

**INTERMUNICIPAL COOPERATION AGREEMENT BETWEEN
THE CITY OF REEDSBURG AND THE TOWN OF EXCELSIOR**

THIS AGREEMENT, made effective this 10th day of December, 2007 by and between the City of Reedsburg, a municipal corporation located in Sauk County, Wisconsin ("City") and the Town of Excelsior, a Wisconsin township located in Sauk County, Wisconsin ("Town").

R E C I T A L S

WHEREAS, sec 66.0301, Stats., authorizes cities and towns to enter into intergovernmental cooperation agreements for the furnishing of municipal services and the joint exercise of municipal powers and duties required or authorized by law; and

WHEREAS, the City and the Town recognize that intergovernmental cooperation and joint planning provide for the best use of land and natural resources and provide for high quality and efficient municipal service; and

WHEREAS, it is the best interest of the City and the Town to resolve boundary, land use and municipal service issues in order to avoid duplication of municipal services and in order to provide an effective means of planning each community's future growth; and

WHEREAS, the City and the Town agree that it is appropriate to prevent unplanned development leading to urban, ex-urban and rural sprawl;

WHEREAS, the City and the Town recognize that this Agreement represents compromises that are required in order to reach a long-term and meaningful cooperation agreement;

NOW, THEREFORE, in consideration of the mutual promises of the parties it is here by agreed as follows:

ARTICLE I

GENERAL PROVISIONS

1.1 Growth Area Map. Attached and incorporated by reference is a map marked Exhibit A, "City of Reedsburg Official Extraterritorial Zoning Map", dated December 8, 2003. The purpose of this map is to delineate the City growth area (hereinafter "Growth Area"). The Extraterritorial committee shall review this map every five years after January 2010 and make recommendations to the affected Town's Plan Commission for Town Board approval. During this five year period, a town board may request of the Extraterritorial Committee a change in the Extraterritorial Boundary Line.

1.2 Joint Land Use and Transportation Plan. Attached and incorporated by reference is a map marked Exhibit B, "City of Reedsburg Planning Area Proposed Land Use Map 11-1", (hereinafter "Land Use Plan"), dated April, 2003. The Land Use Plan shall be used to regulate land division, the dedication of rights-of-way and other public improvements in the Growth Area as more particularly described in Article II, below. The City or Town shall not modify the Land Use Plan except in accordance with the City of Reedsburg Zoning Code.

1.3 Extraterritorial Jurisdiction. The parties acknowledge that the City has been exercising its statutory extraterritorial land division review authority in the Town. The City shall continue to exercise its extraterritorial jurisdiction throughout the extraterritorial areas. The City shall also exercise extraterritorial zoning power throughout the extraterritorial area. The Town shall make its planning, official mapping, land division and zoning decisions in full conformance with City policies within the Growth Area for the duration of the Agreement.

1.4 Annexations.

- (a) Any lands for which the City receives a petition for annexation that is located within the Growth Area and are contiguous to the then-current City boundaries may be annexed to the City in accordance with the procedures of sec. 66.0217, Stats.
- (b) The Town shall not directly or indirectly oppose the direct annexation of land to the City located within the Growth Area adjacent to the City. The Town also agrees not to financially support anyone who does oppose or contests an annexation of lands that are located exclusively within the Growth Area. If the Town is involved in any annexation lawsuit by a party other than the City, the Town shall immediately stipulate that it does not oppose the contested annexation. The Town shall also cooperate with the City on the dismissal of the Town as a party to the relevant lawsuit. Upon a request by the City, the Town shall provide a letter to the State of Wisconsin indicating that the

proposed annexation within the Growth Area is in compliance with this agreement.

