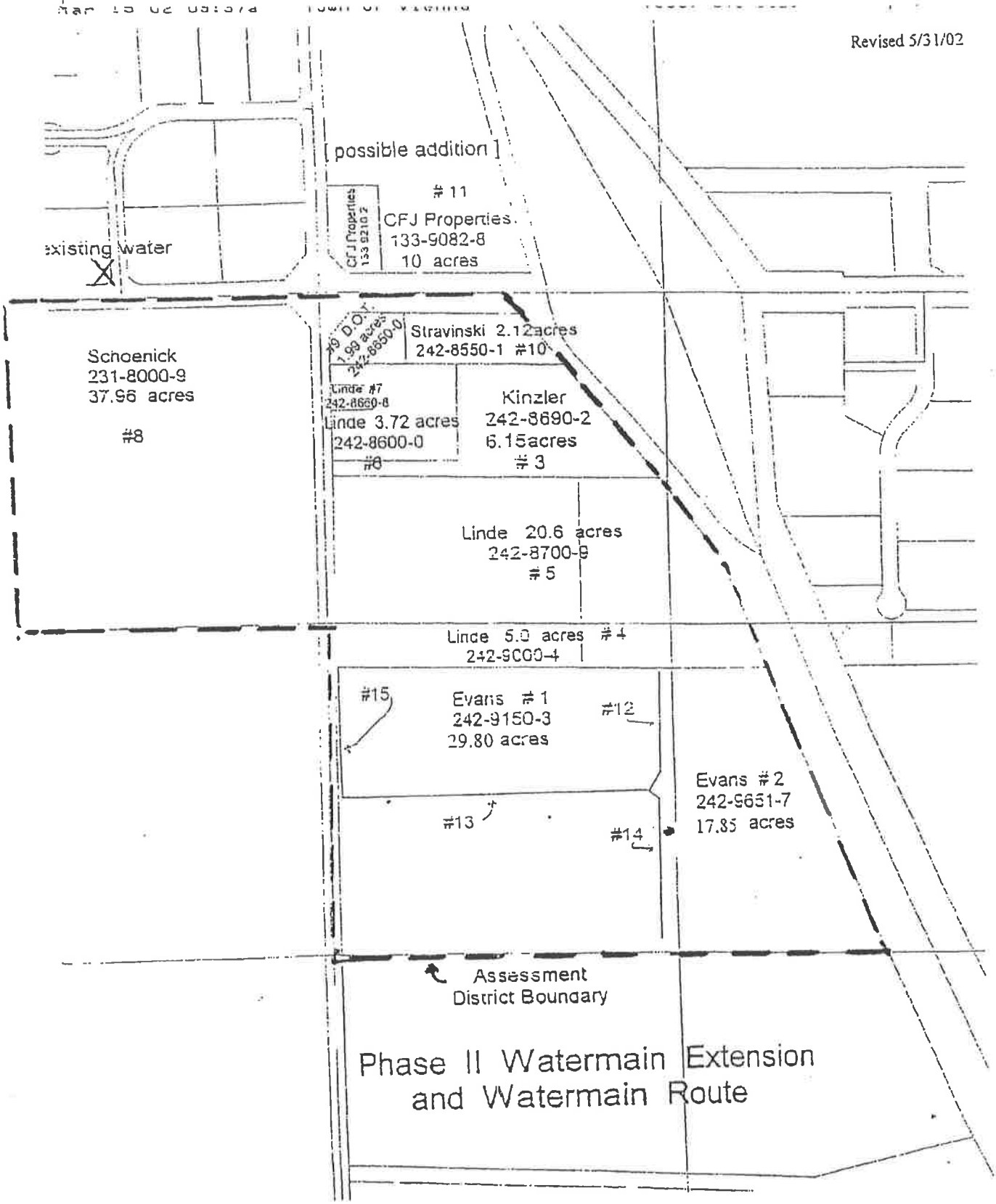
Very truly yours,



Joe Costanza, P.E.

encl

cc: John Mitby, Axley Brynelson



ASSESSMENT DISTRICT

FIG-1

1. Additional Assessment for Water Services

a. <u>Stravinsky</u> (Parcel # 242-8550-1)	
• 1" corp stop, curb stop & curb box	\$250.00
• 49 LF 1" copper @ \$12/LF	\$588.00
	<hr/>
Total	\$838.00
b. <u>Linde</u> (Parcel # 242-8660-8)	
• 1" corp stop, curb stop & curb box	\$250.00
• 24 LF 1" copper @ \$12/LF	288.00
	<hr/>
Total	\$538.00

These additional costs for water services are included in the assessment table above.

F. Town of Vienna

1. The Town assumes the cost of the following items for the easternmost CTH V watermain crossing:	
• 115 LF 18" casing @ \$71/LF	\$8,165.00
• 115 LF 8" watermain @ \$27/LF	3,105.00
• 1 hydrant	1,300.00
• 1 6" valve	575.00
	<hr/>
Total	\$13,145.00

EXHIBIT 1A
 ACTUAL COST
 MINUS EVANS WATER & SEWER
 TOWN OF VIENNA WATERMAIN EXTENSION
 CTH V AND HICKORY LANE - PHASE II
 TOWN OF VIENNA

Bids to be received until 2:00 p.m., * * *, 2002. (See instruction to bidders for further details.)

TO: Town of Vienna
 5270 Norway Grove Road
 DeForest, WI 53532

- I. The undersigned, having familiarized himself/herself with the Contract Documents including Advertisement for Bids, Instructions to Bidders, Form of Proposal, General Conditions, Form of Contract, Form of Bond, Specifications, Addenda and Exhibits issued and attached to the specifications on file at the office of Municipal Engineering & Inspection Services, Inc. (M.E.I., Inc.), 827 Water Street, Sauk City, Wisconsin, 53583, hereby proposes to furnish all of the labor, materials, necessary tools, expendable equipment and all utility and transportation services necessary to perform and complete, in a workmanlike manner, Town of Vienna CTH V/I-90 watermain extension, all in accordance with the plans and specifications as prepared by M.E.I., Inc., including addenda issued thereto, Nos.

The Bidder agrees to perform all the work described in the Contract Documents for the following unit prices:

ITEM NO.	DESCRIPTION AND UNIT PRICE IN WORDS	ESTIMATED QUANTITY	UNIT PRICE IN FIGURES	TOTAL AMOUNT OF BID
1.	Mobilization for the lump sum price of			
	<u>6000</u>	.7	\$ <u>6000</u>	\$ <u>4200</u>
	Dollars and cents	Lump Sum	Lump Sum	
2.	Clearing and grubbing for the lump sum price of			
	<u>1500</u>	.7	\$ <u>1500</u>	\$ <u>1050</u>
	Dollars and cents	Lump Sum	Lump Sum	

EXHIBIT 1A
 ACTUAL COST
 MINUS EVANS WATER & SEWER
 TOWN OF VIENNA WATERMAIN EXTENSION
 CTH V AND HICKORY LANE - PHASE II
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	<u>6000</u>	.7	\$ <u>6000</u>	\$ <u>4200</u>
	Dollars and cents	Lump Sum	Lump Sum	
2.	Clearing and grubbing for the lump sum price of			
	<u>1500</u>	.7	\$ <u>1500</u>	\$ <u>1050</u>
	Dollars and cents	Lump Sum	Lump Sum	

9.	Hydrant, for the price per each of	<u>1300</u> Dollars and cents	7 Each	\$ <u>1300</u> Per EA	\$ <u>9100</u>
10.	Remove and relocate existing hydrant, for price per each of	<u>800</u> Dollars and cents	1 Each	\$ <u>800</u> Per EA	\$ <u>800</u>
11.	8" Sanitary sewer for the price per linear foot of	<u>22</u> Dollars and cents	0 Linear Feet	\$ <u>22</u> Per LF	\$ <u>0</u>
12.	Precast sanitary manholes (4 foot diameter) for the price per each of	<u>1100</u> Dollars and cents	0 Each	\$ <u>1100</u> Per EA	\$ <u>0</u>
13.	Crushed Aggregate Base - Hickory Lane - for the price per square yard of	<u>1.50</u> Dollars and cents	644 Square Yard	\$ <u>1.50</u> Per SY	\$ <u>966</u>
14.	12" Watermain Installed in Existing 24-inch Steel Casing Pipe, for the price per linear foot of	<u>32</u> Dollars and cents	110 Linear Feet	\$ <u>32</u> Per LF	\$ <u>3520</u>

15.	Asphalt Binder, for the price per ton of				
	<u>40</u>	56.72	\$ <u>40</u>	\$ <u>2268.80</u>	
	Dollars and cents	Ton	Per TN		
16.	Asphalt Surface, for the price per ton of				
	<u>40</u>	53.61	\$ <u>40</u>	\$ <u>2144.40</u>	
	Dollars and cents	Ton	Per TN		
17.	Crushed Aggregate Shoulder Replacement, 4-inch thick, 2 ft wide for the price per linear foot of				
	<u>1.50</u>	1131	\$ <u>1.50</u>	\$ <u>1696.50</u>	
	Dollars and cents	Linear Feet	Per LF		
18.	Hay Bales, for the price per linear foot of				
	<u>5</u>	0	\$ <u>5</u>	\$ <u>0</u>	
	Dollars and cents	Linear Feet	Per LF		
19.	Silt Fence, for the price per linear foot of				
	<u>2</u>	0	\$ <u>2</u>	\$ <u>0</u>	
	Dollars and cents	Linear Feet	Per LF		
20.	Restoration, for the lump sum of				
	<u>5000</u>	.7	\$ <u>5000</u>	\$ <u>3500</u>	
	Dollars and cents	Lump Sum	Per LS		

EXHIBIT 2

**TOWN OF VIENNA - CTH V
FINAL ASSESSMENTS - PHASE II WATERMAIN LOOP
ADDITIONAL ASSESSMENT FOR EVANS WATERMAIN AND
SEWER EXTENSION**

A. Total Project Cost:

1. Actual Costs

	<u>Water</u> (See Exhibit 2A-2)	<u>Sewer</u> (See Ex 2A-1)
Construction Cost	\$56,385.50	\$37,643.00
Engineering & Legal	12,459.22	9,170.24
Administrative	<u>1,497.99</u>	<u>1,000.06</u>
Additional Evans Assessments	\$70,342.71	\$47,813.30

B. Assessment Methodology - Evans parcels 242-9150-3 and 242-9651-7 are sole beneficiaries, therefor total assessment against parcels 242-9150-3 and 242-9651-7

C. Improvement Location - As shown on attached map

D. Additional Assessments for Watermain and Sewer Benefiting Evans Only:

Owner	Parcel No.	Map Reference No	8" Sewer Length (ft)	12" Watermain Length (ft)
Evans	242-9150-3	12	632	655
Evans	242-9150-3	13	704	0
Evans	242-9150-3	14	0	0
Evans	242-9150-3	15	0	600
			<hr/>	<hr/>
Totals			1336	1262

Exhibit 2 (Continued)

Additional Evans Water Assessment

Owner	Parcel #	Area (Acres)	Assessment Number	Additional Preliminary Assessment
Evans	242-9150-3	29.80	1	\$43,991.95
Evans	242-9651-7	<u>17.85</u>	2	<u>26,350.88</u>
	Totals	47.65		\$70,342.83

E. Additional Water Assessment Rate =

$$\$70,342.71/47.65 \text{ Acres} = \$1,476.24 \text{ per Acre}$$

***Total Evans Water Assessment for Parcel 242-9150-3 =**

$$\$94,159.66 + \$43,991.95 = \$138,151.61$$

****Total Evans Water Assessment for Parcel 242-9651-7 =**

$$\$56,401.00 + 26,350.88 = \$82,751.88$$

*** See Assessment Table - Exhibit 1**

**** See Assessment Table - Exhibit 1**

Exhibit 2 (Continued)**Evans Sewer Assessment**

Owner	Parcel #	Area (Acres)	Assessment Number	Preliminary Assessment
Evans	242-9150-3	29.80	1	\$29,902.21
Evans	242-9651-7	<u>17.85</u>	2	<u>17,911.23</u>
	Totals	47.65		\$47,813.44

F. Sewer Assessment Rate = **$\$47,813.30/47.65 \text{ Acres} = \$1,003.43 \text{ per Acre}$**

EXHIBIT 2.A
 ACTUAL COST
 EVANS SEWER
 TOWN OF VIENNA WATERMAIN EXTENSION
 CTH V AND HICKORY LANE - PHASE II
 TOWN OF VIENNA

Bids to be received until 2:00 p.m., * * *, 2002. (See instruction to bidders for further details.)

