

**INTERGOVERNMENTAL COOPERATION AGREEMENT
BETWEEN TOWN OF SOMERS AND VILLAGE OF SOMERS**

The Parties to this Intergovernmental Cooperation Agreement (hereinafter "Agreement") are the Town of Somers (hereinafter the "Town") and the Village of Somers (hereinafter the "Village").

RECITALS

WHEREAS, on or about April 24th, 2015, the Secretary of State for the State of Wisconsin issued an incorporation certificate, recognizing the Village as an independent Wisconsin municipality consisting of lands that were formerly located in the Town of Somers; and,

WHEREAS, the Town provided municipal services to the property owners and residents of the Town prior to the incorporation of said Village; and,

WHEREAS, in order to continue the adequate provision of said services on a cost-effective basis, the Town and Village wish to enter into an agreement whereby the Village will provide the majority or all municipal services for the benefit of the Town and Village, and the Town and Village will share the costs of said services in accordance with the proportions and other terms herein; and,

WHEREAS, it is the intent of the Town and Village of Somers to annex a portion of the "Remnant Town" into the village, which is identified in Exhibit D which may be amended from time to time as parcels are annexed into the Village; leaving only the remaining "B" Area (as identified in the boundary agreement between the Town of Somers and the City of Kenosha and incorporated herein by reference) in the Town of Somers in accord with the Kenosha/Somers boundary agreement; a depiction of the "B" Area of the Town of Somers is attached hereto as Exhibit B and incorporated herein by reference; and,

WHEREAS, Wisconsin statute §66.0235 requires the Town and Village to apportion assets and liabilities as a result of the recent incorporation of the Village and further apportionment will be required in accordance with the boundary adjustments detailed in this Agreement; and,

WHEREAS, the Town and Village wish to establish rules and procedures for said apportionment in the context of this Agreement; and;

WHEREAS, the Town and Village of Somers have entered into a binding contract with the City of Kenosha referred to in this agreement as the "Boundary Agreement with the City of Kenosha"; and

WHEREAS, Wisconsin statute §66.0301 allows municipalities to cooperate and contract in a binding fashion for the receipt and furnishing of services, for the joint exercise of powers or duties required or authorized by law, for the apportionment of expenses involved, for the adjustment of boundary lines, and for the exercises of other duties and rights as stated in §66.0301; and

WHEREAS, a joint public hearing was held on the proposed Agreement on October 20, 2015, and said public hearing was noticed in accordance with Wisconsin Statutes 66.0301(6) (c).

NOW THEREFORE, the Town and Village hereby enter into an Intergovernmental Cooperation Agreement pursuant to the authority granted to them by Wisconsin statutes §66.0301, on the following terms:

I. Term of Agreement.

The Term of this Agreement shall be 10 years from the effective date with mutual 10-year renewal until such time that the "B" Area is annexed to the City. The "Effective Date" shall be Midnight of December 31, 2015. If, for any reason, this Agreement does not or cannot become effective on Midnight of December 31, 2015 it shall become effective on the first date thereafter that this Agreement may become effective under Wisconsin law.

II. Agreement Procedure.

Prior to approving this Agreement by resolution, the Town and Village have held a joint public hearing in accordance with Wisconsin statute §66.0301(6) (c), and the Town and Village provided notice of a pending agreement and public hearing by publishing a class 1 notice and by giving notice to each property owner affected by certified mail at least 20 days before the public hearing, in accordance with Wisconsin statutes §66.0301(6) (c).

III. Apportionments of Assets and Liabilities.

Unless stated herein, the apportionment of assets and liabilities between the Town and Village shall be determined pursuant to Wisconsin statutes §66.0235.

- a. The Apportionment Board, consisting of representatives of the Town and Village, shall convene immediately to begin discussions regarding apportionment of assets between the Town and Village, in accordance with §66.0235.
- b. Notwithstanding the foregoing subparagraph (a), because the boundary line between the Town and Village will change (due to either to a successful annexation referendum or due to the operation of this Agreement intended to annex the "Remnant Town" boundaries) before a proper apportionment of assets and liabilities could be completed by the Apportionment Board, the Apportionment Board shall wait until the new boundary line is established before completing the apportionment process. The post-boundary-line- change areas of the Town and Village (intended to be boundaries between the Town of Somers "B" Area and the Village of Somers), respectively, shall be used to determine the average assessed values of the Town area and Village areas for the preceding five years. After either 1) a successful referendum occurs annexing the remainder of the remnant town into the Village; or 2) a boundary change ordinance is adopted, filed, and recorded by the Village/Town under §66.0301(6)(e) due to annexation through operation of this contract, the Apportionment Board shall finalize the apportionment process in accordance with §66.0235. It is the intent of this

agreement that the Town shall constitute solely the "B" Area as identified in the boundary agreement with the City of Kenosha.

- c. However, notwithstanding the foregoing subparagraph (b), if the boundary line change contemplated by this Agreement does not occur on or before December 31, 2015, the Apportionment Board shall complete its apportionment of assets and liabilities on an interim basis and then reapportion assets and liabilities at such time that the boundary line change referenced in this Agreement takes effect in accord with section (f) below.
- d. Before apportioning any other asset or liability, all monetary assets and liabilities presently owned or owed by the Town shall be apportioned in accordance with the formula contained at §66.0235(2)(b) based upon the average assessed valuation for the preceding five (5) years of the post-boundary-line change Town and Village areas, respectively. Because all assets permitted by law will be transferred by the Town to the Village, the goal of this paragraph is to ensure that assets and liabilities that must be divided by law are divided in the appropriate proportion before deciding the apportionment of any other tangible asset. Both parties understand that the majority of debt of the Town and Village is General Obligation (GO) Debt issued either through competitive bids, through the State Trust Fund, or by other means. While this debt may have been issued for a specific purpose, such as improvements to the Somers Utilities, both parties understand that when the debt was issued, it was not issued as debt tied to the specific purpose for which it was issued, but rather, was issued as GO debt backed by the full faith and credit of the Town prior to incorporation. In accord with the laws of apportionment relative to annexation, it is required that this debt be apportioned between the Village and Town regardless of the purpose for which it was issued unless otherwise permitted by law. Both parties understand that the apportionment of any debt issued through the State Trust Fund must be promptly certified to the Board of Commissioners of Public Lands in accord with 66.0235(10).
- e. Contemplating the successful annexation of the "Remnant Town" in accord with this agreement, and in consideration of the Village furnishing all services to the Town which were previously undertaken by the Town as described in IV below, the Town and Village agree that all assets of the Town that may be lawfully transferred to the Village, to include monetary assets, be hereby transferred, to include any Village/Town utility assets. This transfer of assets shall be done in accord with all laws, rules, regulations, and contracts. Assets and Liabilities that ultimately will be transferred to the City of Kenosha through operation of the boundary agreement with the City shall remain in the Town, and shall be transferred to the City in accord with the boundary agreement. The apportionment board shall review all aspects of this transfer, and ensure that an apportionment of assets occurs in accord with all laws and contracts. Any monetary funds that are restricted for a particular use shall retain said restrictions after apportionment. In accord with §66.0235(7) (a) the apportionment board shall determine assets and liabilities (to include public utilities as permitted by

§66.0235(4)) from the best information obtainable which may include book value as determined by the Village Auditor. Existing and future debt shall be transferred as described in section IV m. below.