- (c) Generally, the Townships prefer that no territory outside of the Growth Area be annexed by the City. Should the City, during the term of this agreement, annex any territory outside of the Growth Area, the City agrees in accordance with the provision of sec. 66.0305, Stats., to reimburse the town as liquidated damages and not as a penalty, an amount equivalent to the tax revenue lost to the Town as a result of such annexation each year for a period of 10 years from the date the annexation ordinance is effective. The reimbursement shall be calculated based on the assessed value of all land and improvements in the annexed territory as of January 1 of each year after the annexation took place. The assessed value of such lands shall be multiplied by the mill rate established by the Town for that year to calculate that amount due to the Town under this formula. The reimbursement shall be made within 30 days of the first of January of each year beginning with the first year after the year of the relevant annexation.
- (d) Except as set forth in subsection 1.4 (e) and 2.5 below, the City's annexation powers in the Growth Area are limited to voluntary annexations only. "Voluntary annexations" means annexations defined by sec. 66.0217, Stats.
- (e) It is the parties assumption that the territory within the Growth Area may eventually be annexed to the City. However, the parties acknowledge that under current State annexation law it is probable that certain isolated parcels may remain within the Town even after various larger parcels have been annexed to the city. Therefore, the parties agree that it is necessary to establish a mechanism that will assure the City that all the territory within the Growth Area will eventually be annexed to the City to prevent township islands within the Growth Area. To this end, the parties agree to review the need for a boundary change pursuant to a cooperative plan under sec 66.0307, Stats. The first boundary adjustment review shall occur in January 2010. Subsequent boundary adjustment reviews shall occur every 5 years thereafter. The maximum number or acres eligible for each 5-year boundary adjustment review shall not exceed 100 acres. The purpose of the sec. 66.0301, Stats., cooperative plan is to modify the boundaries between the City and the Town so that the Growth Area will be subject to the City's jurisdiction. The procedures of sec. 66.023, Stats., shall apply to the cooperative planning process described in this subsection.

1.5 Zoning Enforcement. During the term of this Agreement the parties agree that the City will perform zoning enforcement services and functions and development review within all or a part of the Growth Area. In such instances, the Town shall delegate its zoning enforcement powers and responsibilities to the City. The above services will be performed at a cost that shall not exceed the then-current City fee schedule for comparable services performed within the City. The Town shall take all necessary actions authorized by law to cooperate with the City in order to accomplish the intended purposes of this section.

ARTICLE II DEVELOPMENT WITHIN CITY GROWTH AREA

2.1 General Provisions. The City and the Town agree to take action or to refrain from taking action, as set forth in this Article II with respect to the land located within the Growth Area. The following requirements of this Article II shall apply to all territory located within the Growth Area during the term of this Agreement and shall only be removed by annexation to the City.

2.2 New Development. As long as the land remains in the Town, new development in the Growth Area shall be limited to new or expanded agricultural operations, new or expanded commercial uses along Highway 23/33 east and new single-family residential uses or subdivisions.

2.3 Design Standards. All land divisions within the Growth Area shall be designed in compliance with the City's Official Map and City's and Town's Comprehensive Plan for the area by dedicating rights-of-way for expanded existing rights-of-way and for planned rights-of-way. Planned stormwater management facilities and environmental corridor areas shall also be respected in the design of these land divisions. All new development and land divisions shall also comply with the following layout and development standards:

- (a) New development proposals or subdivisions shall first be presented to the Town for review and approval. The proposal shall be accompanied by a layout sketch in compliance with City-density layout requirements.
- (b) No land may be developed and no land may be subdivided without provisions for easements for public utilities, public roads, driveway access location and design, and stormwater management in accordance with the City's Stormwater Ordinance.
- (c) Parcels divided within the townships must meet minimum size requirements according to the City's Zoning Ordinance, Chapter 17.

- (d) All land divisions require the prior approval of the Town.
- (e) New streets constructed within the Growth Area shall contain a minimum 66-foot right-of-way and shall be designed, located and constructed to City specifications if being annexed into the City. If the developer proposes a Town road the road shall be built to the Township standard.
- (f) All rezoning applications must be reviewed and approved by the Town.
- (g) All certified survey maps or platted subdivisions must be reviewed and approved by the Town.
- (h) The Town shall utilize planning and construction standards proposed by the City for new or reconstructed roads, public utilities and other public facilities in the Growth Area. The preceding statement does not apply to the maintenance or repair of Town roads existing as of January 1, 2007, but shall apply to subsequent roadway development and right-of-way dedication requests.
- (i) All land decisions must be approved by the Town and the Reedsburg Area Development Council before approval by the City.

2.4 Sewer and Water. All land divisions within the Growth Area shall be designed for subsequent further land divisions for conventional lots served by public water and sanitary sewer systems. The location of these potential future lot lines shall be clearly depicted on the face of plats and certified survey maps. The City may require public easements for utilities and stormwater management at the time of the initial land division or any subsequent land division. Parcels in the Town may hook up to sewer and water as outlined below.