TO: Town of Vienna
 5270 Norway Grove Road
 DeForest, WI 53532

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1.	Mobilization for the lump sum price of			
	<u>6000</u> Dollars and cents	.15 Lump Sum	\$ <u>6000</u> Lump Sum	\$ <u>900</u>
2.	8" Sanitary sewer for the price per linear foot of			
	<u>22</u> Dollars and cents	1336 Linear Feet	\$ <u>22</u> Per LF	\$ <u>29.392</u>

3. Precast sanitary manholes (4 foot diameter) for the price per each of

<u>1100</u>	4	\$ <u>1100</u>	\$ <u>4400</u>
Dollars and cents	Each	Per EA	

4. Restoration, for the lump sum of

<u>5000</u>	.15	\$ <u>5000</u>	\$ <u>750</u>
Dollars and cents	Lump Sum	Per LS	

5. Connect to existing sanitary manhole for the lump sum price of

<u>800</u>	1	\$ <u>800</u>	\$ <u>800</u>
Dollars and cents	Lump Sum	Per LS	

6. Clearing & Grubbing for the lump sum price of

<u> </u>	.15	\$ <u>1500</u>	\$ <u>225</u>
Dollars and cents	Lump Sum	Per Lump Sum	

7. Select Backfill for the price per cubic yard of

<u>6</u>	196	\$ <u>6</u>	\$ <u>1176</u>
Dollars and cents	Cubic Yards	Per CY	

Total Bid Amount \$ 37.643

EXHIBIT 2.A - 2
 ACTUAL COST
 EVANS WATER
 TOWN OF VIENNA WATERMAIN EXTENSION
 CTH V AND HICKORY LANE - PHASE II
 TOWN OF VIENNA

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TO: Town of Vienna
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2.	6" Watermain, for the price per linear foot of			
	<u>21</u> Dollars and cents	25 Linear Feet	\$ <u>21</u> Per LF	\$ <u>525</u>

3. 12" Watermain for the price per linear foot of

28 1262 \$ 28 \$ 35336
Dollars and cents Linear Foot Per LF

4. 6" Water Valve for the price per each of

575 3 \$ 575 \$ 1725
Dollars and cents Each Per Each

5. 12" Water Valve for the price per each of

1175 3 \$ 1175 \$ 3525
Dollars and cents Each Per Each

6. Hydrant for the price per each of

1300 2 \$ 1300 \$ 2600
Dollars and cents Each Per Each

7. Crushed Aggregate Base, 8" thick - Hickory Lane - for the price per square yard of

1.50 594 \$ 1.50 \$ 891
Dollars and cents Square Yards Per SY

8. Asphalt Binder for the price per ton of

40 43 \$ 40 \$ 1720
Dollars and cents Tons Per Ton

9. Asphalt Surface for the price per ton of

40 43 \$ 40 \$ 1720
Dollars and cents Tons Per Ton

**BOUNDARY AND UTILITY SERVICE AGREEMENT
VILLAGE OF DEFOREST
TOWN OF VIENNA**

THIS AGREEMENT is made and entered into between the VILLAGE OF DEFOREST, a Wisconsin municipal corporation located in Dane County, Wisconsin (the "Village"), the TOWN OF VIENNA, a Wisconsin municipal corporation located in Dane County, Wisconsin (the "Town"), and TOWN OF VIENNA UTILITY DISTRICT #1, a utility district created by the Town pursuant to §66.0827, Wis. Stats. (the "Utility District").

RECITALS:

WHEREAS, the Village and Town are parties to an agreement entered into on November 6, 1998 entitled "Joint Development Agreement" providing for the provision of mutual services and setting forth certain understandings regarding appropriate boundaries between the two parties, which agreement will expire on November 5, 2013; and

WHEREAS, Village and Town have implemented certain joint zoning procedures and have negotiated provisions for orderly development within both jurisdictions and appropriate growth and/or development areas for the Village and Town; and

WHEREAS, the Village and Town have determined that it is in their mutual interest to commit to certain provisions for future growth and development in a coordinated manner which minimizes the potential for disputes in the future and which protects and implements the respective land use plans of the two communities; and

WHEREAS, the Town and the Village recognize the mutual benefits to be derived from mutual assistance in providing necessary utility services to develop the areas adjacent to County Trunk Highway V and Interstate 1-90/94 in the Village and Town; and

WHEREAS, the Village and Town are authorized under §66.0301 of the Wisconsin Statutes to enter into agreements for the provision of municipal services and the exercise of governmental functions on a cooperative basis; and

WHEREAS, the Village and Town are authorized under §66.0301(6) of the Wisconsin Statutes to make agreements regarding the maintenance of certain boundaries as well as provisions for boundary changes; and

WHEREAS, the parties have negotiated an agreement to replace the Joint Development Agreement (along with its various amendments) and desire to document that replacement agreement by this instrument;

NOW, THEREFORE, the Village and Town agree as follows:



**ARTICLE I
DESIGNATION OF GROWTH AREAS**

1.01. Purpose and Intent. The parties acknowledge that expansion of the Village boundaries during the term of this Agreement is likely due to the normal process of economic expansion and/or the desires of property owners to obtain certain services available only from the Village. The parties further acknowledge that, by directing any such growth to appropriate areas, the impact on the orderly development of the Town and the negative impacts on the Town tax base may be mitigated. The parties, therefore, have categorized certain areas in the Town into growth areas as defined in sections 1.02 and 1.03.

1.02. Village Growth Area. The Village growth area shall be that portion of the Town lying east of Interstate 90/94/39 identified as "DeForest Growth Area" on the map attached as Addendum A, which is incorporated herein by this reference. The DeForest Growth Area is recognized as a geographically logical expansion area for the Village and an area from which annexations will have the least impact on the Town's orderly development and tax base.

1.03. Town Growth Area. The Town growth area shall be that portion of the Town identified as "Vienna Growth Area" on the map attached as Addendum A. The Vienna Growth Area is recognized as an area from which annexation to the Village would have a significant impact on Town development and tax base.

1.04. Shared Utilities Area. The parties agree that the area designated on Addendum A by purple cross-hatching is suitable and desirable for various types of predominantly commercial and industrial development. Said area shall be considered the Shared Utilities Area. The Shared Utilities Area is an overlay area consisting of parts of the DeForest and Vienna growth areas along with other lands not included in either designated growth area. Properties within the Shared Utilities Area shall be provided with municipal water and sewer service as provided in Articles III, IV and V.

1.05. Legal Descriptions. The legal descriptions of the DeForest Growth Area, the Vienna Growth Area, the Shared Utilities Area and other areas addressed in this Agreement are set forth in Addendum B. In the event of any inconsistency or uncertainty regarding the boundaries of any area as depicted on Addendum A, the legal description in Addendum B shall control.

**ARTICLE II
BOUNDARY ADJUSTMENTS AND DEVELOPMENT**

2.01. Adjustment and Establishment of Current Boundary. Immediately upon the effective date of this Agreement, the lands identified in Addendum C shall be attached to, and become part of, the Village.

2.02. Attachment of Lands from DeForest Growth Area. The Village may attach any lands within the Village Growth Area to the Village without objection from the Town or the Utility District #1, provided that the attachment is approved by each and all the owners of all lands included within the attachment. Attachments of any land may include all or part of the adjacent

highways without approval of the authority having jurisdiction of such highways. Attachments may be accomplished by the enactment of an ordinance by the Village's governing body, without compliance with the statutory processes governing annexations. Said attachments may create town islands. The Village, Town and Utility District agree that they will take no action to oppose, interfere with, or challenge any attachment from that area accomplished during the term of this Agreement, nor provide financial assistance to any other person for the purpose of such actions. The Village, Town and the Utility District #1 shall cooperate in defending any action challenging an attachment permitted by this Agreement.

2.03. Additional Attachment Procedures. Following adoption of each such attachment ordinance, the Village Clerk shall immediately file, record and send copies of the same and all other required documentation, in accordance with §66.0217(9)(a), Wis. Stats. Failure to file, record or send shall not invalidate the attachment and the duty to file, record or send shall be a continuing one.

2.04. Attachments from Vienna Growth Area. The Village shall not, during the term of this Agreement, annex or otherwise attach to the Village any lands within the Vienna Growth Area without the written consent of the Town.

2.05. Development Controls. (a) *DeForest Growth Area.* The parties acknowledge that they intend any development in the DeForest Growth Area during the term of this Agreement to occur only after the land is first annexed to the Village. With respect to such properties, the Town shall oppose any rezoning of any lands to a district designation which would allow development that would not be permitted under the classification existing on the date of this Agreement, refuse to approve any plats, certified survey maps or other land divisions, refuse to request any amendment to Urban Service Area boundaries to include such lands and refuse to permit sanitary sewer connections until such time as they are annexed or attached to the Village, unless otherwise agreed by the Village in writing. The Village shall have no obligation to provide public water service, or any other municipal services, to any lands within the DeForest Growth Area prior to attachment of such lands to the Village. The Town shall require that the construction of any new or reconstructed roads within the DeForest Growth Area comply with applicable Village standards based on the ultimate development capacity of the area served, provided, however, that routine repair or maintenance of existing roads shall be exempt from such standards. This paragraph shall not be construed to require the Town to take any action:

1. to oppose a development approved by the Village,
2. which would violate any applicable constitutional or statutory right; or
3. to oppose a zoning change or permit approval where the final decision making authority is vested in the Village.

(b) *Vienna Growth Area.* The Town shall regulate developments within the Vienna Growth Area in accordance with the Town of Vienna Comprehensive Plan adopted June 19, 2006, as amended from time to time, provided that no amendment affecting the areas governed by this Agreement shall be approved without approval from the Village Board. Within the Vienna Growth Area, the Town shall not permit residential development that would result in a density greater than one dwelling unit per 75 acres or that would otherwise exceed the limitations agreed to in the

Intergovernmental Agreement executed by the parties on April 6, 2009. The Town shall not allow any unsewered development on Vienna Growth Area lands which can reasonably be served with public sanitary sewer facilities. All new developments within the Vienna Growth Area shall be required to connect to public water and sanitary sewer service within one year after said service becomes available to the property and the Town shall so provide by ordinance.

(c) *Restricted Development Area.* Those lands in east ½ of Section 26, and those portions of Section 25 and the north ½ of Section 36 lying westerly of Interstate 90/94/39, all located in T9N, R9E, Town of Vienna, designated as "Restricted Development Area" on Addendum A shall not be allowed any further residential development as provided in the 2009 Intergovernmental Agreement between the parties and, during the initial term of this Agreement, shall not be annexed or attached to the Village during said period.

