

**TOWN OF BURKE, VILLAGE OF DeFOREST, CITY OF SUN PRAIRIE AND
CITY OF MADISON COOPERATIVE PLAN**

List of Exhibits

- Exhibit 1 Current Municipal Boundaries of Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison, including the Burke Territory Subject to the Cooperative Plan
- Exhibit 2 Description of Final Boundary Line Between Madison and DeForest, Madison and Town of Windsor, and Madison and Sun Prairie.
- Exhibit 3 Map showing Final Boundary Line, Boundary Adjustment Area-DeForest (“BAA-D”), Boundary Adjustment Area-Sun Prairie (“BAA-S”) and Boundary Adjustment Area-Madison (“BAA-M”)
- Exhibit 4 Map of “Protected Areas” of the Town Not Subject to Early Attachment
- Exhibit 5 Hoepker Road Annexation Area Subject to Sec. 3.3 Building Permit Limits
- Exhibit 6 DXWSA Area within BAA-M where Sanitary Sewer and Water Service shall be provided by Deforest
- Exhibit 7 Current Land Use Map For the Cooperative Plan Area
- Exhibit 8 DeForest/ Token Creek Sanitary District Service Agreement
- Exhibit 9 Terms of Madison’s Acquisition of Burke Utility District #1
- Exhibit 10 DeForest Ordinance 2005-12 (water service impact fee)
- Exhibit 11 Modification to the Madison-Sun Prairie Community Separation Agreements
- Exhibit 12 Map of Madison-Sun Prairie Community Separation Area
- Exhibit 13 Map of Burke/Sun Prairie Revenue Sharing Area

EXHIBIT 1

**Map of Current Municipal Boundaries
of the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison, including all
Burke territory subject to this Cooperative Plan.**

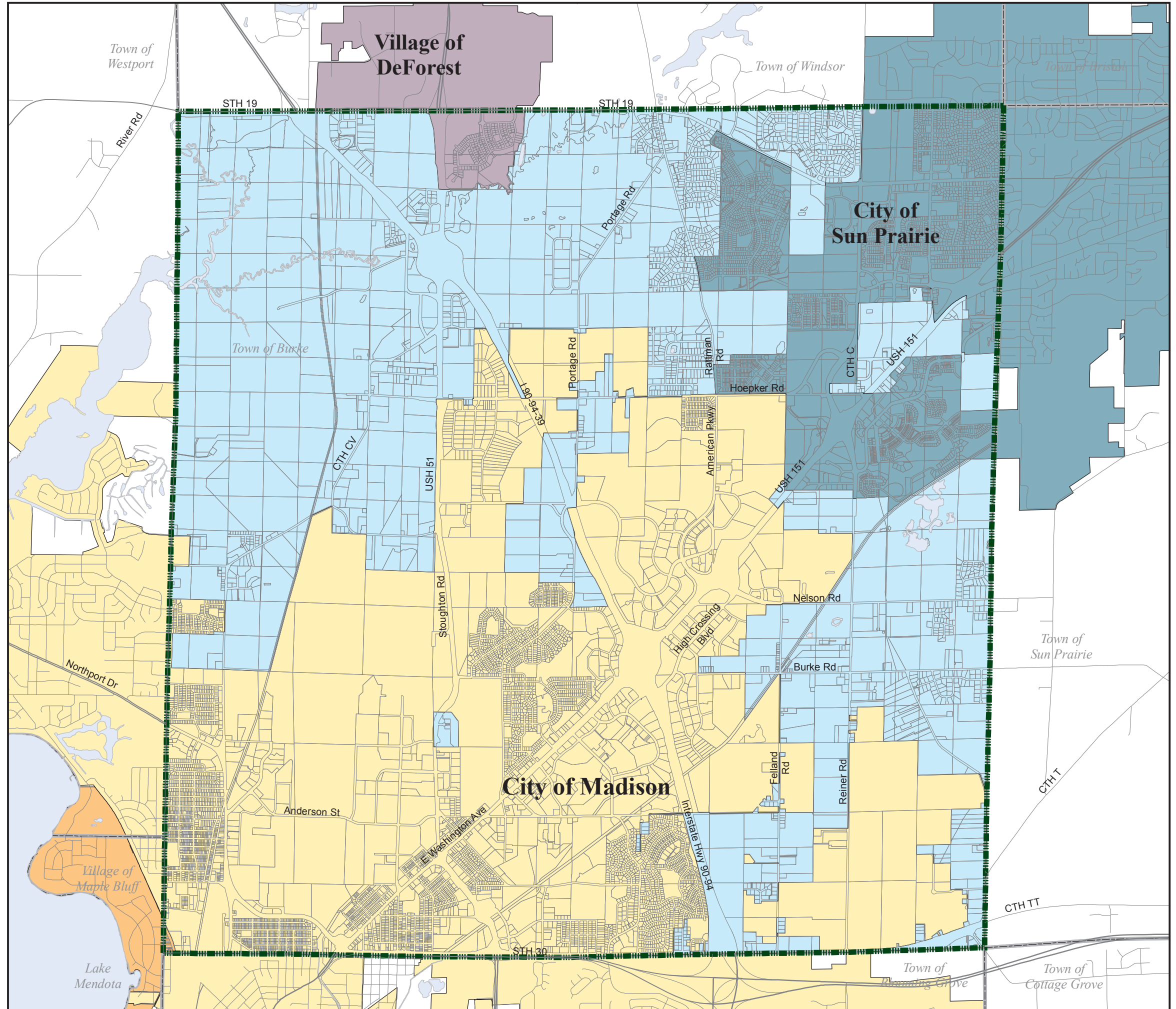
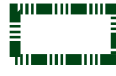