- (a) If sewer and water are installed along a property outside of the City limits the property owner may hook up to the sewer and water and remain in the Town for a period of 10 years.
- (b) After a period of 10 years the City may elect to annex the parcels connected to either sewer or water as outlined in section 2.5 and section 1.4 (f)

2.5 Annexation by the City. Parcels within the Growth Area may be eligible for annexation by the City whenever the following criteria are satisfied; (a) the parcel is contiguous to the City and is hooked up to sewer or water or the sewer and water is installed along the frontage of the property; (b) the property must also have had the sewer and water available along the property or be hooked on to the sewer or water for a period

of 10 years; (c) there is pressure for development in the surrounding area and the parcels will become a Township island if not annexed into the City. Annexation procedures must follow section 1.4 (e).

2.6 Post-Annexation Land Divisions. After being annexed to the City additional land divisions may occur but must comply with the then-current City zoning requirements for the relevant area. The City reserves the right to levy special assessments on all existing developed and undeveloped properties to cover the cost of extending public utilities into the relevant area. The ability to further divide properties after annexation may be necessary in order to recover the cost associated with the public improvements to serve the annexed territory.

2.7 Extraterritorial Zoning Growth Area. The City may exercise extraterritorial zoning in the Growth Area pursuant to sec. 62.23(7a), Stats., as amended, if a court of competent jurisdiction determines that all or any portion of the design standards contained in section 2.3 are unenforceable. The Town shall grant the necessary approvals and make the necessary appointments in order that the City may exercise extraterritorial zoning powers in the Growth Area.

ARTICLE III COOPERATION

3.1 Advancement of Mutual Interests. The parties acknowledge that in order to effectively implement this Agreement it may be necessary to obtain the cooperation and approval of other governmental agencies, including, but not limited to, Sauk County, the Wisconsin Department of Natural Resources, the Wisconsin Department of Transportation or other State agencies. In all matters necessary to implement this Agreement the parties shall seek the cooperation and approval of all relevant agencies. To the extent practicable, the parties shall submit a single, joint request or other appropriate documents requesting the necessary approval.

3.2 Joint Requests. Examples of joint requests that may require the cooperation of the parties include, but are not limited to, the following:

- (a) Stormwater management, soil erosion control, wetlands and woodlands management;
- (b) Approvals for access to federal, state or county roadways; and
- (c) Approvals for a cooperative plan pursuant to sec. 66.0307, Stats.

ARTICLE IV DISPUTE RESOLUTION

4.1 Dispute Resolution. All disputes over the interpretation or application of this Agreement, or the enforcement thereof, shall be resolved according to the following dispute resolution procedures:

- (a) If the dispute cannot be resolved by the personnel directly involved, the parties will conduct the following mediation process before invoking binding arbitration:
 - (i) Each party will designate a representative with appropriate authority to be representative in the mediation of the dispute.
 - (ii) Either representative may request the assistance of a qualified mediator. If the parties cannot agree on the qualified mediator within five days of the request for a mediator, a qualified mediator will be appointed by the Chairperson of the Alternative Dispute Resolution Section of the State Bar of Wisconsin, or if the Chairperson fails to appoint a mediator, by the American Arbitration Association.
 - (iii) The mediation session shall take place within 30 days of the appointment of the representative representatives designated by the parties, or the designation of a mediator, whichever occurs last.
 - (iv) The mediator does not have authority to impose a settlement upon the parties but will attempt to assist the parties in reaching a satisfactory resolution of their dispute. The mediation sessions are private. The expenses of the mediator, if any, shall be borne equally by the parties.
- (b) If the dispute cannot be resolved by mediation the parties shall submit the dispute to binding arbitration by an arbitrator they will request a 5-person panel from the American Arbitration Association. Each party will have 2 strikes from the 5-person panel. The parties may agree to an alternative method for the selection of the single arbitrator.
- (c) The arbitrator shall not be bound by rules of evidence or the substantive laws of Wisconsin. The award of the arbitrator is final and binding and shall be enforceable at law. The parties will equally divide the fees of the arbitrator as well as the cost of a court reporter, if any.

ARTICLE V MISCELLANEOUS PROVISIONS

5.1 Term. The term of this agreement is three (3) years from and after the effective date hereof. The Agreement shall automatically renew for successive term(s) of three (3) years provided no party hereto notifies the other party of its intention not to renew at least ninety (90) days before expiration of the then current term. No breach or violation of any of the terms of this Agreement by either party shall operate to void or terminate or provide grounds for termination of the Agreement, it being the intent of the parties that any such breach or violation shall only be redressed, enjoined or otherwise remedied by the exercise of any lawful, contractual enforcement remedies that are available to be used by the aggrieved party to enforce the terms of the Agreement.