(d) *Preservation of Long-Term Development Potential.* The parties acknowledge that the areas governed by this Agreement are intended to be developed either in the Town or in the Village, whether during the term of this Agreement or at some point thereafter. Neither party shall take action, other than the enactment of zoning or land division regulations, which would create a legally enforceable restriction against the development of those lands without the consent of the other. By way of example, and not limitation, neither party shall require, acquire, or assist any person or entity in acquiring, deed restrictions, conservation easements or any other agreement or restriction that would limit future development extending beyond the term of this Agreement affecting any lands included in the Village Growth Area, the Town Growth Area or the areas described in par. (c) or (d) of this section. This provision shall not, however, prohibit the Town from imposing or obtaining restrictions on lands within the Town provided that all such restrictions automatically terminate upon the annexation or attachment of the affected property to the Village.

2.06. Infrastructure Expense Reimbursement. If the Village annexes or attaches land within the DeForest Growth Area during the term of this Agreement, it shall reimburse the Town on a *pro rata* basis for the Town's expenditures made within the previous ten (10) years for road or utility improvements made within the area annexed or attached. The amount of reimbursement shall be equal to the total cost to the Town for the portion of the improvements annexed, exclusive of any amounts paid or reimbursed (or payable or reimbursable) through special assessments, agreements with adjacent property owners, governmental grants or sources other than general property tax levies, multiplied by the percentage of the expected useful life of the improvement remaining on January 1 next following the date of annexation. For purposes of this section, "road or utility improvements" shall not include any sanitary sewer mains or other facilities financed through user fees unless ownership of the facilities are transferred to the Village. If, after annexation or attachment of lands upon or in which such improvements are made, any cost thereof becomes payable by any property owner, whether by termination or expiration of a deferral of special assessments, by the terms of any agreement or otherwise, the amounts so paid shall belong to, and be promptly paid over to, the Village. The Town shall use all reasonable efforts to collect any amounts so payable to the same extent that it collects amounts belonging to the Town. This section shall apply only to improvements constructed to Village standards and shall not apply to any routine maintenance or repairs.

2.07. Maintenance of Prairie Lane. The Town shall continue to maintain all improvements within the right-of-way of Prairie Lane in the SE ¼ NE ¼ of Section 13, T9N, R9E, Town of Vienna until such time as the properties identified as Tax Parcel Nos. 0909-131-9925-0 and 0909-131-9945-6 are attached or annexed to the Village. Such maintenance shall include snow and ice removal, surface repairs and shoulder maintenance, but shall not be construed to require any reconstruction or large-scale resurfacing.

**ARTICLE III
MUNICIPAL UTILITY SERVICES
-GENERAL PROVISIONS-**

3.01. Village Water Service. The Village shall provide municipal water service to all properties within the Shared Utilities Area, whether or not they are located within the Village limits at the time of connection or thereafter. The obligation of the Village to provide such water service shall be limited to the terms set forth in Article IV and §8.04 of this Agreement.

3.02. Town Sanitary Sewer Service. The Town shall provide public sanitary sewer service to all properties within the Shared Utilities Area whether or not they are located within the Town boundaries at the time of connection or thereafter. The obligations of the Town to provide such sewer service shall be limited to the terms set forth in Article V of this Agreement.

3.03. Local Option. The Town may elect to provide water service, and the Village may elect to provide sanitary sewer service, to any property located within their respective jurisdictions through new construction or the extension of their respective municipal utility service or an appropriate sanitary or utility district. The purpose of this Agreement with respect to public utility services is intended to grant to each party the right to acquire services from the other for customers within their jurisdictional boundaries according to the terms hereof, but shall not be construed to prohibit either party from waiving those rights with respect to any individual property or group of properties, provided, however, that nothing in this Agreement shall be construed to allow any cross-connection between any part of any Village public utility system and any Town system. Upon request by either municipality, the other shall cause the detachment of any property within the jurisdiction of the requesting party from any utility district in which it may be located and the other party shall thereafter have no obligation to provide services to such property under this Agreement. The parties may condition detachment of any such properties from a utility district, or the connection of any new customer, upon the payment of any valid tax or assessment levied upon such property prior to the date of the request for detachment or connection.

3.04. Utility District Taxes. No utility district organized by either the Village or the Town shall levy any tax or special assessment upon property located in the municipality other than the one by which it is organized for any convenience or public improvement except those which are directly related to, and reasonably necessary for, the provision of utility services required by this Agreement. Neither municipality shall allow the use of a district fund established under § 66.0827(2), Wis, Stats. to pay for streets, highways, sidewalks, street lighting, fire protection or other public improvements, services or facilities, except as to repairs necessitated by the extension, repair, modification or construction of the utility facilities required by this Agreement. Neither municipality, and no such utility district, shall include in their charges for water or sewer service

provided to customers in the other municipality, any amount to pay for public improvements or services for which the customer is charged, whether by general property tax, special assessment or special charge, by the municipality in which the customer is located.

3.05. Consent to Extraterritorial Service Routes. In any case where the Town or Village intends to extend water or sewer service to any customer, or replace any mains or other facilities providing service to customers, within their respective boundaries and shall determine that it is more economical or technically feasible to install mains, transmission lines, pipes or service connections through, upon or under a public street, highway, road, public thoroughfare or alley located within the boundaries of the other municipality, the party within whose boundaries the installation is proposed shall promptly consent in writing and, upon request, shall adopt a resolution approving the installation. The party making such an installation shall restore the land on or in which such installation has been made to the same condition as it existed prior to the installation.

ARTICLE IV WATER UTILITY SERVICE

4.01. Provision of Service to the Shared Utilities Area. The Village shall provide municipal water service to all properties within the Shared Utilities Area defined by section 1.04 throughout the term of this Agreement on the same terms and conditions as such service is provided to properties located within the Village boundaries. Upon termination of this Agreement, the Village shall continue to serve any customers previously connected to the Village water system indefinitely, subject to termination of such service in accordance with the applicable rules of the water utility. The rules shall not be amended in any manner which discriminates against any customer on the basis of the location of the property served being within the Town boundaries.

4.02. Capacity and Upgrades. The Village and Town have each determined for themselves that the current capacity, along with any currently planned extensions or improvements, of the existing water system will be sufficient to serve the reasonably foreseeable needs of existing customers and anticipated new customers both within and without the Shared Utilities Area. In the event the capacity shall become inadequate at any time during the term of this Agreement, the Village shall take reasonable steps to increase the capacity to provide adequate service to all properties within the Shared Utilities Area. In the event the Village shall elect to impose special assessments for such improvements, the Town shall consent, and hereby does consent, that the Village may levy and collect such special assessments against properties within the Town served or to be served by the Village water utility, the Town shall adopt a resolution pursuant to §66.0707(1), Wis. Stats. approving any such assessments so levied and shall collect the assessments and pay them over to the Village Finance Director as provided in §66.0707(3), Wis. Stats. Any special assessment levied by the Village against lands within the Town shall be on the same terms and conditions as those applicable to properties within the Village assessed for the same project.

4.03. Costs for Extensions of Water Service to Town Properties. The cost of any extension of water service facilities to serve properties within the Town shall be paid for by the Town unless the Village shall elect to levy special assessments, in which case the provisions of §4.02 shall apply. The Town may, at its option, levy special assessments for any or all of the costs for which

it is responsible under this section. All such costs shall be paid by the Town to the Village within 60 days of the date of an invoice from the Village for such costs.

4.04. Procedure for Extension Requests. Requests for extension of water service to new customers within the Town shall not be granted by the Village unless first approved by resolution of the Town Board. The Town Engineer and Village Public Works Director shall jointly investigate the request and report their findings to the Village Public Works Committee and the Town Board. The report(s) shall set forth the proposed method of extension of the service, the location of all facilities necessary to complete the extension, the estimated cost thereof and a description of any easements necessary to allow the installation of the facilities. If more than one method is recommended by the respective engineers, the most efficient method shall be established by arbitration as provided in §9.02.

4.05. Easements. The Town shall be responsible for obtaining all easements determined necessary by the Village for the construction, maintenance, repair, replacement and operation of the facilities necessary for any extension to a Town property. The Village shall have no obligation to furnish facilities or services until such easements have been received and approved. All easements shall name the Village as grantee. Nothing in this Agreement is intended to preclude the Town from charging any of its costs to Town property owners requesting or benefitting from the services provided under this Article.

4.06. Design, Construction and Inspection. The Village shall have sole authority for the final design, bidding, construction and inspection of all water utility facilities under this Agreement. The cost of all such activities shall be included in the costs of the extension payable pursuant to this Article.

4.07. Ownership of Water Service Facilities. The Village shall be deemed the sole owner of any water facilities constructed and connected to the Village Water Utility System, whether located in, or paid for by, the Town, the Village or any customer, except as to facilities owned by the customer as provided in the Village Ordinances or Water Utility Rules. The ordinances and rules shall not be amended in any manner which discriminates between properties located in the Town and Village with respect to ownership of laterals or other facilities. Upon request by the Village, the Town shall execute any document reasonably necessary to convey title to any such facilities to the Village or to evidence the Village's ownership thereof.

4.08. Use of Water Service. The Town shall not permit any water furnished under this Agreement to be used to supply any person or property located outside of the Shared Utilities Area, except as may be temporarily necessary in the case of fire or similar emergency.

4.09. Rules, Rates and Regulations. The regulations of the Village Water Utility, approved from time to time as necessary by the Wisconsin Public Service Commission, the rates charged for various services, and all ordinances relating to the Water Utility and its facilities as adopted by the Village Board shall apply equally to all customers and properties served regardless of whether they are located in the Town or Village. The Village may, as a precondition to the furnishing of water service to any customer in the Town, require such customer to agree in writing to be bound by such rules, rates and ordinances as are applicable to water service within the Village. The Village

shall have the right, at any time, to classify water customers and to fix rates for each class of water customer, provided that the rates for the various classes are the same for customers in each municipality.

4.10. Maintenance and Inspection. The Village shall periodically inspect the meters measuring the supply of water furnished and shall request the repair or replacement of any meter or part of a meter which has registered a larger total volume than prescribed by standard Village practice, or which has been in service for a period longer than established by Village practice or which is known or suspected to be registering incorrectly. All such repairs or replacements shall be made by the Village.

Whenever it is determined that a meter has been registering incorrectly, an estimate of the amount of water furnished through the faulty meter shall be prepared by the Village for the purpose of billing the customer. The estimate shall be based upon the average of 12 preceding readings of the meter, exclusive of incorrect readings. If less than 12 prior readings are available, the number of available readings, including any correct readings after the repair or replacement of the meter, may be used.

The Village shall keep in a reasonable state of repair all facilities necessary to furnish water service to customers in the Shared Utilities Area. Nothing in this Agreement shall be construed to require the Village to repair or replace any equipment owned by the customer, the property owner or any other person or entity other than the Village.

4.11. Service Interruptions. The Village shall immediately notify the Town of any emergency or condition which may adversely affect the quality or quantity of water available for provision to the Shared Utilities Area. The Village shall not be liable in money damages for any failure of a customer within the Shared Utilities Area to receive water service, or for any interruption of water service furnished hereunder. The Village shall, upon written notice, restore service to customers within the Shared Utilities Area within a reasonable time. The Village shall respond to emergency and non-emergency repair requests for properties within the Town with the same diligence as used in responding to similar requests within the Village.

4.12. Water Capacity Expansion. A site of approximately 150 feet by 150 feet will be designated and reserved within the SW¼ of Section 24, T9N, R9E, for a future expansion of the Village's water generation and/or storage capacity. The Village Public Works Director, in coordination with the Town engineer, will select the site to be dedicated for such future capacity (reservoir/water tower/well). The Village Public Works Director will determine when such capacity needs to be expanded on the dedicated site, subject to Village Board approval. Neither the Town nor the Village will allow development that would interfere with the intended use of the designated parcel, nor allow any development within the specified quarter section until the site is designated by the Village Public Works Director and Town Engineer.