- f. In the event that a successful annexation of the "Remnant Town" does not occur by midnight of December 31, 2015, it shall become necessary for the apportionment board to conduct an apportionment of assets and liabilities within both the "B" Area and the "Remnant Town". During and after the apportionment process, non-monetary assets such as vehicles, land, buildings and/or inventory, may, at the option of the Apportionment Board, remain Town property or may be transferred to the Village in accordance with the formulas contained in §66.0235; in the alternative, the Apportionment Board may decide that certain assets will be jointly owned by the Town and Village in a proportion to be determined by the Apportionment Board (for example, the Apportionment Board could decide that the present Town Hall will be jointly owned in a certain percentage by the Town and a certain percentage by the Village, respectively). If the Apportionment Board decides that any asset shall be jointly owned post-apportionment, the Apportionment Board shall also allocate responsibility for the maintenance, insurance, preservation, and other obligations related to said asset. Deeds or other instruments reflecting changes in ownership shall be executed and recorded as necessary. Following apportionment, and as determined by the apportionment board, the Town may lease any real estate, buildings, road maintenance equipment, snowplowing equipment, ditch and culvert equipment, signage, mowers, tractors, park equipment, inventory, chippers, vehicles, fire and rescue equipment including engines, rescue vehicles, brush trucks, tankers, ATVs, snowmobiles, and similar equipment, garbage and recycling equipment, and other similar non-monetary assets that it retains after apportionment, to the Village in exchange for payment of \$1.00 in annual consideration (the Village's compliance with the other terms and conditions contained in this Agreement will serve as additional consideration for said lease the receipt of which is acknowledged by Town). This apportionment process may be delayed until March 31, 2016 through mutual agreement of the Village President and the Town Chairman if it can be reasonably expected that the annexation of the "Remnant Town" will occur in 2016.

IV. Provision of Municipal Services.

- a. Public Works. All public works and related services that were previously provided by the Town for the benefit of the Town shall hereafter be provided by the Village for the benefit of the Town and Village. Said public works services shall include, but are not necessarily limited to, road maintenance, snowplowing, ditch and culvert work, wood chipping, signage, minor storm water management projects, mowing, park maintenance, equipment replacement, salting, utility maintenance, and other daily and special maintenance.
- b. Public Safety and Courts. The Village shall provide fire and rescue services to its own property owners and residents and to the Town's property owners and

residents. The Somers Municipal Court shall be organized and operated pursuant to Chapter 755, Wis. Statutes, the ordinances adopted by the Village of Somers, and the Town of Somers. The parties to this agreement do hereby agree to jointly operate the Somers Municipal Court and share in its cost and revenue in accord with IV f. of this agreement.

- c. Refuse and Recycling Services. The Town is presently a party to a contract with a private contracted service providing refuse and recycling services to property owners and residents. Said contract shall continue in force and effect for the duration of their term. The contract with the private vendor shall be transferred to the Village on the effective date of this intergovernmental agreement. In the event that such a transfer would void or otherwise impair the contract with the private contracted service, the Town does agree that the contract not be transferred, and shall be retained by the Town until its initial expiration. The Town and Village agree that the Village will provide for all costs and receive all benefits of this contract, and allocate the cost and benefits of the contract through the budget in accord with the terms of this agreement.
- d. Parks. The Village shall be responsible for the maintenance of all parks located in the Town and Village.
- e. Administrative Employees and Staff. At the outset of this Agreement, the Town and Village shall share all employees and administrative staff, including, but not limited to, an Administrator, accounting staff, and clerical staff. Said employees and administrative staff shall be terminated by the Town and shall become employees of the Village, according to the terms outlined in this Agreement. Although said employees and administrative staff shall be employees of the Village for payroll, record keeping, and other purposes, the Town will also proportionally contribute to the total cost of said employees and administrative staff according to the terms herein, and said employees and administrative staff shall serve at the pleasure of Village Board of Trustees. The Town and Village shall appoint a common Clerk and Treasurer and share the cost thereof in accordance with this agreement. This paragraph is not intended to change or alter the "at-will" or other status of any current employee of the Town when employed by the Village.
- f. Joint Town/Village Budget to be Adopted with Levy Apportioned based upon Assessed Value; Payment of Expenses Related to Shared Services and Services Provided by the Town or Village for the Benefit of Both; Intended Scope of Shared Services; Transition Tax Levy. It is the intent of this agreement that the scope of services provided to the former Town of Somers prior to annexation continue to be provided to both the Town and Village of Somers regardless of whether the specific service is or is not enumerated within this agreement. Unless otherwise agreed by the Parties, the Town and Village shall be jointly responsible for the cost of all shared services in the nature of public works, public safety, refuse and recycling, parks, administrative staff, and costs resulting from the provision of similar services, as referenced above. The Town and Village shall