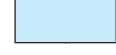


Exhibit 1
Current Municipal Boundaries

Town of Burke
 Village of DeForest
 City of Sun Prairie and
 City of Madison
 Cooperative Plan
 December 2006

-  Town of Burke Boundary
-  City of Madison
- Jurisdictions**
-  Village of DeForest
-  City of Sun Prairie
-  MapleBluff
-  Town of Burke

Data Source:
 City of Madison Department of Planning and Development, Planning Unit

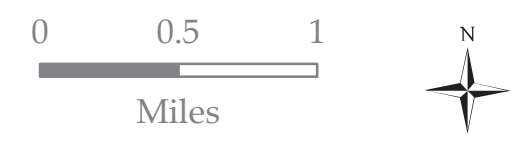


EXHIBIT 2

Legal Description of Final Boundary Line Between Madison and Deforest, Madison and the Town of Windsor, and Madison and Sun Prairie

A Town of Burke, Village of Deforest, City of Sun Prairie and City of Madison mutually agreed boundary line traversing from East to West across Township 08 North, Range 10 East, (Original Town of Burke) defining jurisdictions, said boundary line more particularly described as follows:

Beginning at a point on the West line of said Township Eight (8) North, Range Ten (10) East, being the Northwest corner of the South 1/2 of the Northwest 1/4 of Section Seven (7); thence Easterly, along the North line of the South 1/2 of the Northwest 1/4 of said Section Seven (7), 2,059 feet, more or less, to the point of intersection with the North-South 1/4 line of said Section Seven (7); thence continuing Easterly, along the North line of the Southwest 1/4 of the Northeast 1/4 of said Section Seven (7), 1,347 feet, more or less, to the Northeast corner of the Southwest 1/4 of the Northeast 1/4 of said Section Seven (7); thence Northerly, along the West line of the Northeast 1/4 of the Northeast 1/4 of said Section Seven (7), 1,300 feet, more or less to the North line of the Northwest 1/4 of said Section Seven (7); thence Easterly along the North line of Sections Seven (7) and Eight (8), 3,954 feet, more or less, to the North 1/4 corner of Section Eight (8), also being the South 1/4 corner of Section Five (5), also being the Southwest corner of Lot 2, Certified Survey Map 8421; thence continuing Easterly along the North line of Section Eight (8) and the South line of Section Five (5), and the South line of said Lot 2, 1,122.09 feet to a point on the Northerly right-of-way line of Buckley Road; thence Easterly along said Northerly right-of-way line, and the Easterly prolongation thereof, 312 feet, more or less, to a point on the East right-of-way line of Daentl Road; thence Northerly along the East right-of-way line of Daentl Road, 850 feet, more or less, to the Northernmost point of lands conveyed in Warranty Deed Document No. 3794953, Dane County Registry, also being a point on the Interstate 39/90/94 and U.S. Highway 51 interchange right-of-way; thence Northeasterly, perpendicular to the Northeast right-of-way line of said Interstate 39/90/94, 280 feet, more or less, to said Northeast right-of-way line thereof, also being the Southwest line of Lot 1, Certified Survey Map 2096; thence South 45°03'05" East, along said Northeast right-of-way line thereof, also being the Southwest line of Lot 1, Certified Survey Map 2096, 367 feet, more or less, to the Southernmost point of said Lot 1; thence North 75°01'19" East, along the Southerly line of Lots 1 and 2, said Certified Survey Map 2096, 426.03 feet to the Southeast corner of said Certified Survey Map 2096; thence continuing North 75°01'19" East, 280 feet, more or less, to a point on the West right-of-way line of U.S. Highway

51; thence Northeasterly 222 feet, more or less, to a point on the East right-of-way line of U.S. Highway 51 and the Southeast corner of Certified Survey Map 2265; thence North 76°52'44" East, along the South line of said Certified Survey Map 2265, 363.27 feet to the Southeast corner thereof; thence North 02°24'44" East, along the East line of said Certified Survey Map 2265, 1,197.62 feet; thence North 87°35'16" West, along said East line, 94.27 feet; thence North 42°35'16" West, along said East line, 63.56 feet; thence North 02°24'44" East, along said East line, 125.96 feet to the Northeast corner of Certified Survey Map 2265 also being a point on the South line of Token Creek Lane; thence continuing North 02°24'44" East, on a Northerly prolongation of the East line of Certified Survey Map 2265, 80.15 feet to a point on the East-West ¼ line of Section 4, also being a point on the South line of Savannah Brooks, a recorded subdivision plat in the Village of DeForest as Document No. 4199552; thence South 89°59'28" East, along the South line of said Savannah Brooks and the East-West ¼ line, 947.5 feet, more or less, to the Southeast corner of Outlot 12, Savannah Brooks; thence North 02°00'12" East, along the East lines of Outlots 12 and 11, 234.29 feet to the centerline of Token Creek as located by Savannah Brooks; thence traversing along the South and East lines of Outlots 11 and 13, Savannah Brooks, in a general Easterly and Northerly direction along the centerline of Token Creek as defined by said Savannah Brooks, to a point on the East line of Outlot 13 adjacent to unplatted Conservation Commission of the State of Wisconsin (Department of Natural Resources) owned lands; thence continuing Northeasterly along the centerline of Token Creek, to the Southeast corner of unplatted Conservation Commission of the State of Wisconsin (Department of Natural Resources) owned lands, containing a storm water retention pond, ownership per Volume 427 of Deeds, Page 457, as Document No. 664806, Dane County Registry; thence Northerly, along the East line of said Conservation Commission of the State of Wisconsin (Department of Natural Resources) owned lands, 743 feet, more or less, to the Northeast corner thereof; thence Westerly 106 feet, more or less, to the centerline of an un-named creek and the Southeast corner of unplatted lands owned by Donald C. & Joanne K. Tierney per Document No. 4225410, Dane County Registry; thence Northerly along the centerline of said un-named creek as described in said Document No. 4225410, 728 feet, more or less; (the next three courses as described in said Document No. 4225410) thence North 10° East (also recorded as North 10 Seconds East assumed to be in error), 4 chains (264 feet); thence North 44° East, 4.25 chains (280.5 feet); thence North 21° East, 2.88 chains (190.08 feet) to the North line of the Northwest ¼ of the Northeast ¼ of Section 4 located within the U.S. Highway 19 right-of-way; thence Easterly along said North line, 1,856 feet, more or less, to the Northeast corner of said Section 4; thence North 89°38'15" East (per CSM 5744), along the North line of the Northwest ¼