4.13. Impact Fees. Prior to issuance of any building permit for new construction within the Town on land that is, or will be, served by a new or modified connection to the Village Water facilities under this Article, the Town shall impose, collect and pay to the Village a water impact fee calculated pursuant to §8.05 of the DeForest Municipal Code, as amended from time to time. The

Village shall comply with the provisions of Town Ordinance 7-17-06-2 with respect to the accounting, use and refunding of any impact fees collected under this section, provided, however, that the Village shall have the right to vary from said provisions to the extent modified, or authorized to be modified, by an amendment to §66.0617, Wis. Stats.

ARTICLE V SANITARY SEWER SERVICE

5.01 Provision of Service to the Shared Utilities Area. The Town shall provide municipal sanitary sewer service to all properties within the Shared Utilities Area defined by section 1.04 throughout the term of this Agreement on the same terms and conditions as such service is provided to properties located within the Town boundaries. Upon termination of this Agreement, the Town shall continue to serve any customers previously connected to the Town sanitary sewer system indefinitely, subject to termination of such service in accordance with the applicable rules of the utility. The rules shall not be amended in any manner which discriminates against any customer on the basis of the location of the property served being within the Village boundaries.

5.02. Capacity and Upgrades. The Village and Town have each determined for themselves that the current capacity, along with any currently planned extensions or improvements, of the existing Town sanitary sewer system will be sufficient to serve the reasonably foreseeable needs of existing customers and anticipated new customers both within and without the Shared Utilities Area. In the event the capacity shall become inadequate at any time during the term of this Agreement, the Town shall take reasonable steps to increase the capacity to provide adequate service to all properties within the Shared Utilities Area. In the event the Town shall elect to impose special assessments for such improvements, the Village shall consent, and hereby does consent, that the Town may levy and collect such special assessments against properties within the Village served or to be served by the Town's or Utility District's sanitary sewer system. The Village shall adopt a resolution pursuant to §66.0707(1), Wis. Stats. approving any such assessments so levied and shall collect the assessments and pay them over to the Town Clerk as provided in §66.0707(3), Wis. Stats. Any special assessment levied by the Town or Utility District against lands within the Village shall be on the same terms and conditions as those applicable to properties within the Town assessed for the same project.

5.03. Costs for Extensions of Sanitary sewer Service to Town Properties. The cost of any extension of sanitary sewer service facilities to serve properties within the Village shall be paid for by the Village unless the Town shall elect to levy special assessments, in which case the provisions of §5.02 shall apply. The Village may, at its option, levy special assessments for any or all of the costs for which it is responsible under this section. All such costs shall be paid by the Village to the Town within 30 days of the date of an invoice from the Town for such costs.

5.04. Procedure for Extension Requests. Requests for extension of sanitary sewer service to new customers within the Village shall not be granted by the Town unless first approved by the Village's Public Works Director. The Town Engineer and Village Public Works Director shall jointly investigate the request and report their findings to the Village Public Works Committee and the Town Board. The report(s) shall set forth the proposed method of extension of the service, the location of all facilities necessary to complete the extension, the estimated cost thereof and a

description of any easements necessary to allow the installation of the facilities. If more than one method is recommended by the respective engineers, the most efficient method shall be established by arbitration as provided in §9.02.

5.05. Easements. The Village shall be responsible for obtaining all easements determined necessary by the Town for the construction, maintenance, repair, replacement and operation of the facilities necessary for any extension to a Village property. The Town shall have no obligation to furnish facilities or services until such easements have been received and approved. All easements shall name the Town as grantee.

5.06. Design, Construction and Inspection. The Town shall have sole authority for the final design, bidding, construction and inspection of all sanitary sewer utility facilities under this Agreement. The cost of all such activities shall be included in the costs of the extension payable pursuant to this Article.

5.07. Ownership of Sanitary Sewer Service Facilities. The Town shall be deemed the sole owner of any sanitary sewer facilities constructed and connected to the Town sanitary sewer system, whether located in, or paid for, by the Village, the Town or any customer, except as to facilities owned by the customer as provided in the Town Ordinances or sanitary sewer utility rules. The ordinances and rules shall not be amended in any manner which discriminates between properties located in the Town and Village with respect to ownership of laterals or other facilities. Upon request by the Town, the Village shall execute any document reasonably necessary to convey title to any such facilities to the Town or to evidence the Town's ownership thereof.

5.08. Use of Sanitary Sewer Service. The Village shall not permit any sanitary sewer service furnished under this Agreement to be used to service any person or property located outside of the Shared Utilities Area.

5.09. Rules, Rates and Regulations. The regulations of the Town sanitary sewer utility, the rates charged for various services, and all ordinances relating to the sanitary sewer utility and its facilities as adopted by the Town Board shall apply equally to all customers and properties served regardless of whether they are located in the Town or Village. The Town may, as a precondition to the furnishing of sanitary sewer service to any customer in the Village require such customer to agree in writing to be bound by such rules, rates and ordinances as are applicable to sanitary sewer service within the Town. The Town shall have the right, at any time, to classify sanitary sewer customers and to fix rates for each class of sanitary sewer customer, provided that the rates for the various classes are the same for customers in each municipality. Nothing in this Agreement is intended to limit the authority of the Town to impose impact fees for sewer facilities in any manner authorized by law.

5.10. Maintenance and Inspection. If the Town or Utility District #1 measure sewer usage by meters at any time during the term of this Agreement, the provisions of this section shall apply. The Town shall periodically inspect any meters measuring the amount of wastewater discharged into the Town sanitary sewer system from properties within the Shared Utilities Area and shall request the repair or replacement of any meter or part of a meter which has registered a larger total volume than prescribed by standard Town practice, or which has been in service for a period longer

than established by Town practice or which is known or suspected to be registering incorrectly. All such repairs or replacements shall be made by the Town and the property owner shall pay for all reasonable repairs and replacements made. Whenever it is determined that a meter has been registering incorrectly, an estimate of the amount of wastewater discharged into the sanitary sewers through the faulty meter shall be prepared by the Town for the purpose of billing the customer. The estimate shall be based upon the average of 12 preceding readings of the meter, exclusive of incorrect readings. If less than 12 prior readings are available, the number of available readings, including any correct readings after the repair or replacement of the meter, may be used. The Town shall keep in a reasonable state of repair all facilities necessary to furnish sanitary sewer service to customers in the Shared Utilities Area. Nothing in this Agreement shall be construed to require the Town to repair or replace any equipment owned by the customer, the property owner or any other person or entity other than the Town.

5.11. Service Interruptions. The Town shall immediately notify the Village of any emergency or condition which may adversely affect the quality or quantity of sanitary sewer service provided to properties within the Village. The Town shall not be liable in money damages for any failure of a customer within the Shared Utilities Area to receive sanitary sewer service, or for any interruption of sanitary sewer service furnished hereunder. The Town shall, upon written notice, restore service to customers within the Shared Utilities Area within a reasonable time. The Town shall respond to emergency and non-emergency repair requests for properties within the Village with the same diligence as used in responding to similar requests within the Town.

ARTICLE VI STORMWATER RUNOFF REQUIREMENTS

The Town agrees that it will require by ordinance that all developments located within any growth areas subject to this Agreement, along with the additional area designated as "Stormwater Management Agreement Only" on Addendum A, comply with the requirements contained in Chapter 24 of the DeForest Municipal Code as amended or replaced from time to time. The Town may permit specific control measures which differ from the requirements of said Chapter, provided that such alternative measures will yield the same level of stormwater runoff control, both as to quality and quantity, as the methods prescribed in that Chapter. Such alternative methods shall be subject to the written approval of the Village Public Works Director prior to the issuance of any permits for construction on a subject parcel, except that if the Village Public Works Director fails to grant approval within thirty (30) days following its receipt of the plans and specifications for the proposed alternative control measures, either party may submit the dispute to arbitration as provided in §9.02(b). Notwithstanding any other provision in said Chapter 24, the stormwater management standards therein may be satisfied on a regional basis, provided that each development is required, prior to the issuance of any land disturbing or building permit, to provide plans showing the manner in which such standards will be met and adequate documentation establishing the legal right to convey stormwater over any lands owned by any other person or entity where necessary to comply with those standards. The Town shall continue such ordinance in effect throughout the term of this Agreement, and thereafter as long as Chapter 24 of the DeForest Municipal Code (or a similar replacement stormwater management ordinance) remains in effect within the Village, unless otherwise agreed by both parties in writing. The parties agree that the failure of the Town to adopt such ordinance, or a material failure to enforce such ordinance,

shall be grounds for termination of this Agreement, except as to the obligation of both parties to continue to provide utility services to existing customers at the time of termination.

ARTICLE VII EXTRATERRITORIAL REGULATIONS

7.01. Intent. The parties acknowledge that there currently exist differences in the boundary lines of the Village's extraterritorial zoning and land division (plat and certified survey map) approval jurisdictions, and that those differences result in inefficient procedural requirements for development within the areas not included in both jurisdictional areas. The parties agree that it is in their mutual interest and in the best interest of the affected property owners that the boundaries of the two jurisdictional areas be uniform.

7.02. Regulatory Jurisdiction Adjustments. Promptly after the effective date of this Agreement, the Village Board shall consider adopting a resolution pursuant to §62.23(7a)(a), Wis. Stats. declaring its intent to zone those areas of the Town designated as "Lands Added to DeForest Extraterritorial Zoning Jurisdiction" on Addendum A. Upon the approval of zoning regulations and a corresponding map applicable to all, but not less than all, of such areas by the Joint DeForest-Vienna Extraterritorial Zoning Committee, the Village Board shall take action to consider enacting the zoning regulations as approved. If the Village Board approves a zoning ordinance for such areas, it shall, concurrently therewith, adopt and record a resolution pursuant to §236.10(5), Wis. Stats. waiving its extraterritorial land division approval jurisdiction over all, but not less than all, of the areas designated as "Lands Removed from DeForest Extraterritorial Land Division Review Jurisdiction" on Addendum A.

7.03. Land Division Review Authority. Beginning immediately upon the effective date of the ordinance and resolution as provided in §7.02, and continuing throughout the term of this Agreement, the Joint DeForest-Vienna Extraterritorial Zoning Committee shall function in lieu of the Village Planning & Zoning Commission with respect to the review and recommendation of all plats and certified survey maps within the Town that are subject to the Village's land division approval jurisdiction.

ARTICLE VIII TERM AND TERMINATION

8.01. Effective Date. Except as provided herein, this Agreement shall become effective thirty-one (31) days after publication by both the Village and the Town of this Agreement as a class 1 notice as required by §66.0301(6)(c)1, Wis. Stats. Neither Party shall publish this Agreement unless and until both parties have done all of the following in compliance with §66.0301(6)(c), Wis. Stats:

- (a) Provided at least twenty (20) days written notice by certified mail to each owner of property that may be affected by the boundary change provisions contained herein, and the owners of all immediately adjacent properties;

- (b) Published a Class 1 notice of a public hearing on this Agreement under Ch. 985, Wis. Stats.;
- (c) Held a public hearing on this Agreement in accordance with the published notice;
- (d) Approved this Agreement by resolution adopted by its governing body following the public hearing as provided in par. (c).

Notwithstanding the foregoing, if, within 30 days of the publication of this Agreement, a petition for referendum is filed in accordance with §66.0301(6)(c)2, Wis. Stats., this Agreement shall not be effective until the results of the election in favor of this Agreement are certified. In the event of a referendum whose results do not approve this Agreement, this Agreement shall be void.

8.02. Term of Agreement. This Agreement shall continue in full force and effect for a period of five (5) years after its effective date, unless earlier terminated or extended as provided in this Agreement or as a result of a breach hereof or by the terms of any final judgment. After the fourth (4th) anniversary of the effective date, the governing bodies of the parties, or their designated representatives, shall meet to discuss extending the term of this Agreement, or any part hereof, with or without amendments, for five (5) additional years from the termination date. The meetings shall occur at the Vienna Town Hall at 7:00 p.m. on the first Wednesday following such fourth anniversary date, unless the parties otherwise agree in writing. The parties further agree that in the event of any change in the laws governing the subject matter of this Agreement during the term hereof which materially affect the rights or obligations of either party hereunder, they shall meet and discuss the possibility of amending this Agreement to address such changes.