each pay the proportion of total expenses equal to their respective share of the total assessed value of all real and personal property located in the Town and Village in the prior year. This value shall be based upon legally taxable value as determined by the Village assessor, TID out. A joint Village/Town budget shall be prepared in accord with State Law and shall determine the tax levy needed to support this budget. All costs and tax levy necessary for the provision of municipal service as stated in this agreement shall be included in the Village budget with the exception of the cost of Village Trustee and Town Supervisor wages and fringes (to include but not be limited to WRS and FICA) related to those wages which shall be budgeted separately by each unit of government. The cost of Trustee wages/fringes shall be budgeted separately and shall not be apportioned to the Town. The cost of Town Supervisors shall be budgeted separately by the Town as determined by the Town, but shall not be included in the Village budget. This levy shall be apportioned as defined in this section. The budget to be apportioned in this section shall be the budget adopted by the Village. The Budget approved by the Town shall include the cost to fund the Town's proportionate share of the Village budget. The 2016 transition budget tax base will be the former Town tax base established on January 1, 2015 and provided by the State Department of Revenue on August 15, 2015. For the first year of this agreement, the tax bills shall be issued using this tax base, as required by law. The levy budgeted for 2016 shall be apportioned in accord with this IGA based upon known Town/Village assessed values to be provided by the County Division of Land Information. Tax bills shall use the former tax base to levy and collect property taxes to fund the 2016 budget. All amounts collected shall be provided to the Village to fund the Town and Village for the 2016 budget year. In the event that the deferred compensation plan is transferred to the Village, the Village shall permit the Town Supervisors to participate in this plan, if permissible under the contract with Met Life, and if permitted by law. In the event that the boundary agreement portion of this IGA is subjected to a referendum and therefore cannot be implemented on December 31, the balance of this contract shall be implemented. The apportionment of the levy shall be based upon the property originally approved by the State Department of Administration to become a Village, plus any subsequent properties annexed to the Village by ordinance adopted by the Village Board. In this case, to the degree practicable, the mill rate of the Village shall equal the mill rate of the Town. For the 2016 budget, the apportionment ratio shall be as determined by the County Division of Land Information using the best information available as determined by the Division of Land Information.

- g. Assignment of Revenue. The Town does hereby agree to assign revenues to the Village to the degree allowed by State or Federal agencies. This will include but not be limited to: shared revenue; expenditure restraint payments, other municipal aids paid by DOR, highway aids, etc. These revenues shall be used to reduce the total tax levy in the combined Town/Village budget prior to allocation by assessed value as determined herein. It is hereby agreed that the Town and Village may mutually agree to not assign or otherwise transfer Town revenue to the Village in

the event that it is more financially beneficial to maintain the revenue with the Town.

- h. Contracts. All contracts currently held by the Town shall be transferred to the Village unless impairment to the contract would occur or unless the contract is for the exclusive benefit of the Town and funded by the Town.
- i. Minimal Record Keeping. Both parties agree that in order to minimize costs and effort, the minimum record keeping required by law will be performed by Village staff.
- j. Compliance with Boundary Agreement with City of Kenosha. Both parties agree that all necessary steps will be taken to ensure compliance with the boundary agreement with the City. This will include any procedural matters required to comply. It also includes any financial support necessary to ensure that a breach does not occur.
- k. Capital Expenditures. The cost of any new capital equipment or other asset necessary or useful for the provision of the municipal services contemplated herein shall be apportioned between the Town and Village in a proportion equal to their respective shares of the total assessed value of all real and personal property located in the Town and Village in the prior year.
- l. Capital Financing and Debt. In accord with 66.0301, all existing debt of the Town that was not already transferred to the Village on May 26, 2015 (the "Existing Debt") shall be transferred to the Village. It is the intention of the Village and the Town that each municipality share the cost of the Existing Debt in proportion to the assessed value of each municipality. In order to evidence the intention to share the cost of the Existing Debt, the Town shall issue a general obligation promissory note (the "Note") to the Village for its proportionate share of the Existing Debt based upon its share of assessed value (TID out). A form of the Town's resolution authorizing such Note and the Note is attached hereto as Exhibit A. The Town's share of the Existing Debt shall be subject to annual adjustment based upon the change in proportionate share of assessed value (TID out). The Village and the Town also intend that the Village will issue all future debt (the "New Debt") to fund municipal projects pursuant to this IGA, to include GO debt, leases, revenue bonds, conduit debt, or any other debt needed to fund the joint budget, the Utility, or any TIF district in the Village including refunding bonds. Therefore, in order to be able to adjust the principal amount of the Note to reflect either or both (1) any change in the proportionate share of assessed value and/or (2) additional obligations of the Town in connection with additional debt issued by the Village on behalf of the Town, the Note shall be issued for a two-year term. The payments due in the first year of the Note will reflect the Town's share of debt service on the Existing Debt and the New Debt in that same year and the payments due in the second year will be the remaining principal plus interest. It is the intention of

the Town and the Village that the Town will refund the Note each year and the principal amount will be adjusted as provided herein during the refunding.

GO debt service for general fund debt, or other debt intended to be funded by tax levy through operation of this agreement shall be apportioned between the Town and Village based upon assessed value in accord with apportionment and assessment standards prescribed by State law as amended from time to time. GO debt funded with revenue, such as debt issued to fund the utility or debt issued to fund a TIF district, is not intended to be funded by the levy of either the Town or Village, and shall not be funded by levy unless expected revenue is not sufficient to fund the debt, in which case the levy needed to fund the this debt service shall be apportioned to the Town and Village based upon assessed value. Both parties hereby agree that in the event that the Town is timely with its debt service payments to the Village, the Village shall not call the debt reflected in Exhibit A unless otherwise mutually agreed. This section shall not apply to Revenue Bonds issued by the Village or Town. The Village shall deduct from debt service on its levy limit form submitted to DOR tax levy needed to fund the debt service reflected in the Note issued by the Town.

The Town and Village agree that they are mutually subject to the terms and conditions of a boundary agreement with the City of Kenosha which is hereby attached and incorporated by reference. Under this boundary agreement, the City may attach certain properties from the "B" area. In accord with the boundary agreement, debt attributed in whole or in part to any property attached by the City shall revert to the Village and Town and will not be apportioned to the City. Subsequent to any City boundary agreement attachment, the Village and Town of Somers hereby agree to apportion any debt, and payments for any debt, using the combined remaining assessed value of the Village and Town. However, this change shall not occur until the budget year subsequent to the attachment, and any payments for debt or recording of proportionate share of debt, shall be made in accord with the adopted budget for that year. Parties to this agreement agree that the Town does not relinquish its lawful ability to issue debt solely for the purpose of funding expenditures within the Town, however, it is understood that in the event that such debt is issued, the Town shall be solely liable for any such debt.

V. Employees.

All employees of the Town shall be terminated by the Town and rehired by the Village on terms identical to the terms of their current employment with the Town. Any Collective Bargaining Agreement shall be assigned from the Town to the Village as of the Effective Date. At-will employees shall remain at-will employees and employees under contract or other similar arrangement shall remain a party to said contract or other arrangement except that the Town's rights and obligations under said contract shall become the Village's rights and obligations. The Town and Village shall cooperate with each other and with any state agency to the extent necessary to effectuate this provision. Said transfer of

employees from the Town to the Village shall be done in a seamless fashion so as not to disrupt the provision of payroll, benefits, or other similar matters. This transfer of employees from the Town to the Village shall be effective on midnight, 12/31/2015.