of Section 3, 57.37 feet; thence North 88°59'42" E (per CSM 5744), continuing along the North line of said Section 3, 1,816.21 feet to the point of intersection with the Northerly prolongation of the East line of Certified Survey Map 5744; thence South 02°33'24" West, along said Northerly prolongation and East line of Certified Survey Map 5744, 1,683.04 feet to the Southeast corner thereof, also being the Southwest corner of Terrace Parklands, a recorded subdivision plat per Volume 53 of Plats, Page 58 as Document No. 1737189, Dane County Registry; thence North 88°32'08" East, along the South line of Terrace Parklands, 935.52 feet to the Southeast corner thereof; thence continuing Easterly along the South line of Outlots 152 and 147, Burke Assessor's Plat No. 1, and an Easterly prolongation thereof, 367 feet, more or less, to the centerline of Portage Road located in the Northeast ¼ of Section 3; thence Southeasterly, along said centerline, to the point of intersection with Rattman Road; thence continuing Southeasterly, along the centerline of Rattman Road, 2,900 feet, more or less, to the Northeast corner of Hoffman Acres, a recorded subdivision plat per Volume 52 of Plats, Page 17 as Document No. 1651868, Dane County Registry; thence South 76°13'20" West (all bearings along Hoffman Acres are per the recorded plat), along the North line of said plat, 40.07 feet to the Westerly right-of-way line of Rattman Road and the Northeast corner of Lot 33, Hoffman Acres; thence continuing South 76°13'20" West, along said North plat line, 250.49 feet to the Northwest corner of Lot 32, Hoffman Acres; thence South 59°25'20" West, along said North plat line, 259.35 feet; thence South 16°35'20" West, along said North plat line, 409.21 feet; thence South 32°31'20" West, along said North plat line, 176.64 feet; thence South 73°14'00" West, along said North plat line, 101.02 feet to the Northwest corner of Lot 28, Hoffman Acres; thence South 88°26'00" West, along said north plat line, 529.04 feet to the Northwest plat corner thereof, also being a point on the North-South ¼ line of Section 3; South 01°07'59" W, along the West plat line of said Hoffman Acres and North-South ¼ line of Section 3, 395.98 feet to the Southwest plat corner of Hoffman Acres and the South ¼ corner of Section 3 and the Northwest plat corner of Sunburst, a recorded subdivision plat per Volume 42 of Plats, Pages 11 and 12 as Document No. 1411883; thence South 00°27'40" West (bearing per recorded plat of Sunburst), along the West line of Sunburst, 1,324.94 feet to the Southwest plat corner thereof (40 corner location per Sunburst plat by WI Land Surveyor George A. Weir recorded October 8, 1974 apparently did not follow city of Madison Master Control North-South ¼ line survey of Section 10 by WI Land Surveyor Edward P. Cranley dated May 18 and 19, 1974); thence continuing Southerly, along ownership line approximately 1,313.77 feet (2,649.87 [City of Madison ½ mile distance] – 1,324.94 [Sunburst plat] = 1,313.77) to the East-West ¼ line of said Section 10; thence in an unknown direction and distance to the Northwest corner of First Addition to Rattman Heights, subdivision plat recorded

October 31, 1972 in Volume 39 of Plats, Pages 24 and 25 as Document No. 1345563, Dane County Registry; thence South $03^{\circ}14'29''$ West (bearing per recorded plat of First Addition to Rattman Heights), along the West line of said First Addition to Rattman Heights, 1,973.80 feet to the Southwest plat corner thereof, said point being North $03^{\circ}14'29''$ East 662.43 feet from the South $\frac{1}{4}$ corner of Section 10 per the recorded plat; thence in an unknown direction and distance (appears to be Westerly 7 feet more or less) to the Northwest corner of Sherwood Glen, a subdivision plat recorded November 7, 1972 in Volume 39 of Plats, Pages 30 and 31 as Document no. 1346367, Dane County Registry; thence South $02^{\circ}47'$ West (bearing per recorded Sherwood Glen plat), along the west plat line, 429.59 feet to the southwest corner thereof, also being the Northwest corner of Certified Survey Map No. 774 recorded December 30, 1971 in Volume 3 of Certified Surveys on Pages 288 and 289 as Document No. 1313655, Dane County Registry; thence South $02^{\circ}47'$ West (bearings per CSM 744) , along the West line of said Certified Survey Map No. 744, 231.07 feet to the Southwest corner of Certified Survey Map No. 744 and the South $\frac{1}{4}$ corner of Section 10 and approximate centerline of Hoepker Road; thence South $88^{\circ}24'41''$ East (recorded as South $88^{\circ}40'$ East per CSM 744), along the South line of the Southeast $\frac{1}{4}$ of said Section 10, 1,315.63 feet to the Northwest corner of Certified Survey Map No. 6315 (now replatted by Parkway Village and Parkway Village Replat) also being a point on the existing City of Madison Corporate Limits; thence North $00^{\circ}47'41''$ East, along the existing City of Madison Corporate Limits line being the Northerly prolongation of the West line of said Certified Survey Map No. 6315, to a point 33.0 feet North of, measured at right angles to, the South line of the Southeast $\frac{1}{4}$ of Section 10, also being the existing North right-of-way line of Hoepker Road as presently located; thence North $88^{\circ}24'41''$ East (bearing per City of Madison Master Control), along the existing City of Madison Corporate Limits line being parallel with and 33.0 feet North of, the South line of the Southeast $\frac{1}{4}$ of Section 10, along said North right-of-way line as presently located, 347.80 feet to a point on said North right-of-way line as dedicated by Sherwood Glen subdivision plat; thence North $01^{\circ}20'$ East (bearing per Sherwood Glen), along the existing City of Madison Corporate Limits line being along said North right-of-way line of Hoepker Road, 7.00 feet; thence North $88^{\circ}24'41''$ East (bearing per City of Madison Master Control), along the existing City of Madison Corporate Limits line, 125.82 feet across Robin Hood Way (platted as Katie Lane by Sherwood Glen) to the East plat line of said Sherwood Glen and West line of Certified Survey Map No. 6337; thence North $88^{\circ}24'21''$ East, along the existing City of Madison Corporate Limits line being along the South line of Lots 4 and 1, Certified Survey Map No. 6337 also being the North right-of-way line of Hoepker Road as presently located, 800.77 feet to the Southeast corner of Lot 1, Certified Survey Map No. 6337, also being