8.03. Termination of Prior Agreement. The parties specifically agree that the Joint Development Agreement dated November 6, 1998, and as subsequently amended, is hereby terminated in its entirety. The provisions of section 8.04 hereof shall apply with respect to all customers receiving public utility services pursuant to said agreement. The parties acknowledge that all amounts which may be due or payable pursuant to said agreement have been duly paid, that all properties within either jurisdiction known to be currently connected to the public utility system of the other jurisdiction have been lawfully connected, that all existing extensions of either utility system, whether or not currently in service, have been duly approved by both municipalities in accordance with said agreement, that neither party has any claim against the other arising out of any prior service connection or the provision of utility services to properties within the other jurisdiction and that all requirements imposed on either party pursuant to such agreement have been duly performed. The parties hereby fully and forever waive and release any and all claims they may have against the other arising out of the matters described herein. The termination of said agreement shall not affect any right the Town may have to impose special assessments for, or otherwise recover from residents or properties within the Town, any costs incurred by the Town in connection with the prior construction or installation of water mains and appurtenant water service facilities. The Intergovernmental Agreement executed by the parties on April 6, 2009 shall not be deemed modified or superseded by this Agreement and shall remain in effect for the remainder of its term, unless modified in accordance with the provisions of that agreement.

8.04. Effect on Existing Customers. The termination of this Agreement for any reason whatsoever shall not authorize the disconnection of, the discontinuation or change of service provided to, nor any violation of any of the nondiscrimination provisions applicable to, any then-existing customer receiving a public utility service from either party. Neither party shall affect any such change in the terms of service except pursuant to a rule or ordinance generally applicable to all customers of the utility or to an appropriate class of customers defined by the level or type of utility service use.

ARTICLE IX ENFORCEMENT

9.01. General. The parties agree that the provisions of this Agreement, and any remedy for a breach hereof, may be enforced through any appropriate legal action.

9.02. Arbitration. (a) Disputes Concerning Utility Services. Notwithstanding the provisions of section 9.01, the parties consent to the appointment by a court having jurisdiction of any dispute concerning this Agreement, at its sole discretion and option, of a single arbitrator decide, or make a recommendation for decision by the court on any matter concerning the appropriate design of any utility system, the adequacy of any utility service provided or to be provided, or any similar matter involving technical factual issues. The parties further agree to jointly request that the court submit for arbitration only those issues in any dispute which are technical in nature and that the court decide all legal issues relevant to the dispute. The parties shall cooperate in seeking a stay of any related proceedings while arbitration is pending where a stay will likely result in cost savings to either or both parties and will not result in prejudice to the interests of either party or its residents. The cost of any arbitrator appointed under this section shall be shared equally among the parties. Each party shall be solely responsible for its own attorney fees, costs and other expenses incurred in any arbitration proceeding.

(b) Stormwater Management Disputes. Notwithstanding the provisions of §9.01 and par. (a), the parties consent to the appointment of an arbitrator to review any disapproval of alternative stormwater management measures as provided in Article VI. The arbitrator shall be an independent professional engineer selected by agreement of the Town Engineer and Village Public Works Director. The decision of the arbitrator shall be based solely on the determination whether the alternative management measures meet the standard required by Article VI. A decision by the arbitrator to approve the proposed measures shall have the same effect as approval by the Village.

ARTICLE X MISCELLANEOUS PROVISIONS

10.01. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the respective municipalities who are parties hereto and to any successor municipality which acquires jurisdiction of the lands governed hereby through incorporation, consolidation, charter amendment or otherwise.

10.02. Entire Agreement. This Agreement, along with the Intergovernmental Agreement between the parties executed on April 6, 2009, represents the entire agreement between the parties hereto

with respect to the subject matter hereof and may be amended only by a written agreement executed by both parties.

10.03. Severability. Except as provided in subs. (a) and (b), the various provisions in this Agreement are intended to be severable. In the event that any single term in this Agreement is determined to be invalid or unenforceable, such determination shall not affect any of the remaining provisions which shall continue in full force and effect.

(a) **Utility Services.** The provisions of Articles IV and V are mutually dependent. In the event any material provision of either Article is determined to be invalid, the party whose rights are invalidated shall have the option of voiding the corresponding provision in the other Article or all of both Articles IV and V.

(b) **Miscellaneous Provisions.** A determination that a material provision in the various sections of this Agreement identified below is invalid shall allow the party whose interests are adversely affected by such determination to terminate this Agreement.

Invalidated Provision

Any part of Section 2.05

Article VI

For purposes of this section, a provision shall be considered invalidated if it is held invalid or unenforceable by a court of competent jurisdiction. Whenever a party has an option to void, cancel or terminate all or part of this Agreement under this section, such option may be exercised only by written notice to the other party within thirty (30) days of notice of the event or determination giving rise to the option.

10.05. Governing Law. This Agreement shall be governed by and construed according to the laws of the State of Wisconsin and, in the event of a dispute, venue shall lie for all parties in Dane County, Wisconsin.

10.06. Conflicting Ordinances. In the event of any conflict between the terms of this Agreement and any ordinance, regulation, resolution or order enacted, adopted or issued by either party, the provisions of this Agreement shall control. The party whose ordinance, regulation, resolution or order is in conflict with the terms hereof shall, upon notice thereof, promptly take action to amend such ordinance, regulation, resolution or order as necessary to bring it into conformity with this Agreement and to seek any other governmental approvals necessary to effectuate the amendment.

10.07. Governmental Approvals. The parties acknowledge that in order to effectively implement the terms of this Agreement, it may be necessary to obtain the cooperation and approval of other governmental agencies, including the Capital Area Regional Planning Commission, the Wisconsin Department of Natural Resources and the Wisconsin Public Service Commission or any successor agencies. The parties acknowledge that the obligations imposed by this Agreement shall be contingent upon receipt of such approvals as may be required by law from such agencies. In all matters necessary to implement this Agreement, the parties agree to seek the cooperation and

approval of all relevant agencies and will, to the extent practicable join in any request for such approvals.

10.08. Section Captions/Area Designations. The captions or headings of the various sections of this Agreement are intended for ease of reference only and shall not be deemed to define, limit or describe the scope or intent of this Agreement and are not part of this Agreement. The designations of the various geographical areas as "DeForest Growth Area" "Vienna Growth Area," and "Shared Utilities Area," are intended only for ease of reference and shall not be construed to have any substantive meaning beyond their definition of a geographical area.

10.09. Neutral Construction. The parties acknowledge that this Agreement is the product of negotiations between the parties and that, prior to the execution hereof, each party has had full and adequate opportunity to have this Agreement reviewed by, and to obtain the advice of, its own legal counsel with respect hereto. Nothing in this Agreement shall be construed more strictly for or against either party because that party's attorney drafted this Agreement or any part hereof.

10.10. Assignment. No party may assign any of its rights under this Agreement to any other person or entity, except that such rights shall be automatically assigned to a successor entity as described in section 10.01.

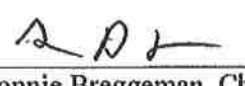
10.11. No Third-Party Beneficiaries. This Agreement is intended solely for the benefit of the parties hereto. Nothing in this Agreement shall be construed to provide any right or remedy to any person, firm, corporation or entity not a party to this Agreement.

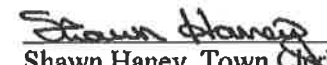
VILLAGE OF DEFOREST

By:  1/7/14
Judd Blau, Village President (date)

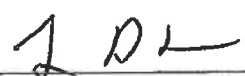
Attest:  1/7/14
LuAnn Leggett, Village Clerk (date)

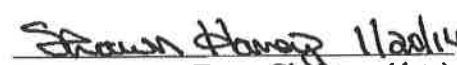
TOWN OF VIENNA UTILITY DISTRICT #1

By:  1/20/14
Lonnie Breggeman, Chairperson (date)

Attest:  1/20/14
Shawn Haney, Town Clerk (date)

TOWN OF VIENNA

By:  1/20/14
Lonnie Breggeman, Chairperson (date)

Attest:  1/20/14
Shawn Haney, Town Clerk (date)

JOINT UTILITY SERVICE AREA LIMITS

VILLAGE OF DEFOREST AND TOWN OF VIENNA BOUNDARY AGREEMENT DANE COUNTY, WISCONSIN

Located in the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$, SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the NE $\frac{1}{4}$ of the SE $\frac{1}{4}$, the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$, the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 13, the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 14, NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 23, the NE $\frac{1}{4}$ of the NE $\frac{1}{4}$ the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$, the SW $\frac{1}{4}$ of the NE $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$, the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the NW $\frac{1}{4}$, the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$, the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$, the SE $\frac{1}{4}$ of the SW $\frac{1}{4}$, the NW $\frac{1}{4}$ of the SE $\frac{1}{4}$ and the SW $\frac{1}{4}$ of the SE $\frac{1}{4}$ of Section 24, T9N, R9E, Town of Vienna and the Village of DeForest, described as follows:

BEGINNING at the Northeast Corner of said Section 13;

thence Westerly along the north line of the NE $\frac{1}{4}$ of Section 13, to the northeast corner of CSM No. 358;

thence Southerly along the east line of CSM No. 358, to the southeast corner of said CSM 358 and the northeast corner of CSM 12789;

thence continuing Southerly along the east line of CSM No. 12789, to the southeast corner of said CSM 12789 and the northeast corner of Lot 13, Vienna Acres subdivision;

thence continuing Southerly along the east line of said Vienna Acres, to the southeast corner of Lot 1, Vienna Acres;

thence Westerly along the south line of said Lot 1, Vienna Acres and its westerly projection, to the west line of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13;

thence Northerly along said west line of the SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, to the southeast corner of the NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13;

thence Westerly along the south line of said NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13, to the southwest corner of said NW $\frac{1}{4}$ of the NE $\frac{1}{4}$ of Section 13;

thence continuing Westerly along the south line of the NE $\frac{1}{4}$ of the NW $\frac{1}{4}$ and the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$ of Section 13, to the southwest corner of said NW $\frac{1}{4}$ of the NW $\frac{1}{4}$;

thence Southerly along the west line of the SW $\frac{1}{4}$ of the NW $\frac{1}{4}$, to the West Quarter Corner of said Section 13;

thence continuing Southerly along the west line of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13, to the northwest corner of the SW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Section 13;

thence Westerly along the north line of the SE ¼ of the SE ¼ and the SW ¼ of the SE ¼ of Section 14, to the northwest corner of said SW ¼ of the SE ¼ of Section 14;

thence Southerly along the west line of said SW ¼ of the SE ¼ of Section 14, to the North Quarter Corner of Section 23;

thence continuing Southerly along the west line of the NW ¼ of the NE ¼ of said Section 23, to the southwest corner of said NW ¼ of the NE ¼;

thence Easterly along the south line of said NW ¼ of the NE ¼ and the NE ¼ of the NE ¼ of Section 23, to the southeast corner of said NE ¼ of the NE ¼;

thence Southerly along the west line of the SW ¼ of the NW ¼ of Section 24, to the West Quarter Corner of said Section 24;

thence continuing Southerly along the west line of the SW ¼ of Section 24, to the Southwest Corner of said Section 24;

thence Easterly along the south line of said SW ¼ of Section 24, to the South Quarter Corner of said Section 24;

thence continuing Easterly along the south line of the SW ¼ of the SE ¼ of Section 24, to the west right-of-way line of I90-94-39, as show on the State of Wisconsin, Right of Way Plat, Project No. I-90-2(12)122;

thence Northwesterly along said westerly right-of-way line, to the north line of the SW 1/4 of Section 24;

thence Easterly along the south line of the NW ¼ and the NE ¼ of Section 24, to the centerline of River Road;

thence Northwesterly along said centerline of River Road, to the centerline of Hilltop Road;

thence Easterly and Northeasterly along said centerline of Hilltop Road, to the east line of the NE ¼ of Section 24;

thence Northerly along said east line of the NE ¼ of Section 24, to the Northeast Corner of said Section 24;

thence continuing Northerly along the east line of the SE ¼ of Section 13, to the East Quarter Corner of said Section 13;

thence continuing Northerly along the east line of the NE ¼ of said Section 13, to the **POINT OF BEGINNING.**

This description prepared by:

Paulson & Associates, LLC
James L. Simpson
Registered Land Surveyor
October 7, 2013



VILLAGE OF DEFOREST

120 S. STEVENSON STREET
DEFOREST, WI 53532
PHONE (608) 846-6751
WWW.VI.DEFOREST.WI.US

March 1, 2022

Dear Jerry and Kathy,

Thank you for your email and letter to me on February 24, 2022, summarizing your request for the Village of DeForest to approve water service connections to the proposed town business park area (Linde, Research Products, Evans, etc.) and its history.