VI. Adjustment to Boundary Line between Town and Village.

- a. Prior to the Effective Date, the boundary line between the Town and Village is/was as indicated in Exhibit E.
- b. In the event annexation of the "Remnant Town" does not occur through the operation of this contract or through a successful referendum to transfer the remainder of the "Remnant Town" to the Village by the Effective Date of this agreement, the Town and Village will alter the boundary line between the Town and Village so that the boundary line between the Town and Village becomes the lines between the Town and Village reflected in Exhibit F (only if annexation does not occur).
- c. The lands transferred from the Town to the Village pursuant to the boundary line change include all lands available to be transferred from the Town to the Village under Wisconsin law described in the attachment hereto as Exhibit D.
- d. The Village Board will adopt and file an ordinance to trigger the boundary line change in accordance with Wisconsin statute §66.0301(6). Said ordinance shall be filed and recorded immediately (or as soon thereafter as reasonably possible) in accordance with Wisconsin statute §66.0301(6), to effectuate the boundary line alternation between the Town and Village.

Notwithstanding any provision within this agreement, this section with regard to boundary changes shall not be subject to amendment either through dispute resolution or upon termination of this contract. The boundary change hereby agreed to shall be implemented on the effective date of this contract as stated herein, and shall be permanent to the degree permitted by law. The Boundary Agreement shall only be amended if otherwise mutually agreed to by both parties to this contract.

VII. Planning, Finance, Budgeting, and Advisory Committee.

Town/Village Advisory Committee In the event that the "Remnant Town" is successfully annexed to the Village of Somers, a joint Town/Village Advisory Committee shall be appointed to review and discuss all matters of mutual interest, to include planning, service delivery, fiscal matters, capital expenditures, and any other item of mutual concern. The Town/Village Joint Advisory Committee shall consist of seven members to include the Village President, the Town Chair, two appointees from the Village President to be confirmed by the Village Board to include one at-large citizen member and one Village Trustee, and two appointees from the Town Chair to be confirmed by the Town Board to include one at-large citizen member and one Town Supervisor. The Town/Village Administrator shall

serve as the 7th member. The Committee shall elect a Chairman and shall conduct business in accord with Roberts Rules of Order. The term of appointment for each Party's delegation shall be coterminous with their term(s) of office. The Village Board and Town Board members' terms shall follow their respective board terms. Following initial appointments, regular appointments shall be made in April of each year, as needed. The term of the at-large members shall be coterminous with the term of the appointing Chair/President.

Joint Work Session Meetings In order to be cost effective and utilize the staff and resources of the Village in an efficient manner, the Village and Town shall conduct work sessions jointly. In the event that matters that are not of mutual concern to either the Town or Village are to be addressed, it shall be permissible for the Town or Village to hold separate work Sessions to review and discuss the items that are not of mutual concern. These work sessions shall occur no less than quarterly. Roberts Rules of Order shall be used to conduct the meeting. In accord with the current practice of the Village and Town, no formal business, including approval of resolutions, ordinances, or other approvals shall be placed on the agenda of the Joint Work Session. Any change to the nature of the conduct of work sessions shall be by mutual consent of both governments.

Process if Annexation Does Not Occur In the event that the annexation of the "Remnant Town" (leaving only the "B" area as the Town) does not occur in accord with terms of this agreement, the Town and Village shall negotiate in good faith an amendment to this contract that shall define all necessary joint process and procedure required to implement this agreement. In the event that an agreement cannot be reached, the dispute resolution process shall be used to form the agreement. The deadline to complete this amendment shall be March 31, 2016.

VIII. Modification and Dispute Resolution.

This Agreement may be modified by the mutual agreement of the Town and Village. In the event of a breach of this agreement, each Party has a responsibility to mitigate damages. All claims, disputes, or other matters arising out of or related to this agreement or breach thereof shall be subject to mediation as a condition precedent to the institution of binding arbitration. Prior to making a written demand for mediation, the Party making such a demand shall submit a statement of the claim, dispute, or other matter in question. In the event mediation does not provide resolution, binding arbitration shall occur, with both parties waiving settlement in court. An exception to binding arbitration shall be permitted in the event that the Town cannot perform under the terms of this contract due to a failure by the Town to receive the necessary budget approval by the Town electors in the Town Budget Meeting (per 60.10). In this event, relief in the Court may be obtained by either party to this contract. The Town and Village agree that payments will continue to be made, and services will continue to be provided, regardless of the nature of the dispute, with any settlement to occur only as provided by this dispute resolution process. Failure or refusal of a party to

attend or respond to mediation may be deemed a waiver by such party to any right to recover any litigation expenses or attorney's fees awarded in any arbitration. It is intended that the written notice provided to the other party shall waive the respective statutory right to any further notice pursuant to Section 893.80(1) (a), Wis. Stats., to the extent that such subsection is applicable.

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

IX. Construction of Agreement.

Any court of competent jurisdiction that is interpreting and reviewing this Agreement, shall review it in the context that most favors enforceability. If a reviewing court interprets the statutes so as to require separate agreements for sharing of services under §66.0301(1-5) and boundary agreements under §66.0301(6), then a reviewing court shall read this Agreement as two separate Agreements, with one agreement addressing the issues addressed in §66.0301(1-5) and the other agreement addressing the issues presented in §66.0301(6). If, however, a reviewing court believes that this Agreement is most enforceable if interpreted as a single agreement, then it should interpret this Agreement as a single agreement.

The below-signed authorized individuals certify that this Intergovernmental Cooperation Agreement has been duly approved by their respective governing bodies in accordance with state and local laws, rules and regulations, and that each have caused their duly authorized officers to execute this Agreement on the dates written before their respective signatures.

Good Faith. The parties to this Agreement hereby acknowledge that this Agreement imposes upon them a duty of good faith and fair dealing.

Severability. The provisions of this Agreement, and the individual parts of each such provision, shall be severable. In the event that any provision of this Agreement, or any part thereof, is held either by arbitration or by a court of competent jurisdiction to be invalid or ineffective, the balance of this Agreement shall survive. In such event, the parties shall promptly meet to discuss how they might satisfy the intent of this Agreement by alternative means. The parties shall use their best efforts to find, design and implement a means of successfully accomplishing the intent of this Agreement. If necessary, the parties shall negotiate appropriate amendments of this Agreement to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Agreement. In the event the parties are not able to reach an agreement in such situation, any party may submit such dispute to mediation and ultimately to arbitration, if necessary, as described above.