5.2 Severable Provisions. All of the agreements and terms are intertwined and interconnected and shall not be severed or modified. It is agreed that the terms and provisions are interdependent. If any material part of this Agreement is held by a court of competent jurisdiction to be invalid or ineffective the parties shall have 30 days in which to negotiate in good faith to remedy the unlawful or unenforceable provisions. If no agreement can be reached then the entire Agreement shall be null and void; provided, however, that the Town may retain any revenue sharing it has received prior to the termination of the Agreement.

5.3 Enforceability. The enforceability of this Agreement will not be affected by changes in the forms of City or Town government or changes in elected officials. The parties agree that this agreement shall be constructed so as to be binding on their respective agents, successors and employees. The parties shall not directly or indirectly challenge the provision or enforceability of this Agreement during its term.

5.4 No Waiver. The failure of any party to require strict performance with any provisions of this Agreement does not constitute a waiver of the provision or of any rights under this Agreement. Rights and obligations under this Agreement may only be waived or modified in writing. A writing waiving a right must be signed by the party waiving their right. Waiver of one right, or release of one obligation, does not constitute a waiver or release of any other right or obligation.

5.5 Performance Standard. This Agreement requires the parties to act or to refrain from action on a number of matters. The parties hereby acknowledge that this Agreement imposes a duty on them of good faith and fair dealing. Whenever consent or approval is required by a party, the consent or approval shall not be unreasonably withheld.

5.6 Notices. All notices required under this Agreement must be served, either personally or by certified mail, upon the other party's municipal clerk. Any action taken by a party in violation of the relevant notice requirement is voidable unless, under the facts of a particular case, the public interest outweighs strict enforcement of the notice requirement.

5.7 Complete Agreement. This Agreement is the complete agreement of the parties with respect to the matters covered by this Agreement and it shall supersede all prior agreements or municipal policies and ordinances to the contrary. No agreements, promises or representations made during or in connection with the negotiations for or approval of this Agreement shall be binding or effective unless they are included herein. This Agreement shall be filed with the Register of Deeds for Sauk County. This Agreement may be used in litigation and may be introduced into evidence by either party without objection in any action to enforce the terms of this Agreement.

5.8 Construction. This Agreement shall be liberally construed to accomplish its intended purposes. The parties acknowledge that the language contained in this Agreement is the product of numerous individuals representing various interests. Therefore, the ambiguities shall not be construed against the drafter of the document. This Agreement should be constructed to give a reasonable meaning to each of its provision and a construction that would render any of its provisions meaningless, inexplicable, or mere surplusage is to be avoided.

5.9 Amendments. This agreement represents the complete agreement of the parties and may be amended only by a writing signed by all parties.

MEMORANDUM

DATE: December 14, 2007

**TO: Town Of Winfield Clerk - Teresa Bass, Town of Excelsior Clerk–
Lynette Gurgel and Town of Reedsburg Clerk – Eugene Hackbarth**

FROM: Anna Meister, Clerk-Treasurer

RE: Agreements

Enclosed are two copies of the agreement that need to be signed. Please keep one copy for your records and return one copy back to City of Reedsburg after you get all the signatures.

Thank you for your cooperation.

By:

Attest:

Approved As To Form:

Town Attorney

Personally came before me this 17th day of January, 20018
the above-named Robert Cassity, Town Chairperson of the Town of
Excelsior and Lynette N. GURGEL, Town Clerk of the Town of
Excelsior, to me known to be the person and officers who have executed the foregoing
instrument and acknowledged the same on behalf of the Town.

Beverly J. Milke
Notary Public-State of Wisconsin
My Commission: Sauk County Clerk

IN WITNESS WHEREOF, the parties have caused the execution of this Agreement by their duly authorized officers as of the date first written above.

CITY OF REEDSBURG

By: _____

Mayor

Attest:

Anna L. Meister
City Clerk

James P. Sulach
City Attorney

Sate of Wisconsin)
) ss.
Sauk County)

Personally came before me this 13th day of December, 2007
the above-named John Deitrich, Mayor of the City of Reedsburg
and Anna L. Meister, City Clerk of the City of Reedsburg, to
me known to be the person and officers who have executed the foregoing instrument and
acknowledged the same on behalf of the City.