As you know, the Village of DeForest is resolute on requiring properties to annex to the Village prior to approving any new water connection and service. In fact, absent of a written agreement, it is illegal for us to do so. That being said, the Village Board has authorized me to explore options to address the growing development pressure in this area. One option includes negotiating a municipal boundary agreement with the Town of Vienna that will not jeopardize the Village's position on requiring annexation prior to connecting to water and providing water service.

Therefore, I would like to propose the following considerations to initiate the negotiation process. We view this as compromise which will continue to provide you with tax base, reduce your costs, and meet the Village's requirement of annexation prior to providing water.

- 1) Shared Revenue. The Village proposes that all property as indicated on Exhibit A be attached to the Village upon the effective date of the boundary agreement:
 - a. Annex Revenue Shared Area (Red) -- These properties shall be annexed to the Village on the effective date of the boundary agreement.
 - i. There shall be revenue sharing for these properties for the life of the agreement.
 1. Revenue share shall be calculated based on 100% of the Town's current mill rate (at time of execution of agreement) on all properties within this area, including the value of future development on the undeveloped properties within this area.
 - ii. Village shall assume all planning and zoning and service responsibilities for these properties
 - b. Annex NRS Area (Yellow) -- These properties shall be annexed to the Village on the effective date of the boundary agreement. There shall be no revenue sharing for these parcels.
- 2) Transfer of Utility District No. 1 facilities and operations to Village. This allows the Village to provide a more efficient service to customers and reduces conflicts in the future.
 - a. 30 days prior to the execution of agreement, Village shall evaluate the current sanitary system and audit its financial records. Village shall document its finding of inventory and valuation of the district. Town and District shall allow the Village full access to district records.



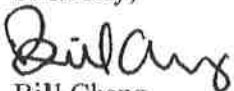
- b. Within 60 days of execution of the agreement, Village shall assume all assets and liabilities of the current sanitary system within Utility District No. 1. Village shall continue to serve any existing sanitary sewer customers of Utility District No. 1 located within the Town, subject to generally applicable user fees and regulations.
 - i. Assets shall include:
 - 1. Land
 - 2. Facilities and Structures
 - 3. Infrastructure
 - 4. Equipment pertinent to the operation of the system
 - 5. Cash on Hand
 - ii. Liabilities shall include:
 - 1. Contracts
 - 2. Debt

3) Reservation of Development Rights for the Village.

- a. The area shown as "DeForest Future Growth Area" shall be reserved for future Village of DeForest growth.
 - i. Town shall not take or support any action that would restrict any type of Village development.
 - ii. Town shall not enter into any agreement with any other municipality allowing annexation of any lands within DeForest Future Growth Area
- b. Any properties wishing to connect to Village water and sewer shall annex to the Village
 - i. Town shall not object to annexation
- c. This territory becomes the new ETZ area.

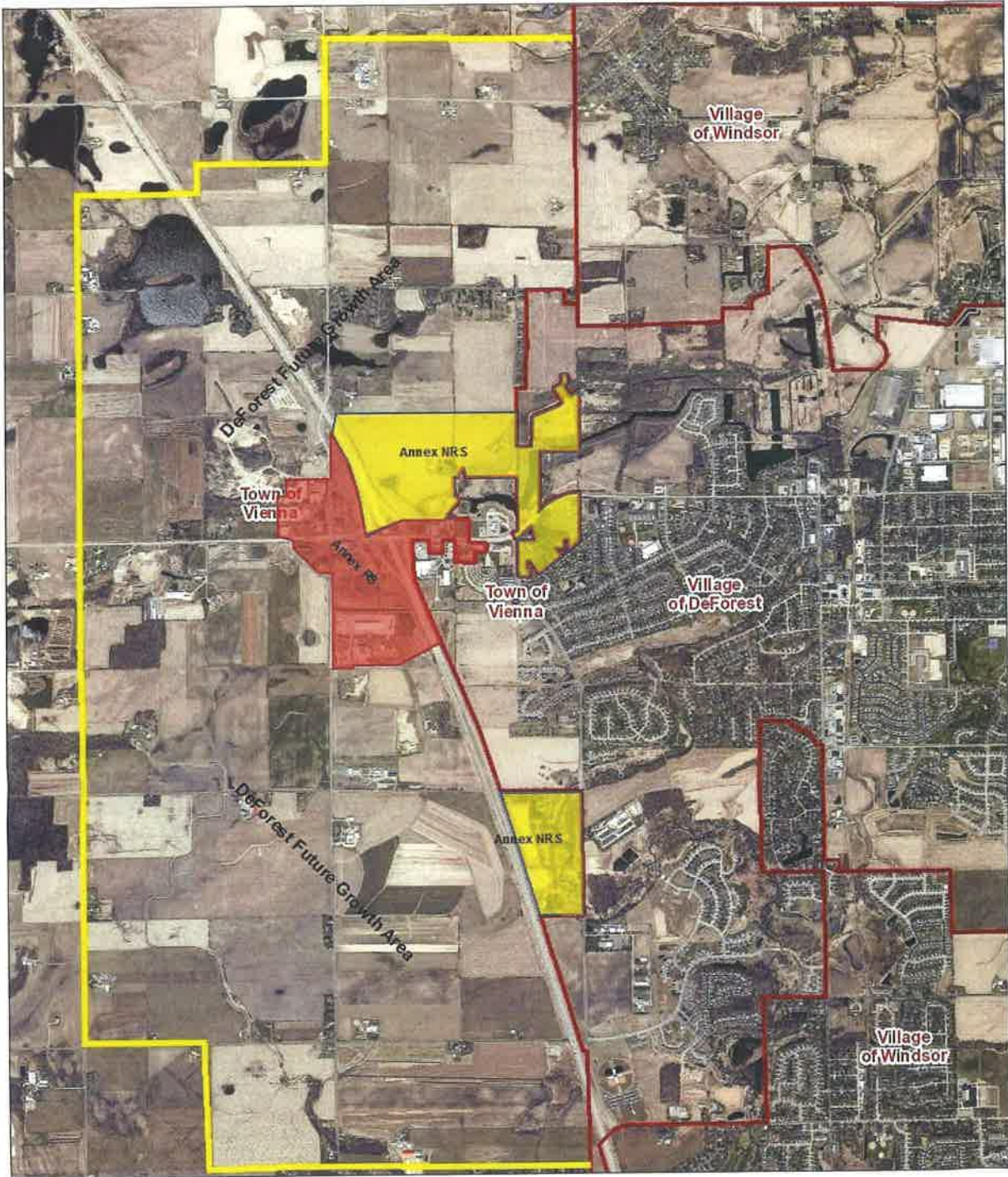
Please provide me with a written response to this proposal within 30 days of receipt of this document so that we can prepare a draft agreement for your review. This document does not construe the entire agreement and serves as a starting point for discussion purposes only. The final agreement will, in all cases, be subject to Village Board and Town Board approval and the process outlined in state statute.

Sincerely,



Bill Chang
Village Administrator

Municipal Boundary Map







March 1, 2022

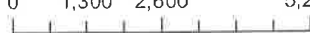
Dane County Mask

Dane County Mask

Municipalities

-  City
-  Village
-  Town
-  Parcels

0 1,300 2,600 5,200 Feet



REUTER, WHITISH & EVANS, S.C.

**ATTORNEYS AT LAW
44 EAST MIFFLIN ST., SUITE 306
MADISON, WISCONSIN 53703**

ALLEN D. REUTER
BARBARA O. WHITISH (1952-2013)
DANIEL J. EVANS
DAVID D. RELLES
KEVIN F. MILLIKEN (OF COUNSEL)

TELEPHONE
(608) 250-9053

FACSIMILE
(608) 250-9054

July 7, 2022

Mr. Erich Schmidtke
Municipal Boundary Review
Wisconsin Department of Administration
P.O. Box 1645
Madison, WI 53701-1645

VIA EMAIL

Re: Annexation Petition No. 14513 – DeForest/Town of Vienna

Dear Mr. Schmidtke:

I received today the Town of Vienna's annexation questionnaire along with a series of documents that were sent to you. As you know, the question whether the proposed annexation is in the public interest is to be based on the factors set forth in §66.0217(6)(c), Wis. Stats. Those factors include whether DeForest is in a better position than the Town to provide needed services, the shape of the annexation territory, and its homogeneity with the Village of DeForest. All of those factors demonstrate that Petition No. 14513 is in the public interest.

The now-expired agreement between the Town and Village has no relevance to the current petition. The Town was offered, and declined, the opportunity to negotiate an extension of the prior agreement, or a new agreement. The prior agreement made clear that certain town properties could connect to Village water service *while the agreement was in effect* and that on expiration of the agreement those water utility customers would continue to receive service. Nothing in the agreement suggested that the Village would allow new customer connections in Vienna in perpetuity. As you are aware, it is rare that an incorporated municipality allows extensions of utility services into an adjacent town without requiring annexation. Indeed, the need for water service is a common motivator in annexation cases. The Town has not suggested it will ever provide water service to the area at issue, and the Village can do so without delay. The Town has the right to deny sanitary sewer service, and its choice to do so means the Village will extend its sanitary system into the annexation area. Only the Village of DeForest is able to provide water and sewer service to this area.

The annexation will also make full-time police protection available to the area and simplify the zoning process. The current zoning process involves separate reviews by the joint extraterritorial zoning committee, the Town Board, and the Village Board. One of the property owners has cited the more efficient zoning process for properties in the Village as a major factor in the decision to annex.

The Town has also submitted to you arguments it previously made to the Public Service Commission of Wisconsin, which it correctly notes determined that the Village has no legal obligation to extend water service to new Town customers. The Town appears to be asking you to reverse the determination of the PSC based on arguments the PSC rejected. While it offers you one side of the argument, it neglects to provide our response which pointed out, among other things, various factual fallacies underlying the arguments.

For example, the Town argued that water service should be extended because the Village installed mains and specially assessed the property owners for the cost of that construction. However, the materials submitted in support of that argument make clear that the Town installed the mains and assessed the properties. The Village of DeForest had nothing to do with either decision. While the entire PSC proceeding is irrelevant to your public interest determination, it is only fair that you have both sides of the issue. For that reason alone, I am enclosing a copy of my letter to the PSC correcting the erroneous factual and legal assertions in the Town's arguments it has chosen to share with you.

Finally, the Town's argument that the annexation territory is not contiguous to the Village is absurd. Although the legal assertion that a 400' wide highway is sufficient separation to break contiguity is interesting, it is purely academic. The Town's claim that "These lands are nearly 400 feet away from the existing Village boundary" is belied by the annexation notice itself. The map and legal description clearly show that the I-90/94 right-of-way is *included* in the proposed annexation, so contiguity cannot possibly be an issue.