Invalid or Ineffective Ordinance or Decision. In the event that any ordinance which either party is required to enact and/or enforce by this Agreement is adjudged by any court of competent jurisdiction to be invalid or ineffective, in whole or in part, the parties shall promptly meet to discuss how they might satisfy the intent of this Agreement by alternative means, including, without limitation, enacting another ordinance designed to satisfy the court's objections. If necessary, the parties shall negotiate appropriate amendments of this Agreement to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Agreement.

Successors and Assigns. This Agreement shall benefit and be binding upon the successors and assigns of both the Village and the Town.

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

Conflicting Resolutions or Policy. All prior resolutions, rules or other actions of the Town or Village Board, or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. This clause shall apply but not be limited to Village resolution 2015-009.

Minor Changes. Clerical changes that do not impact the spirit or intent of this agreement may be made by the Administration without approval of the Village or Town Board.

Dated at Somers, Wisconsin, this ____ day of _____, 2015

TOWN OF SOMERS

By: _____
Benjamin Harbach, Chairperson

By: _____
Timothy Kitzman, Clerk/Treasurer

Dated at Somers, Wisconsin, this _____ day of _____, 2015

VILLAGE OF SOMERS

By: _____
George Stoner, President

By: _____
Timothy Kitzman, Clerk/Treasurer

EXHIBIT A

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE ISSUANCE OF
A \$ _____ GENERAL OBLIGATION PROMISSORY NOTE
TO THE VILLAGE OF SOMERS TO PAY THE TOWN'S SHARE OF THE COST OF
OBLIGATIONS INCURRED BY THE TOWN OR ON BEHALF OF THE TOWN

WHEREAS, the Town of Somers, Kenosha County, Wisconsin (the "Town") has entered into an Intergovernmental Cooperation Agreement Between the Town and the Village of Somers (the "Village") (the "Agreement") for the purpose of jointly providing municipal services to both the Town and Village; and

WHEREAS, pursuant to the Agreement, the Town transferred all of its existing debt to the Village (the "Existing Obligations") with the understanding that the Town will issue a general obligation promissory note to the Village to evidence the Town's obligation to pay a portion of the debt service such obligations; and

WHEREAS, under the Agreement, it is the intent of the Village and the Town that each municipality pays both (1) the cost of the debt service of the Existing Obligations and (2) the cost of debt service on any new obligations issued by the Village for projects benefiting both the Village and the Town (the "New Obligations") in proportion to the assessed value of each municipality; and

WHEREAS, the Town Board hereby finds and determines that it is necessary, desirable and in the best interest of the Town to issue a general obligation promissory note (the "Note") to the Village to evidence the Town's obligation to pay the Village the Town's portion of the cost of the Existing Obligations; and

WHEREAS, the Town Board hereby finds and determines that it is necessary, desirable and in the best interest of the Town to issue the Note with the expectation that the Town will refund the Note in the next calendar year so that the principal amount of the Note can be adjusted to reflect any changes in either or both of the following: (1) the proportion of assessed value of property in the Town and the Village and/or (2) the Town's portion of any additional debt incurred by the Village on behalf of the Town; and

WHEREAS, towns are authorized by the provisions of Section 67.12(12), Wisconsin Statutes, to borrow money and issue general obligation promissory notes for such public purposes; and

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town that:

Section 1. Authorization of the Note. For the purpose of paying the Town's portion of the Existing Obligations [and New Obligations], the Town shall issue to the Village, pursuant to Section 67.12(12), Wisconsin Statutes, the Note in the principal amount of _____ DOLLARS (\$ _____) (the "Note"). The Chairperson and Town Clerk are hereby

authorized, empowered and directed to make, execute and issue the Note to the Village for, on behalf of and in the name of the Town.

Section 2. Terms of the Note. The Note shall be designated "General Obligation Promissory Note"; shall be dated its date of issuance; shall be in the denomination of \$0.01 or multiples thereof; shall be numbered R-1; and shall be payable in installments due on the dates and in the amounts set forth on the schedule attached hereto as Attachment A and incorporated herein by this reference (the "Schedule").

Section 3. Prepayment Provisions. The Note is subject to prepayment in full or in part at any time at the price of par plus accrued interest.

Section 4. Form of the Note. The Note shall be issued in registered form and shall be executed and delivered in substantially the form attached hereto as Attachment B and incorporated herein by this reference.

Section 5. Tax Provisions.

(A) Direct Annual Irrepealable Tax Levy. For the purpose of paying the principal of and interest on the Note as the same becomes due, the full faith, credit and resources of the Town are hereby irrevocably pledged, and there is hereby levied upon all of the taxable property of the Town a direct annual irrepealable tax in the years 2015 and 2016 for the payments due in the years 2016 and 2017 in the amounts set forth on the Schedule.

(B) Tax Collection. So long as any part of the principal of or interest on the Note remains unpaid, the Town shall be and continue without power to repeal such levy or obstruct the collection of said tax until all such payments have been made or provided for. After the issuance of the Note, said tax shall be, from year to year, carried onto the tax roll of the Town and collected in addition to all other taxes and in the same manner and at the same time as other taxes of the Town for said years are collected, except that the amount of tax carried onto the tax roll may be reduced in any year by the amount of any surplus money in the Debt Service Fund Account created below.

(C) Additional Funds. If at any time there shall be on hand insufficient funds from the aforesaid tax levy to meet principal and/or interest payments on said Note when due, the requisite amounts shall be paid from other funds of the Town then available, which sums shall be replaced upon the collection of the taxes herein levied.

Section 6. Segregated Debt Service Fund and Account.

(A) Creation and Deposits. There be and there hereby is established in the treasury of the Town, if one has not already been created, a debt service fund, separate and distinct from every other fund, which shall be maintained in accordance with generally accepted accounting principles. Debt service or sinking funds established for obligations previously issued by the Town may be considered as separate and distinct accounts within the debt service fund.

Within the debt service fund, there hereby is established a separate and distinct account designated as the "Debt Service Fund Account for General Obligation Promissory Note to Village of Somers" (the "Debt Service Fund Account") and such account shall be maintained until the indebtedness evidenced by the Note is fully paid or otherwise extinguished. The Town Treasurer shall deposit in such Debt Service Fund Account (i) all money raised by the taxes herein levied and any amounts appropriated for the specific purpose of meeting principal of and interest on the Note when due; (ii) such other sums as may be necessary at any time to pay principal of and interest on the Note when due; (iii) surplus monies in the Borrowed Money Fund as specified below; and (iv) such further deposits as may be required by Section 67.11, Wisconsin Statutes.