the point of intersection with the West right-of-way line of Rattman Road as presently located; thence South $02^{\circ}36'34''$ East, along the Southerly prolongation of the East line of said Lot 1 and West right-of-way line of said Rattman Road, 7.02 feet to a point which is 33.0 feet north of, measured at right angles to, the South line of the Southeast $\frac{1}{4}$ of Section 10; thence North $88^{\circ}24'21''$ East, along the existing City of Madison Corporate Limits line also being along the Easterly prolongation of the North right-of-way line of Hoepker Road West of Rattman Road, 41.73 feet to the point of intersection with the Westerly prolongation of the North right-of-way line of Hoepker Road East of Rattman Road; thence North $89^{\circ}08'55''$ East, along the existing City of Madison Corporate Limits line also being along the said Westerly prolongation line, 14.73 feet to the point of intersection with the East line of the Southeast $\frac{1}{4}$ of Section 10; thence continuing North $89^{\circ}08'55''$ East, along the existing City of Madison Corporate Limits line also being along the said Westerly prolongation line, 16.65 feet to the point of intersection with the East right-of-way line of Rattman Road; thence continuing North $89^{\circ}08'55''$ East, along the existing City of Madison Corporate Limits line also being along the North right-of-way line of Hoepker Road being 33.0 feet North of, measured at right angles to, the South line of the Southwest $\frac{1}{4}$ of Section 11, 2,622.5 feet, more or less, to the point of intersection with the East line of the Southwest $\frac{1}{4}$ of Section 11; thence South $00^{\circ}43'38''$ West, along the existing City of Madison Corporate Limits line also being along the East line of said Southwest $\frac{1}{4}$, 33.01 feet to the South $\frac{1}{4}$ corner of Section 11, also being the North $\frac{1}{4}$ corner Section 14; thence Southerly, along the North-South $\frac{1}{4}$ line, traversing across U.S.H. 151, 5,138 feet, more or less to the Southwest corner of unplatted lands currently owned by Barlie Fam 4 Reiner Rd., LLC per Warranty Deed Document No. 4036712, Dane County registry; thence North $89^{\circ}22'04''$ East, along the South line of unplatted lands, 1,327.61 feet to the Southeast corner thereof; thence continuing North $89^{\circ}22'04''$ East, along the North line of unplatted lands currently owned by Waste Management of Wisconsin Inc. per Warranty Deed Document No. 2966346, Dane County Registry to the Northeast corner thereof; thence South $00^{\circ}39'05''$ West, along the East line of said unplatted lands, 150.04 feet to the Southeast corner thereof, also being a point on the South line of the Southeast $\frac{1}{4}$ of Section 14; thence North $89^{\circ}22'04''$ East (recorded as North $89^{\circ}22'29''$ East), along said South line of the Southeast $\frac{1}{4}$, 1037.04 feet to the Southeast corner of Section 14, Northeast corner of Section 23 and approximate centerline of Reiner Road; thence South $01^{\circ}01'22''$ West, per City of Madison Master Control (recorded as South $01^{\circ}01'13''$ West), along the East line of the Northeast $\frac{1}{4}$ of Section 23, 959.05 feet to the point of intersection with the Northwesterly right-of-way line of the Soo Line Railroad; thence Northeasterly along the Northwesterly right-of-way line of the Soo Line Railroad, 5,775 feet, more or less, to the point of

intersection with the North line of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 13; thence Easterly along the North line of said Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$, 1,068 feet more or less to the East $\frac{1}{4}$ corner of Section 13 and **Point of Termination** of boundary line.

City of Madison Engineering Project No. 53W0425

Prepared December 7, 2006 by Eric Pederson, City of Madison Engineering Division-Based on existing recorded Land Records and mutually agreed boundary locations by all parties.