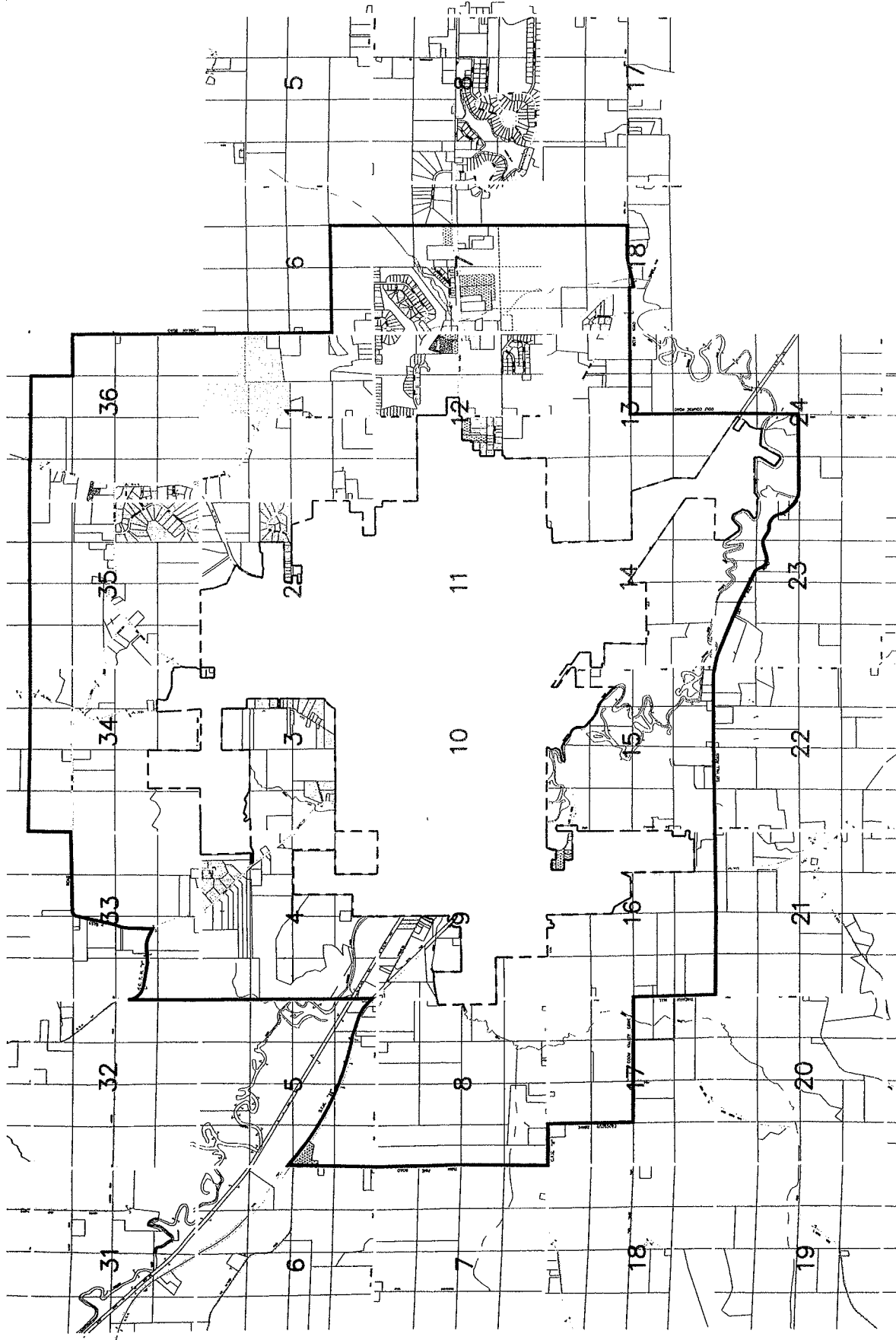
Anita M. Young
Notary Public-State of Wisconsin
My Commission: 2-21-10

EXHIBIT A

CITY OF REEDSBURG OFFICIAL EXTRATERRITORIAL ZONING MAP

LEGEND

- CITY LIMITS
- EXTRATERRITORIAL LIMITS
- SECTION LINE
- RESIDENTIAL 2
- RESIDENTIAL 3
- BUSINESS 2
- AGRICULTURAL
- INDUSTRIAL 1
- RESOURCE CONSERVANCY