(B) Use and Investment. No money shall be withdrawn from the Debt Service Fund Account and appropriated for any purpose other than the payment of principal of and interest on the Note until all such principal and interest has been paid in full and the Note canceled; provided (i) the funds to provide for each payment of principal of and interest on the Note prior to the scheduled receipt of taxes from the next succeeding tax collection may be invested in direct obligations of the United States of America maturing in time to make such payments when they are due or in other investments permitted by law; and (ii) any funds over and above the amount of such principal and interest payments on the Note may be used to reduce the next succeeding tax levy, or may, at the option of the Town, be invested by purchasing the Note as permitted by and subject to Section 67.11(2)(a), Wisconsin Statutes, or in permitted municipal investments under the pertinent provisions of the Wisconsin Statutes ("Permitted Investments"), which investments shall continue to be a part of the Debt Service Fund Account.

(C) Remaining Monies. When the Note has been paid in full and canceled, and all Permitted Investments disposed of, any money remaining in the Debt Service Fund Account shall be transferred and deposited in the general fund of the Town, unless the Town Board directs otherwise.

Section 7. Execution of the Notes; Closing. The Note shall be issued in printed form, executed on behalf of the Town by the manual or facsimile signatures of the Chairperson and Town Clerk, sealed with its official or corporate seal, if any, or a facsimile thereof, and delivered to the City (the "Closing"). The facsimile signature of either of the officers executing the Note may be imprinted on the Note in lieu of the manual signature of the officer but at least one of the signatures appearing on the Note shall be a manual signature. In the event that either of the officers whose signatures appear on the Note shall cease to be such officers before the Closing, such signatures shall, nevertheless, be valid and sufficient for all purposes to the same extent as if they had remained in office until the Closing. The aforesaid officers are hereby authorized and directed to do all acts and execute and deliver the Note and all such documents, certificates and acknowledgements as may be necessary and convenient to effectuate the Closing.

Section 8. Payment of the Note. The principal of and interest on the Note shall be paid in lawful money of the United States of America by the Town Clerk or Town Treasurer.

Section 9. Village to be Owner of Note. The Note shall be registered in the name of the Village, and the Village shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on the Note shall be made only to the

Village, as registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

Section 10. Adjustment and Refunding of Note.

(A) The principal amount of the Note represents the Town's share of the cost of the Existing Obligations [and New Obligations as the case may be] on the date of issuance of the Note. Such cost share are subject to change according to the formula and provisions specified in the Agreement. If the cost shares of the Town and the Village change pursuant to the terms of the Agreement, the Note may be replaced with a new promissory note representing the Town's adjusted cost share.

(B) It is intended that the Town will refund the Note prior to its final maturity date and issue a new promissory note or refunding bond to the Village to cover the Town's share of the debt service due on the Existing Obligations and New Obligations, if any. If, however, such a refunding note or bond is not issued to the Village prior to final maturity date of the Note, the full amount of principal scheduled to be payable by the Town on December 31, 2017, shall be paid to the Village on that date in accordance with the terms of the Note, as modified pursuant to the Agreement and Section 10(A) of this Resolution.

Section 11. Record Book. The Town Clerk shall provide and keep the transcript of proceedings as a separate record book (the "Record Book") and shall record a full and correct statement of every step or proceeding had or taken in the course of authorizing and issuing the Note in the Record Book.

Section 12. Conflicting Resolutions; Severability; Effective Date. All prior resolutions, rules or other actions of the Town Board or any parts thereof in conflict with the provisions hereof shall be, and the same are, hereby rescinded insofar as the same may so conflict. In the event that any one or more provisions hereof shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provisions hereof. The foregoing shall take effect immediately upon adoption and approval in the manner provided by law.

Adopted, approved and recorded _____, 2015.

Chairperson

ATTEST:

Town Clerk

Attachment A

Debt Service Schedule and Irrepealable Tax Levies

<u>Payment Date*</u>	<u>Principal</u>	<u>Interest</u>	<u>Total**</u>
3/1/16	\$	\$	\$
9/1/16			
3/1/17			
9/1/17			

* Payments from the Town to the Village of the amounts due on each payment date are due five (5) business days in advance of the payment date.

NOTE: Provisions regarding adjustment and refunding of the Note are set forth in Section 10 of the Resolution.

Attachment B

(Form of Note)

NUMBER	UNITED STATES OF AMERICA STATE OF WISCONSIN KENOSHA COUNTY TOWN OF SOMERS	DOLLARS
R-1	GENERAL OBLIGATION PROMISSORY NOTE	\$ _____

REGISTERED OWNER: VILLAGE OF SOMERS, WISCONSIN

PRINCIPAL AMOUNT: _____ DOLLARS
(\$ _____)

FOR VALUE RECEIVED, the Town of Somers, Kenosha County, Wisconsin (the "Town"), hereby acknowledges itself to owe and promises to pay to the Village of Somers, Wisconsin (the "Village") as registered owner of this Note, the principal amount identified above together with interest thereon, which shall be payable on the dates and in the amounts set forth on Schedule A attached hereto.

Both the principal of and interest on this Note are payable in lawful money of the United States by the Town Clerk or Town Treasurer.

For the prompt payment of this Note together with interest hereon as aforesaid and for the levy of taxes sufficient for that purpose, the full faith, credit and resources of the Town are hereby irrevocably pledged.

This Note is issued by the Town pursuant to the provisions of Section 67.12(12), Wisconsin Statutes, for the purpose of paying the Town's share of the cost of obligations of the Town under an Intergovernmental Cooperation Agreement Between the Town and the Village of Somers (the "Agreement"), all as authorized by a resolution of the Town Board duly adopted by said governing body. Said resolution is recorded in the official minutes of the Town Board for said date.

The Note is subject to prepayment at any time at the price of par plus accrued interest.

Subject to the provisions of Section 10(A) of the Resolution, this Note may be replaced with a new promissory note if the Town's cost share under the Agreement is adjusted in accordance with the terms of the Agreement.

The Notes are issued in registered form in the denomination of \$0.01 or multiples thereof.