EXHIBIT 3

**Map showing Final Boundary Line, Boundary Adjustment Area-DeForest
("BAA-D"), Boundary Adjustment Area-Sun Prairie ("BAA-S")
and Boundary Adjustment Area-Madison ("BAA-M")**

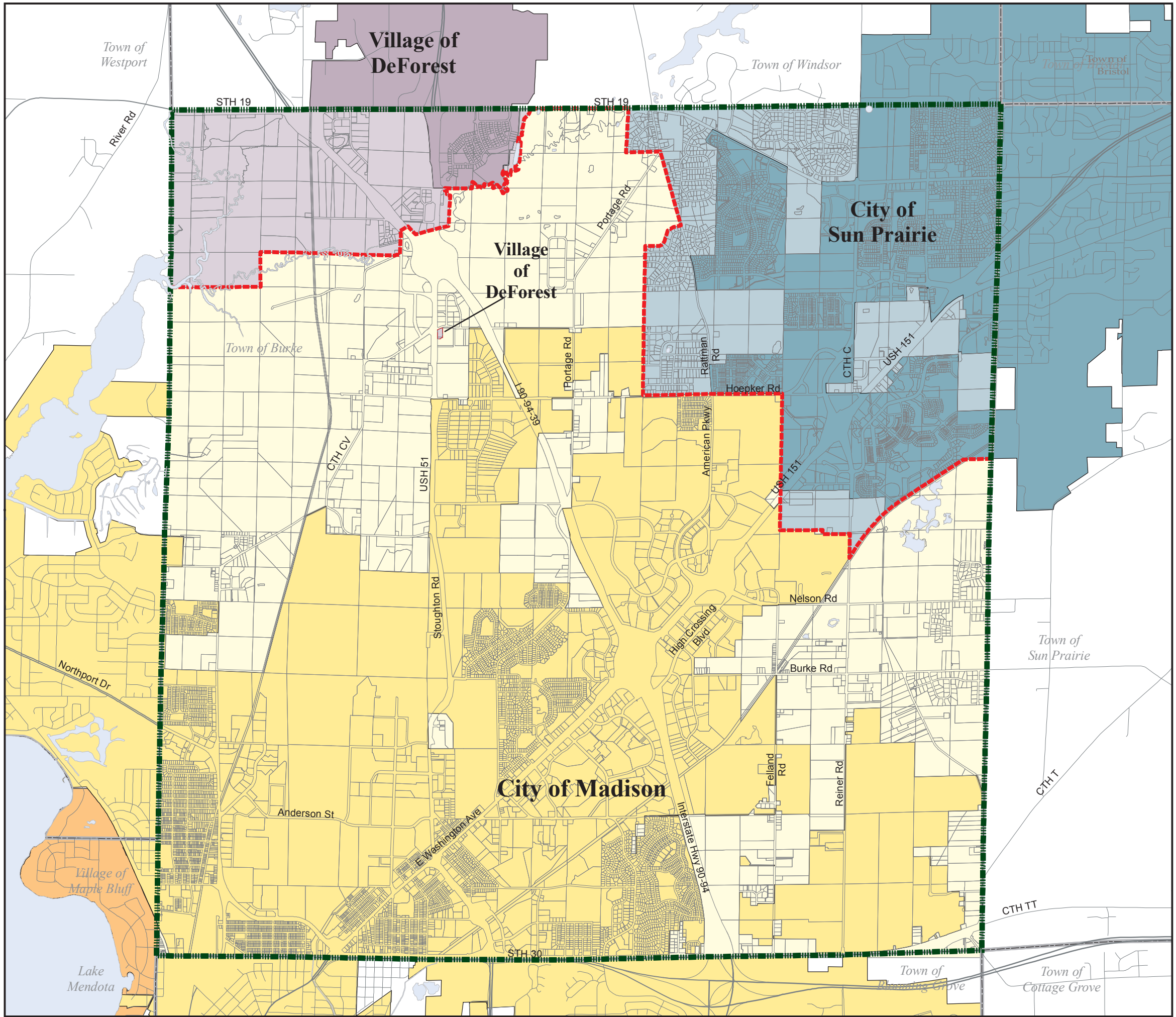



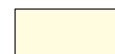







Exhibit 3
Final Boundary Adjustment Areas for DeForest, Sun Prairie and Madison

Town of Burke
 Village of DeForest
 City of Sun Prairie and
 City of Madison
 Cooperative Plan
 December 2006

-  Town of Burke Boundary
-  Final Boundary Line
-  City of Madison
-  Boundary Adjustment Area - Madison (BAA-M)
-  Village of DeForest
-  Boundary Adjustment Area - DeForest (BAA-D)
-  City of Sun Prairie
-  Boundary Adjustment Area - Sun Prairie (BAA-S)
-  Village of Maple Bluff

Data Source:
 City of Madison Department of Planning and Development, Planning Unit