We look forward to your determination consistent with §66.0217(6)(c), Wis. Stats. that the proposed annexation is in the public interest. Thank you for your consideration.

Sincerely,



Allen D. Reuter
Village Attorney

cc: Mr. Bill Chang, Village Administrator
Mr. Judd Blau, Director of Public Services
Attorney Matt Fleming, Town Attorney

REUTER, WHITISH & EVANS, S.C.

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July 7, 2022

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Sincerely,

A handwritten signature in black ink, appearing to read "Allen D. Reuter", with a long horizontal flourish extending to the right.

Allen D. Reuter
Village Attorney

cc: Mr. Bill Chang, Village Administrator
Mr. Judd Blau, Director of Public Services
Attorney Matt Fleming, Town Attorney

REUTER, WHITISH & EVANS, S.C.

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KEVIN F. MILLIKEN (OF COUNSEL)
NOAH B. RELLES

TELEPHONE
(608) 250-9053

FACSIMILE
(608) 250-9054

May 6, 2022

Ms. Kayleigh Chiono
Public Service Commission of Wisconsin
4822 Madison Yards Way
Madison, WI 53705

Re: Case No. 236835

Dear Ms. Chiono:

As you requested, the Village of DeForest provided a brief response to the complaint in the above matter explaining the relevant facts and the Village's extraterritorial water service policy. The Town of Vienna has also filed a response in the form of a 5-page letter brief. I feel it is necessary to provide a limited response to that submission as it misstates both the facts and the law.

The response by the town is an obvious invitation to the Commission to take sides in negotiations between two municipalities on intergovernmental issues largely unrelated to water service. The Commission's jurisdiction does not extend to mediating municipal boundaries, revenue sharing proposals, the wisdom of annexation or the merits of offers to assume operation of an unregulated town sanitary sewer system. While the Village took the initiative to invite negotiations for an extension or amendment to the previous intergovernmental agreement, it respects the decision of the town to reject that overture. Whether the proposal for a new agreement was reasonable or not has no bearing on the rights and obligations of the Village to provide water service in the town. Typically, if a party to negotiations is unwilling to accept terms proposed by the other side, it will respond with a counterproposal of some sort. The town decided to simply reject the negotiation process, which it has the right to do. None of that should be of concern to the Commission.

The town does not, however, have the right to misrepresent those negotiations in a transparent effort to generate bias against the Village. For example, the town falsely asserts that the Village "offered an undefined revenue sharing agreement that would last for only 10 years and which would only apply to lands on the west side of the interstate." Exhibit C attached to its response, however, belies that assertion on its face. Nowhere in the proposal made by the Village was the term limited to 10 years (it was verbally explained that the term was subject to negotiation)¹ and the revenue sharing map clearly indicated that the developed town properties east of the interstate

¹ The Department of Administration boundary agreement data base includes numerous examples of agreements for much longer than 10 years. <https://mds.wi.gov/View/BoundaryAgreements>. Among them are a DeForest-Windsor agreement with a 25-year (extendable) term [<https://mds.wi.gov/View/Documents?Type=BoundaryAgreementFile&ID=10651>]; a 30-year DeForest-Windsor agreement [<https://mds.wi.gov/View/Documents?Type=BoundaryAgreementFile&ID=10647>]; a 29-year DeForest-Burke - Sun Prairie - Madison agreement [<https://mds.wi.gov/View/Documents?Type=BoundaryAgreementFile&ID=10639>] and even a 15-year DeForest-Vienna agreement [<https://mds.wi.gov/View/Documents?Type=BoundaryAgreementFile&ID=10687>].

were included in the revenue sharing proposal. The calculation of the amount of revenue sharing offered was clearly explained in the proposal. The proposal the town deems so unreasonable is not the proposal made by the Village.

Similarly, on the first page of its brief, the town states that the Village decided to provide water service to Vienna and “Pursuant to that decision, it has installed water service lines and levied special assessments on the Complainant’s property . . .”. That statement is entirely false. The Village did not construct the water mains in Vienna. Nor did it levy special assessments. The exhibits offered to support the town’s claim consist only of an assessment report submitted by the *town* engineer to the *town* clerk in 2003. No assessment resolution was produced, we cannot say with certainty whether assessments were ever levied, but if they were, they were levied by the town.

The Village of DeForest did not, and had no power to, unilaterally levy special assessments on properties in the town. Such assessments would have required approval by resolution of the town board. *See*, §66.0707(1), Wis. Stats. Had the Village levied special assessments for the water facilities, the property owners assessed might have the right to utilize those facilities. Absent special assessments *by the Village*, however, no such right exists. Nevertheless, the properties purportedly assessed by the town simply have to annex to DeForest and water service will be immediately available.

The town goes on to argue that the Village ordinance, which clearly limits the area of water service outside the Village boundaries to those properties connected pursuant to an intergovernmental agreement, is not specific enough. Nothing in the applicable statute specifies any particular manner in which the service area must be defined. Clearly each property served is itself an “area.” In fact, the legislature at least once proposed amendments to §66.0813(3), Wis. Stats. including to change “area” to “geographical area” in the statute. *See*, 1995 Senate Bill 500. That bill never passed. The statute allows the municipality to define its service area as it sees fit.

Finally, the town’s assertion that conditioning utility service on annexation is somehow illegal or unusual simply ignores history and the applicable caselaw. For example, in *Town of Hallie v. City of Chippewa Falls*, 105 Wis. 2d 533, 540–41, 314 N.W.2d 321, 325 (1982) the Wisconsin Supreme Court stated:

Although the statutes do not specifically so provide, it seems that the legislature viewed annexation by the city of a surrounding unincorporated area as a reasonable *quid pro quo* that a city could require before extending sewer services to the area. In sec. 66.069(2)(c), Stats. [now 66.0813], the legislature provided that a city may fix the area outside its boundaries in which service will be provided and has no obligation to serve beyond that area.

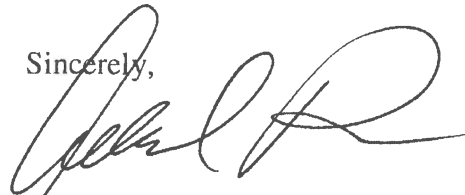
See, also, Town of Pleasant Prairie v. City of Kenosha, 75 Wis. 2d 322, 339, 249 N.W.2d 581, 590 (1977)(reasonableness of annexation “supported by the existence of a clear benefit to the annexed territory, in the form of sewer and water service which the City can provide but which the

Town cannot supply in the foreseeable future.”); *Town of Neenah Sanitary Dist. No. 2 v. City of Neenah*, 2002 WI App 155, 256 Wis. 2d 296, 647 N.W.2d 913; *Whispering Springs Corp. v. Town of Empire*, 183 Wis. 2d 396, 400, 515 N.W.2d 469, 471 (Ct. App. 1994)(annexation motivated by desire for sewer and water service).

The Wisconsin Legislature has determined that the decision to provide water service outside of a municipality’s boundaries is a legislative decision to be made by the municipality. Indeed, the Town of Vienna has refused to allow additional sanitary sewer connections in DeForest on the basis that the agreement, upon which it now bases its argument, has expired. The Village is prepared to serve those properties in Vienna wishing to become part of the Village and receive the full range of urban services it offers.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Allen D. Reuter', written in a cursive style.

Allen D. Reuter
Village Attorney

cc: Bill Chang, Village Administrator
Judd Blau, Director of Public Service
Attorney Matt Fleming

Annexation Review Questionnaire

Wisconsin Department of Administration

WI Dept. of Administration
Municipal Boundary Review
PO Box 1645
Madison WI 53701
608-264-6102 Fax: 608-264-6104
wimunicipalboundaryreview@wi.gov
<http://doa.wi.gov/municipalboundaryreview>

Petitioner: **Research Products Corporation** Petition Number: **14513**

1. Territory to be annexed: From **TOWN OF VIENNA** To **VILLAGE OF DEFOREST**

2. Area (Acres): 123.6

3. Pick one: Property Tax Payments **OR** Boundary Agreement

a. Annual town property tax on territory to be annexed: \$ 204.52 a. Title of boundary agreement _____

b. Total that will be paid to Town (annual tax multiplied by 5 years): 1022.60 b. Year adopted _____

c. Paid by: Petitioner City Village c. Participating jurisdictions _____

Other: _____ d. Statutory authority (pick one)

s.66.0307 s.66.0225 s.66.0301

4. Resident Population: _____ Electors: 0 Total: _____

5. Approximate **present land use** of territory:

Residential: _____% Recreational: _____% Commercial: _____% Industrial: _____%

Undeveloped: 100 %

6. If territory is undeveloped, what is the **anticipated use**?

Residential: _____% Recreational: _____% Commercial: 25 % Industrial: 75 %

Other: _____%

Comments: _____

7. Has a preliminary or final plat been submitted to the Plan Commission: Yes No

Plat Name: _____

8. What is the **nature of land use adjacent** to this territory in the city or village?

industrial and commercial

In the town?: Industrial and Ag

9. What are the **basic service needs** that precipitated the request for annexation?

Sanitary sewer Water supply Storm sewers

Police/Fire protection EMS Zoning

Other _____

10. Is the city/village or town capable of providing needed utility services?

City/Village Yes No Town Yes No

If yes, approximate timetable for providing service: City/Village Town

Sanitary Sewers immediately
or, write in number of years. 1 year _____

Water Supply immediately
or, write in number of years. immediately _____

Will provision of sanitary sewers and/or water supply to the territory proposed for annexation require capital expenditures (i.e. treatment plant expansion, new lift stations, interceptor sewers, wells, water storage facilities)?

Yes No

If yes, identify the nature of the anticipated improvements and their probable costs: Sanitary extension

11. Planning & Zoning:

a. Do you have a comprehensive plan for the City/Village/Town? Yes No

Is this annexation consistent with your comprehensive plan? Yes No

b. How is the annexation territory now zoned? Ag, Commercial + Industrial

c. How will the land be zoned and used if annexed? Commercial Industrial

12. Elections: New ward or Existing ward? Will the annexation create a new ward or join an existing ward? For more information, please contact the Wisconsin Election Commission at (608) 266-8005, elections@wi.gov or see their annexation checklist here: <http://elections.wi.gov/forms/el-100>

13. Other relevant information and comments bearing upon the public interest in the annexation:

Prepared by: Town City Village

Name: Calli Lundgren

Email: lundgren@vi.deforest.