It is hereby certified and recited that all conditions, things and acts required by law to exist or to be done prior to and in connection with the issuance of this Note have been done, have existed and have been performed in due form and time; that the aggregate indebtedness of the Town, including this Note and others issued simultaneously herewith, does not exceed any limitation imposed by law or the Constitution of the State of Wisconsin; and that a direct annual irrepealable tax has been levied sufficient to pay this Note, together with the interest thereon, when and as payable.

IN WITNESS WHEREOF, the Town of Somers, Kenosha County, Wisconsin, by its governing body, has caused this Note to be executed for it and in its name by the manual or facsimile signatures of its duly qualified Chairperson and Town Clerk; and to be sealed with its official or corporate seal, if any, all as of _____.

TOWN OF SOMERS,
KENOSHA COUNTY, WISCONSIN

By _____
Chairperson

By _____
Town Clerk

SCHEDULE A

Debt Service Schedule

<u>Payment Date*</u>	<u>Principal</u>	<u>Interest</u>	<u>Total**</u>
3/1/16	\$	\$	\$
9/1/16			
3/1/17			
9/1/17			

* Payments from the Town to the Village of the amounts due on each payment date are due five (5) business days in advance of the payment date.

NOTE: Provisions regarding adjustment and refunding of the Note are set forth in Section 10 of the Resolution.