EXHIBIT 4

Map of “Protected Areas” of the Town Not Subject to Early Attachment

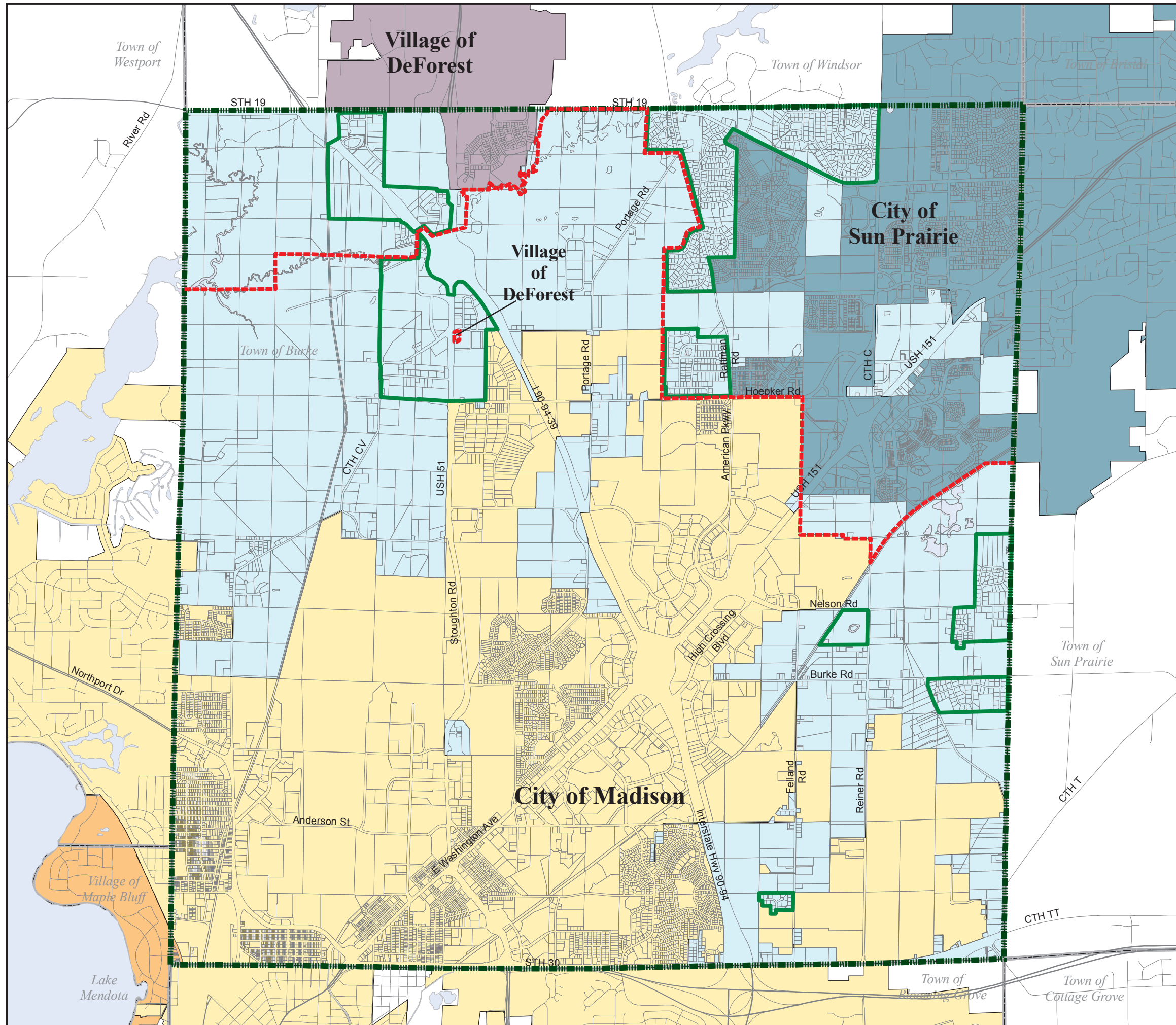


Exhibit 4 Protected Areas

(Commercial/Industrial Territory of the Town Not Subject to Early Detachment)

Town of Burke
 Village of DeForest
 City of Sun Prairie and
 City of Madison
 Cooperative Plan
 December 2006

- - - - - Final Boundary Line
 - Burke Protected Areas
 - City of Madison
 - City of Sun Prairie
- Jurisdictions
- Village of DeForest
 - Village of Maple Bluff
 - Town of Burke

Data Source:
 City of Madison Department of Planning and Development, Planning Unit