Phone: 608 846-6751

Date: 6.23.2022

Please RETURN PROMPTLY to:

wimunicipalboundaryreview@wi.gov

Municipal Boundary Review

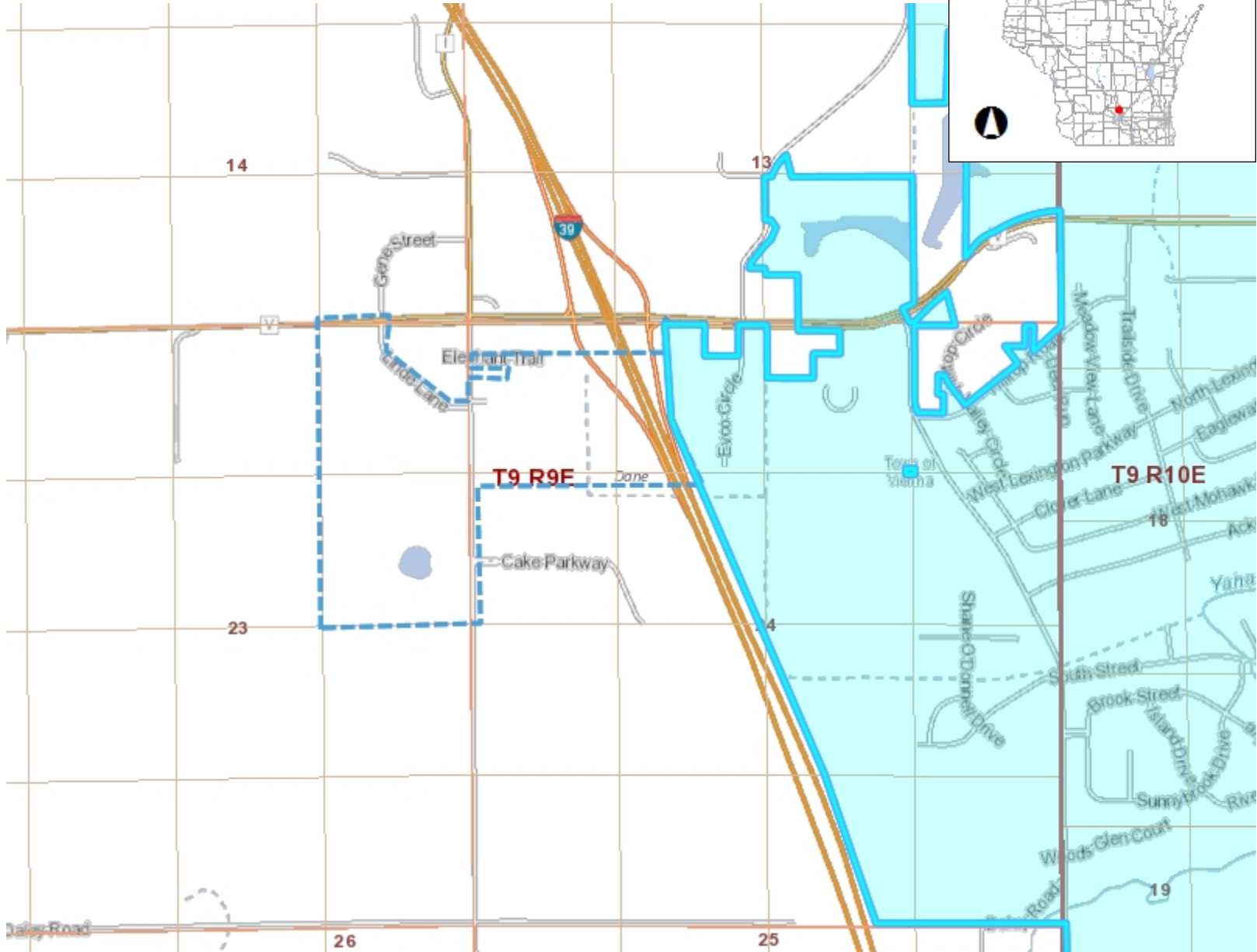
Wi. US Box 1645, Madison WI 53701

Fax: (608) 264-6104

(March 2018)



Surface Water Data Viewer Map



Legend

- Township
- Section
- Quarter-Quarter
- County Boundary
- Cities, Towns & Villages**
- City
- Village
- Civil Town
- Municipality
- State Boundaries
- County Boundaries
- Major Roads**
- Interstate Highway
- State Highway
- US Highway
- County and Local Roads**
- County HWY
- Local Road
- Railroads
- Tribal Lands
- Rivers and Streams
- Intermittent Streams
- Lakes and Open water



NAD_1983_HARN_Wisconsin_TM

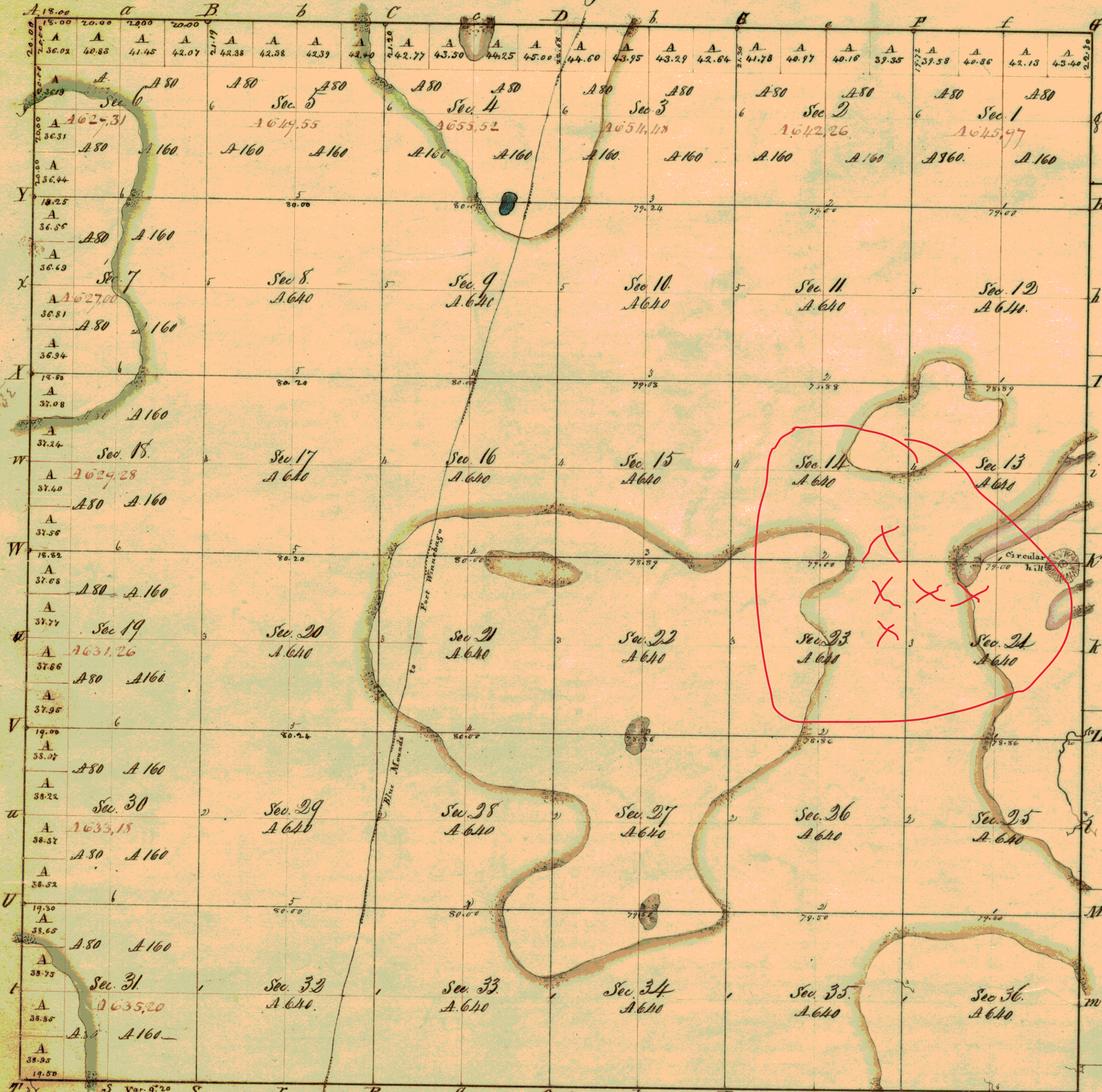
1: 15,840

DISCLAIMER: The information shown on these maps has been obtained from various sources, and are of varying age, reliability and resolution. These maps are not intended to be used for navigation, nor are these maps an authoritative source of information about legal land ownership or public access. No warranty, expressed or implied, is made regarding accuracy, applicability for a particular use, completeness, or legality of the information depicted on this map. For more information, see the DNR Legal Notices web page: <http://dnr.wi.gov/legal/>

Notes

Township N^o IX. — Range N^o IX E. 4th Mer. Wis. Ter.

Mullett 9-7
10-5



Total number of Acres 23,033.01

Survey Designated	By whom Surveyed	Date of contract	amt. of Survey	when Surveyed	when p ^d for 4 th Mer. ac ^t
Town Boundaries	John Mullett	10 th Oct. 1831	110. 64. 75	4 th q ^r : 1832 1 st q ^r : 1833	
Wpt. of Road	John Mullett	16 th Feb. 1832	22. 37. 98	2 ^d q ^r : 1833 3 ^d q ^r : 1833	
Subdivisions	Orson Egou	8 th Feb. 1834	36. 45. 98	4 th q ^r : 1834 1 st q ^r : 1835	
C. of Road	Orson Egou	8 th Feb. 1834	36. 45. 98	4 th q ^r : 1834 1 st q ^r : 1835	
S. Lines, East of Road	Mullett & Brink	9 th July 1833	13. 21. 05	4 th q ^r : 1833 3 ^d q ^r : 1834	

The above Map of Township N^o 9, Range N^o 9 East, 4th Meridian North West Territory, is strictly conformable to the field notes of the survey thereof on file in this Office, which have been examined and approved.

Surveyor General's Office

Robert J. ...

Scale 40 Chs. to an inch

Var. 9th 15' E.



TONY EVERS

GOVERNOR

KATHY BLUMENFELD

SECRETARY-DESIGNEE

Municipal Boundary Review

PO Box 1645, Madison WI 53701

Voice (608) 264-6102 Fax (608) 264-6104

Email: wimunicipalboundaryreview@wi.gov

Web: <http://doa.wi.gov/municipalboundaryreview>

July 13, 2022

PETITION FILE NO. 14513

CALLI LUNDGREN, CLERK
VILLAGE OF DEFOREST
120 S STEVENSON STREET
DE FOREST, WI 53532-1505

KATHLEEN CLARK, CLERK
TOWN OF VIENNA
7161 COUNTY HIGHWAY I
DE FOREST, WI 53532-1946

Subject: RESEARCH PRODUCTS CORPORATION ANNEXATION

The proposed annexation submitted to our office on June 22, 2022, has been reviewed and found to be in the public interest. In determining whether an annexation is in the public interest, s. 66.0217 (6), Wis. Stats. requires the Department to examine "[t]he shape of the proposed annexation and the homogeneity of the territory with the annexing village or city..." so as, to ensure the resulting boundaries are rational and compact. The statute also requires the Department to consider whether the annexing city or village can provide needed municipal services to the territory. The subject petition is for territory that is reasonably shaped and contiguous to the Village of DeForest, which is able to provide needed municipal services. The services requested in this case are sewer and water and zoning from one community rather than from the multiple communities and jurisdictions to which the petitioner is currently subjected.

The Town indicates that it previously had an intergovernmental agreement with the Village which provided sewer and water service to specified parcels located in the Town. However, this agreement has apparently expired and the Town and Village have been unsuccessful to date in negotiating an extension to the agreement.

The Department reminds clerks of annexing municipalities of the requirements of s. 66.0217 (9)(a), Wis. Stats., which states that the clerk of a city or village which has annexed shall file immediately with the secretary of administration a certified copy of the ordinance, certificate and plat, and shall send one copy to each company that provides any utility service in the area that is annexed. The clerk shall record the ordinance with the register of deeds and file a signed copy of the ordinance with the clerk of any affected school district.

State and federal aids based on population and equalized value may be significantly affected through failure to file with the Department of Administration. Please file a copy of your annexing ordinance, including a statement certifying the population of the annexed territory. **Please include your MBR number 14513 with your ordinance.** Ordinance filing checklist available at <http://mds.wi.gov/>, click on "Help on How to Submit Municipal Records". Email scanned copy of required materials (color scan maps with color) to mds@wi.gov or mail to: Wisconsin Department of Administration, Municipal Boundary Review, PO Box 1645, Madison WI 53701-1645. The petition file is available for viewing at: <http://mds.wi.gov/View/Petition?ID=2587>
Please call me at (608) 264-6102, should you have any questions concerning this annexation review.

Sincerely,

Erich Schmidtke, Municipal Boundary Review

cc: petitioner