CITY OF REEDSBURG OFFICIAL EXTRATERRITORIAL ZONING MAP

2007

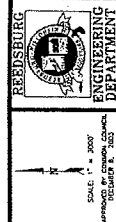
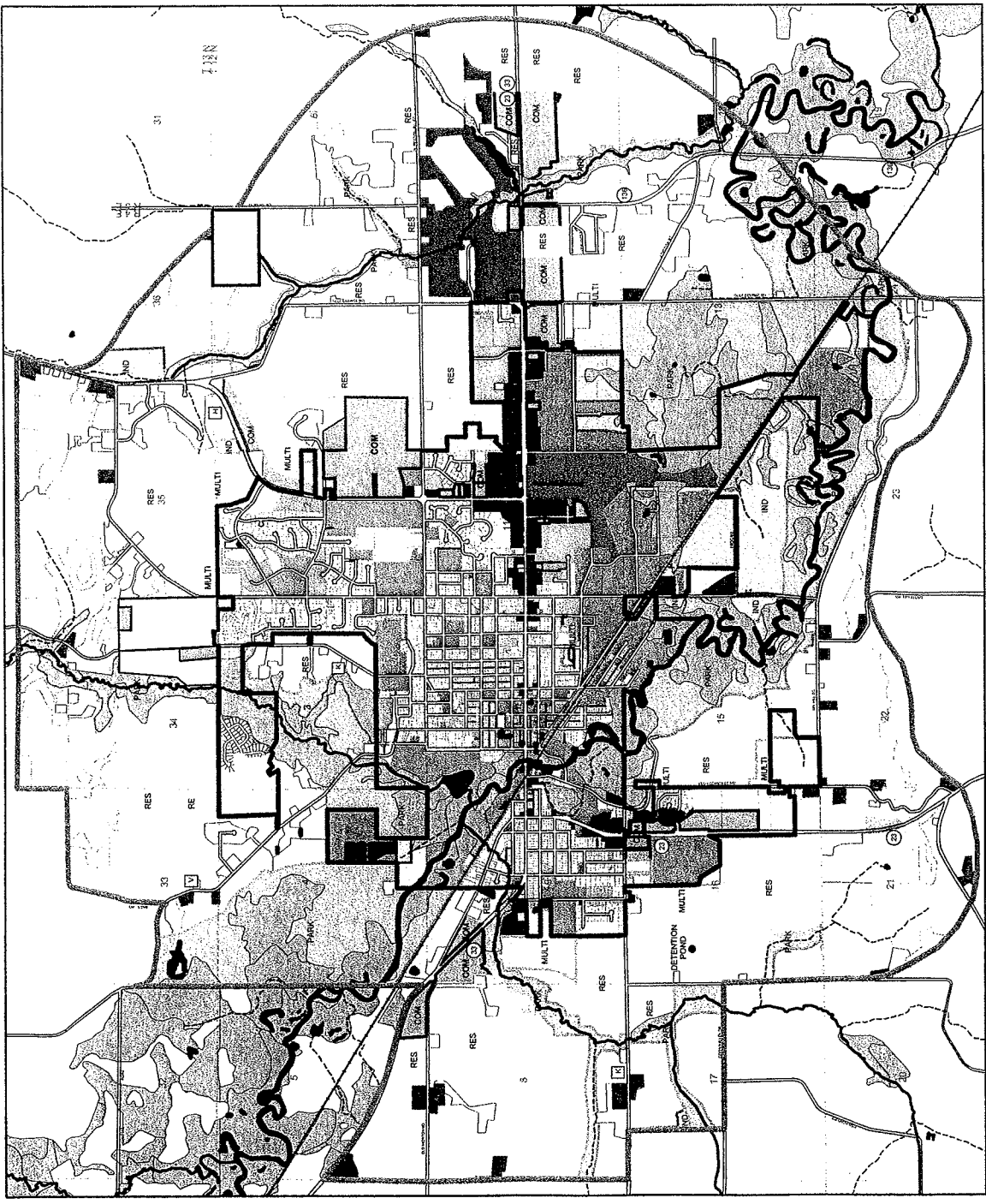
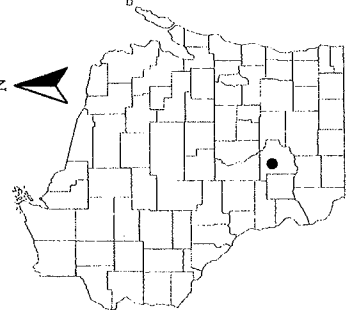
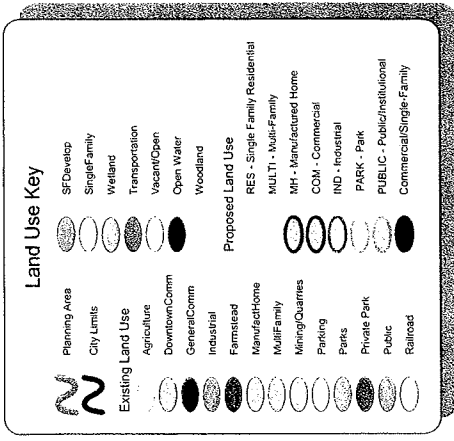