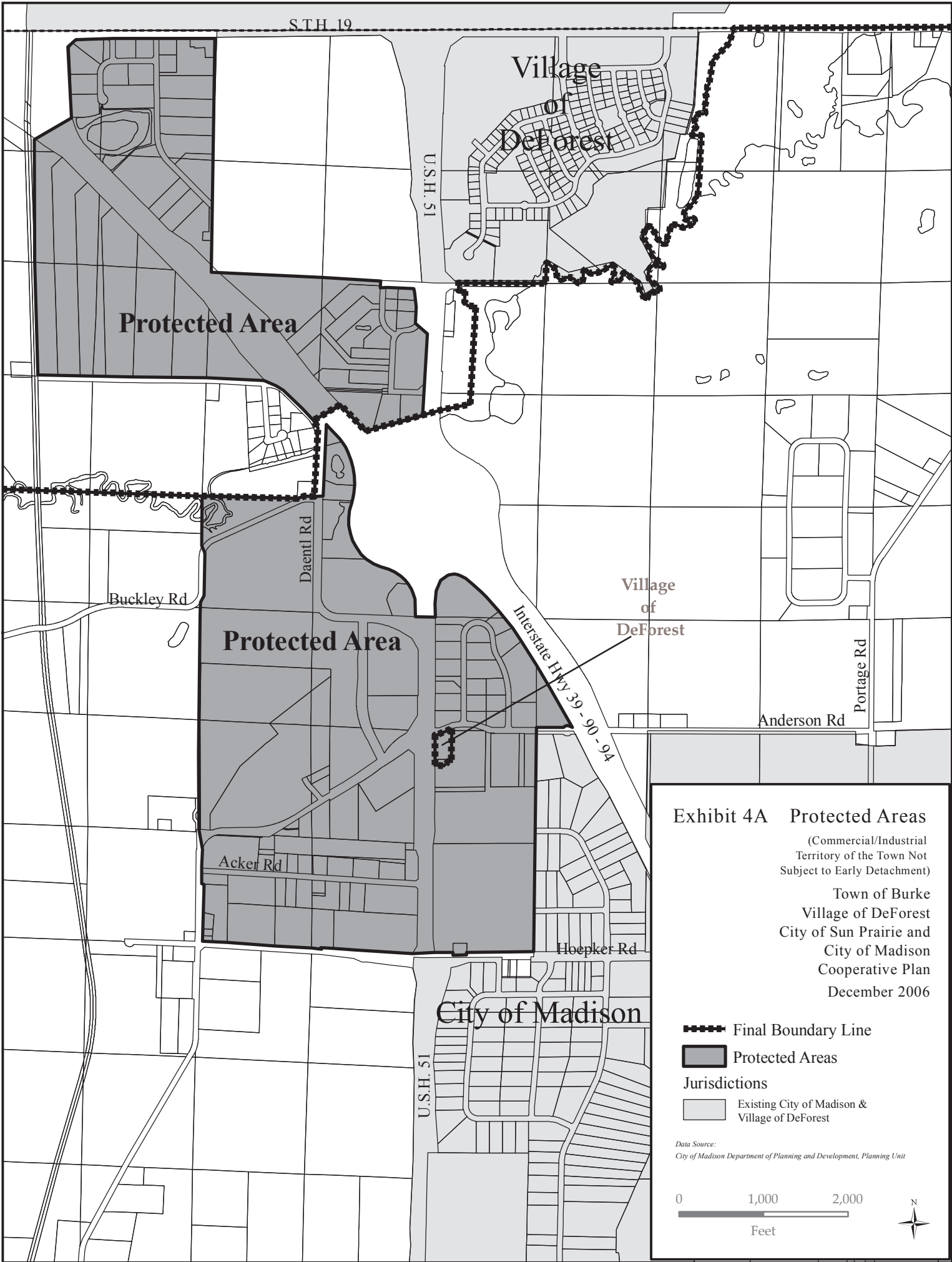





Exhibit 4A Protected Areas

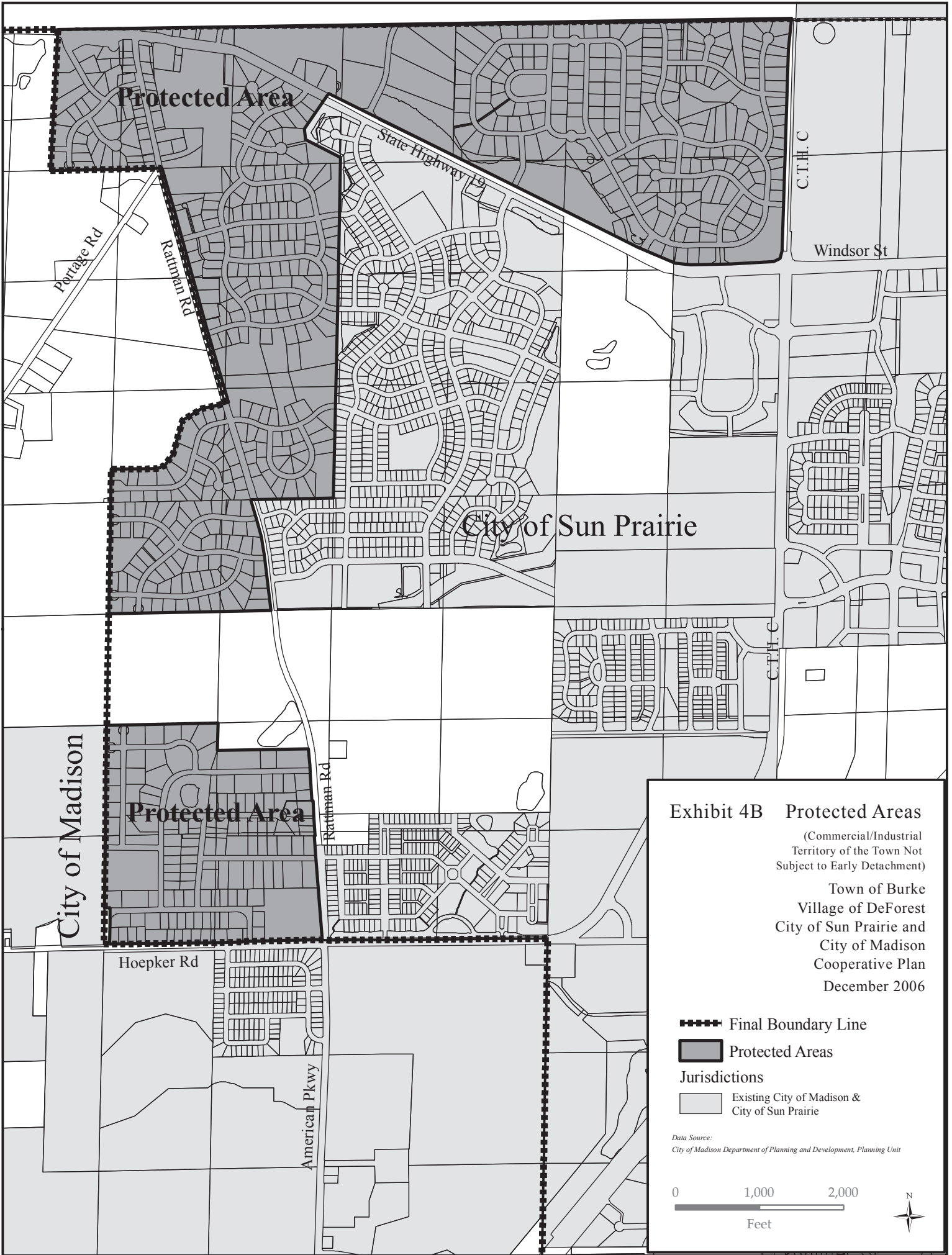
(Commercial/Industrial Territory of the Town Not Subject to Early Detachment)

Town of Burke
 Village of DeForest
 City of Sun Prairie and
 City of Madison
 Cooperative Plan
 December 2006

-  Final Boundary Line
-  Protected Areas
- Jurisdictions**
-  Existing City of Madison & Village of DeForest

Data Source:
 City of Madison Department of Planning and Development, Planning Unit





Protected Area

State Highway 19

C.T.H. C

Windsor St

Postrage Rd

Rattman Rd

City of Sun Prairie

City of Madison

Protected Area

Rattman Rd

Hoepker Rd

American Pkwy

Exhibit 4B Protected Areas

(Commercial/Industrial Territory of the Town Not Subject to Early Detachment)

Town of Burke
 Village of DeForest
 City of Sun Prairie and
 City of Madison
 Cooperative Plan
 December 2006