EXHIBIT B

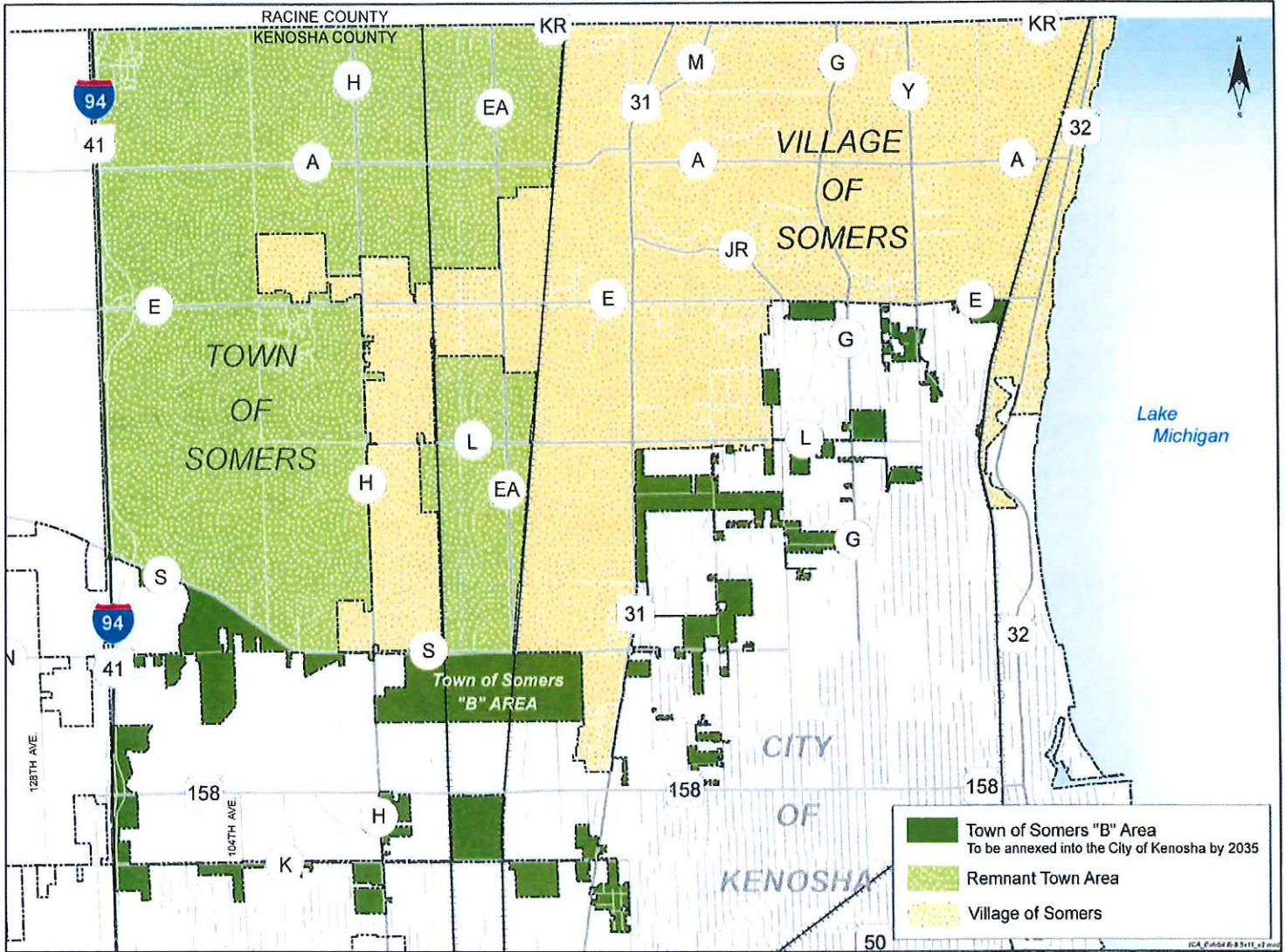


EXHIBIT D

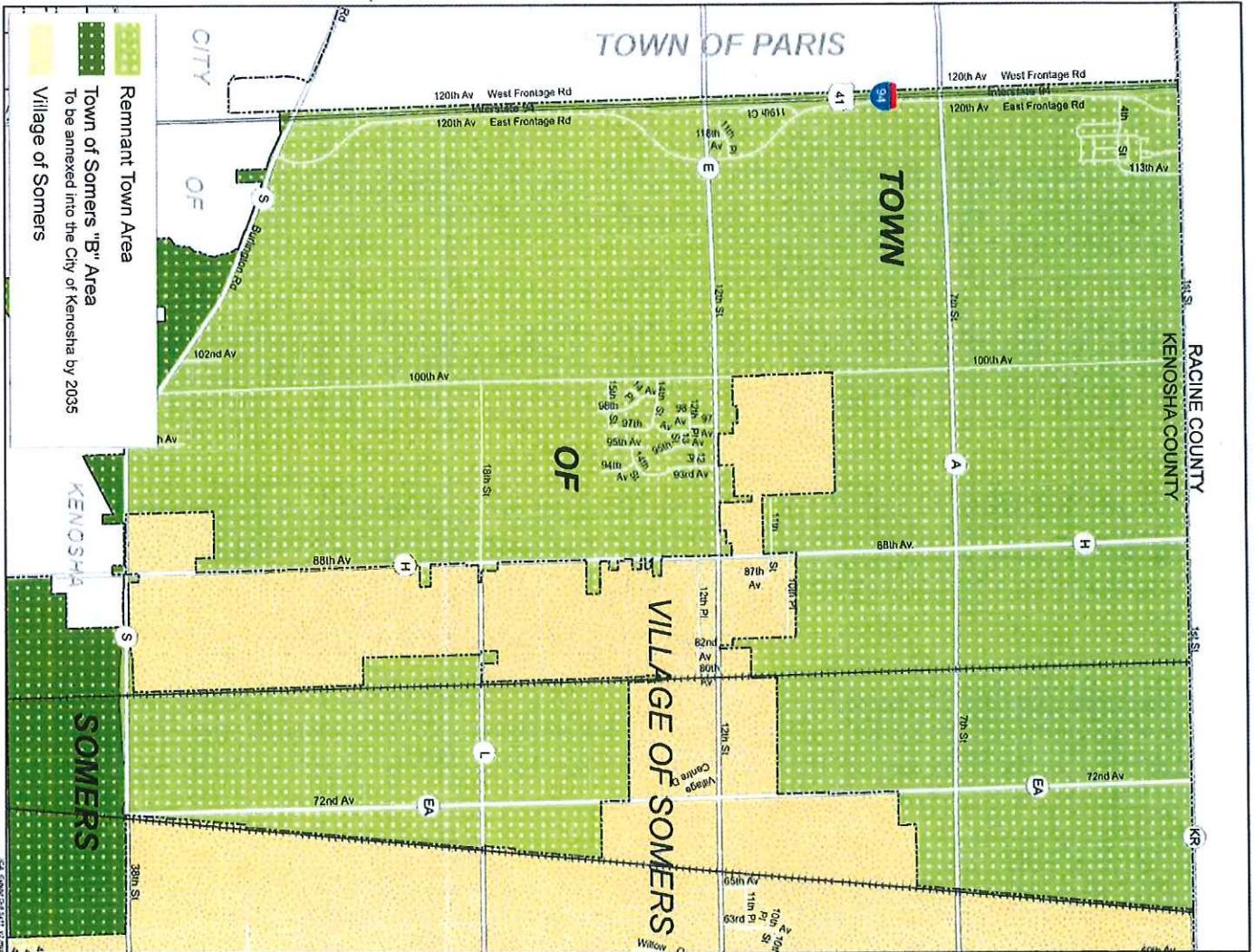


EXHIBIT E

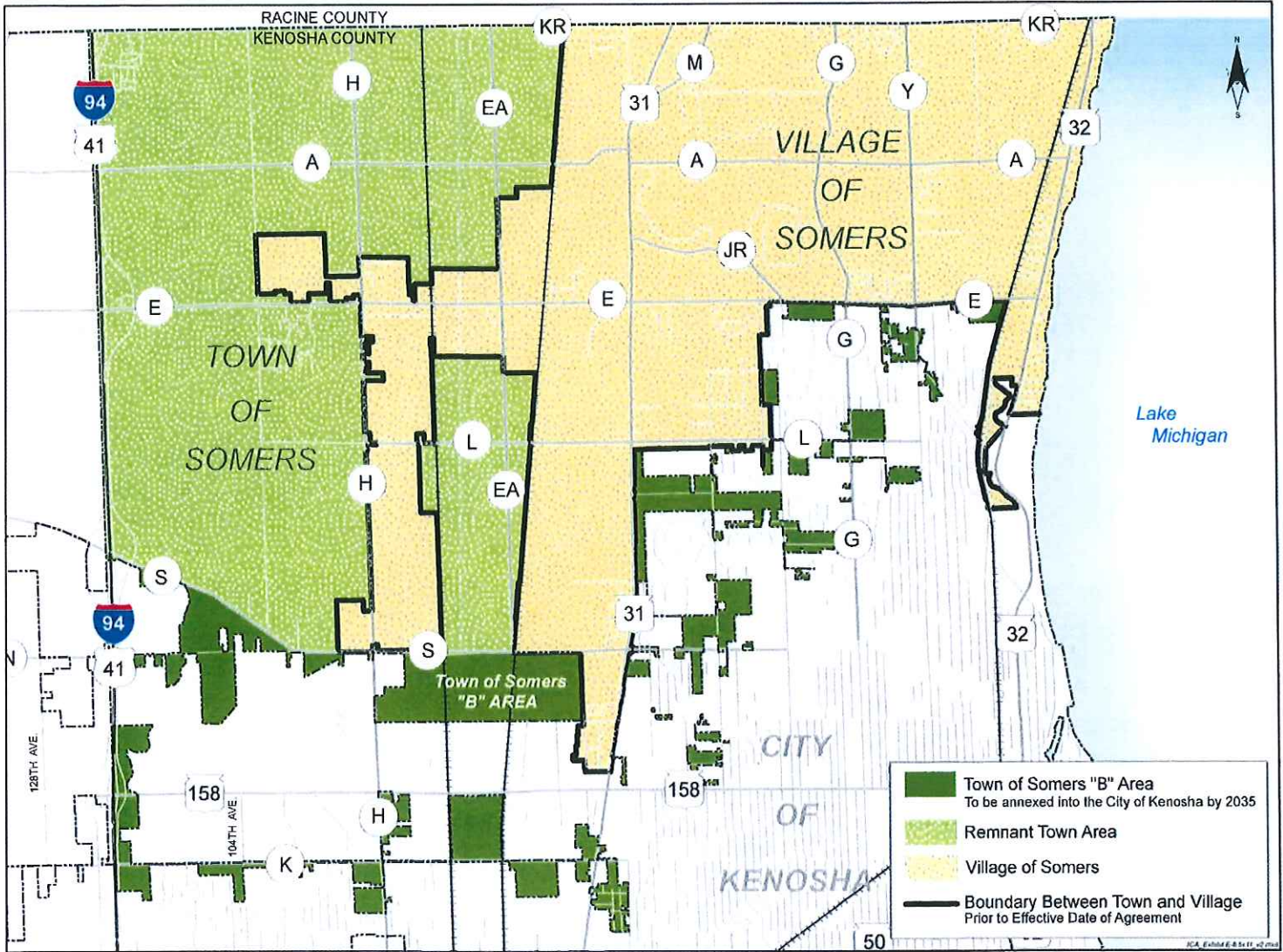


EXHIBIT F