EXHIBIT B

**CITY OF REEDSBURG PLANNING AREA
PROPOSED LAND USE MAP**

MAP 11-1 CITY OF REEDSBURG PLANNING AREA SAUK COUNTY, WISCONSIN PROPOSED LAND USE



Date: 04-09-03
 Drafted: LSR
 File: d:\citygis\reedsburg...1117plu map
 Data: Data provided by the City of Reedsburg, and land use observed from aerial photography

UPDATED BY THE CITY OF REEDSBURG ENGINEERING DEPT MAY 2005

TOWN OF EXCELSIOR

Sauk County

100 E. Broadway
P.O. Box 57
Rock Springs, WI. 53966

Office 608-522-5115
Fax 608-522-5112
e-mail excelsior@jvl.net.com

January 9, 2008

City of Reedsburg
134 s. Locust Street
P.O. Box 490
Reedsburg, WI. 53959

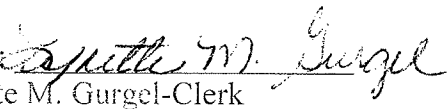
SUBJECT: Intermunicipal Cooperation Agreement

We hereby request the letter from Attorney Natalie Bussan (Town of Excelsior counsel) be attached to our copy of the signed Intermunicipal Cooperation Agreement between the City of Reedsburg and the Town of Excelsior.

Attorney Bussan's letter summarizes the towns understanding of articles of the agreement.

Sincerely:

Town Board, Town of Excelsior

Attest: 
Lynette M. Gurgel-Clerk

CC: File

CROSS, JENKS, MERCER AND MAFFEI

Attorneys since 1889

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January 3, 2008

Attorney James Gerlach
LaRowe, Gerlach & Roy, LLP
P.O. Box 231
Reedsburg, Wisconsin 53959

RE: Agreement

Dear Attorney Gerlach:

I am writing on behalf of my client, the Town of Excelsior, about the proposed agreement between the Town and the City of Reedsburg regarding annexations and boundaries. The Town sets forth in this letter the basis and understanding with which it will enter into the agreement with the City.

- Section 1.1 – This section means that the Extraterritorial Boundary Line ***will not be changed without Town approval***. If the Town does not agree with a proposed change to the extraterritorial boundary within the Township, the boundary will not be changed. In the Town's view, this is the most important element of the agreement between the parties.
- Section 1.4 – This section means that the City will only annex territory that is contiguous, or touching, the City's boundaries.
- Section 1.4(e) – This section means that there will not be any boundary adjustments without Town approval. If the Town does not approve of the boundary adjustment, no adjustment will be made.
- Section 2.4(b) – The City recognizes that it cannot "elect to annex" the parcels described in the section (connected to either sewer or water for a period of ten years) but that the landowner must annex (by some procedure set forth in the statutes) or the Town must agree to a boundary adjustment. If the landowner does not annex, and the Town does not agree to a boundary adjustment, the territory will remain in the Town.

Attorney James Gerlach
January 3, 2008
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The Town assures me that the City also has the same understanding of these provisions, and that therefore there has been a “meeting of the minds” on these issues. If there is not, please let me know immediately so that we can work to address any questions or concerns.

The Town appreciates and respects the open and cooperative process that has taken place between the parties as they have worked to produce this agreement. The Town recognizes that both parties have worked, and will continue to work, together for the good of all of the people impacted by this agreement.

Very truly yours,

CROSS, JENKS, MERCER and MAFFEI

Natalie T. Bussan

NTB/sc