----- Final Boundary Line

■ Protected Areas

Jurisdictions

□ Existing City of Madison & City of Sun Prairie

Data Source:
 City of Madison Department of Planning and Development, Planning Unit



City of Madison

Reiner Rd

Nelson Rd

Brinken Rd
Bow Rd

Felland Rd

Protected Area

Protected Area

Burke Rd

Protected Area

Thobson Rd

City of Madison

City of Madison

Lien Rd

Felland Rd

N Sprecher Rd

Protected Area

Bridle Way

Exhibit 4C Protected Areas

(Commercial/Industrial Territory of the Town Not Subject to Early Detachment)

Town of Burke
Village of DeForest
City of Sun Prairie and
City of Madison
Cooperative Plan
December 2006

----- Final Boundary Line

■ Protected Areas

Jurisdictions

■ Existing City of Madison

Data Source:

City of Madison Department of Planning and Development, Planning Unit

0 1,000 2,000

Feet



EXHIBIT 5

**Hoepker Road Annexation Area
Subject to Sec. 3.3 Building Permit Limits**

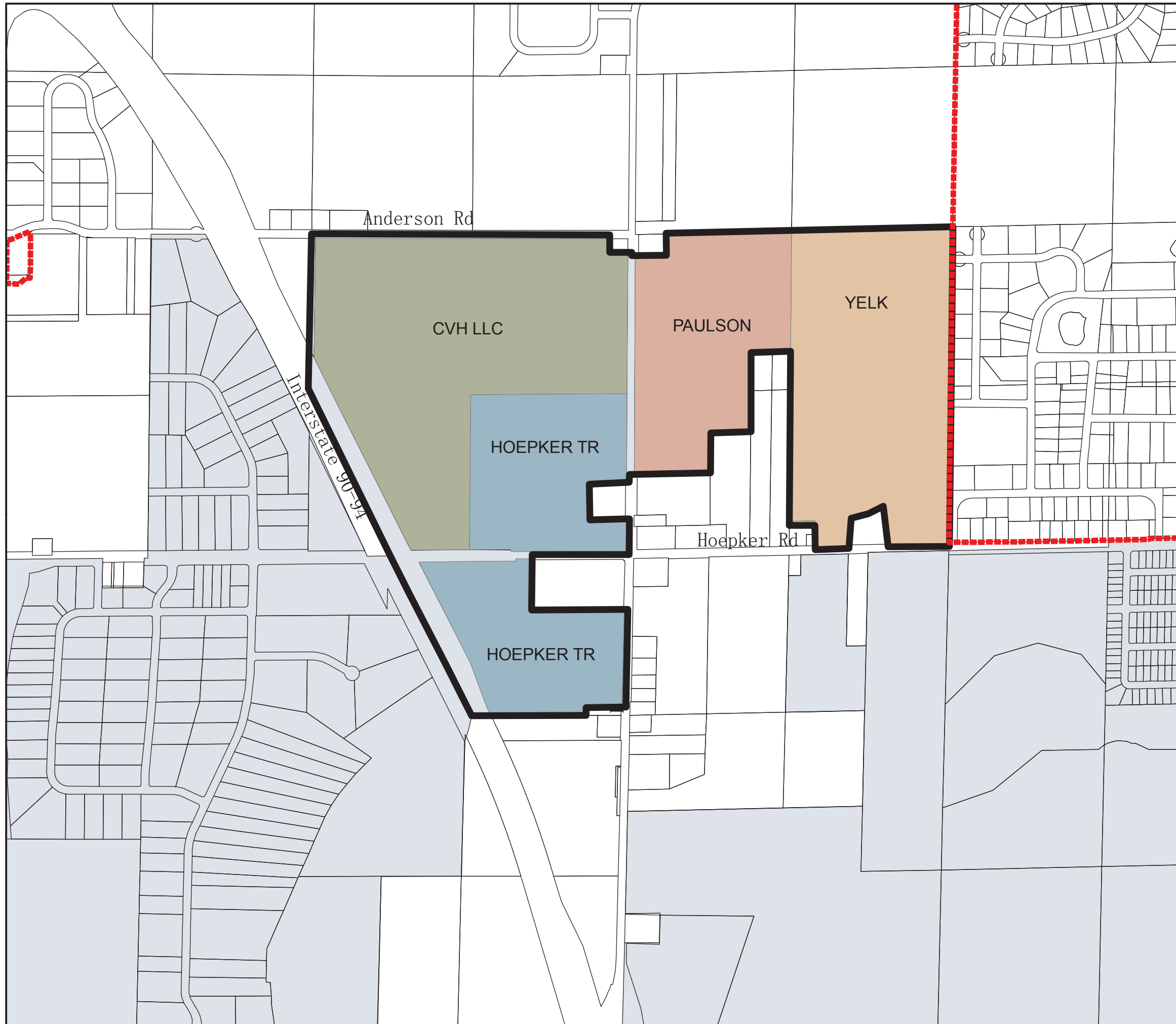


Exhibit 5

Hoepker Road Annexation Area

Town of Burke
 Village of DeForest
 City of Sun Prairie and
 City of Madison
 Cooperative Plan
 December 2006

- - - - - Final Boundary Line
- Hoepker Road Annexation Area
- Ownership**
- Hoepker Tr, D & J
- CVH LL
- Paulson
- Yelk
- City of Madison

Data Source:
 City of Madison Department of Planning and Development, Planning Unit

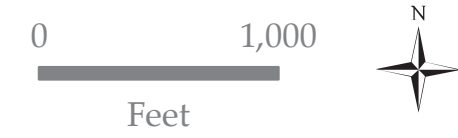


EXHIBIT 6

**DXWSA Service Area within BAA-M where
Sanitary Sewer and Water Service shall be provided by Deforest**

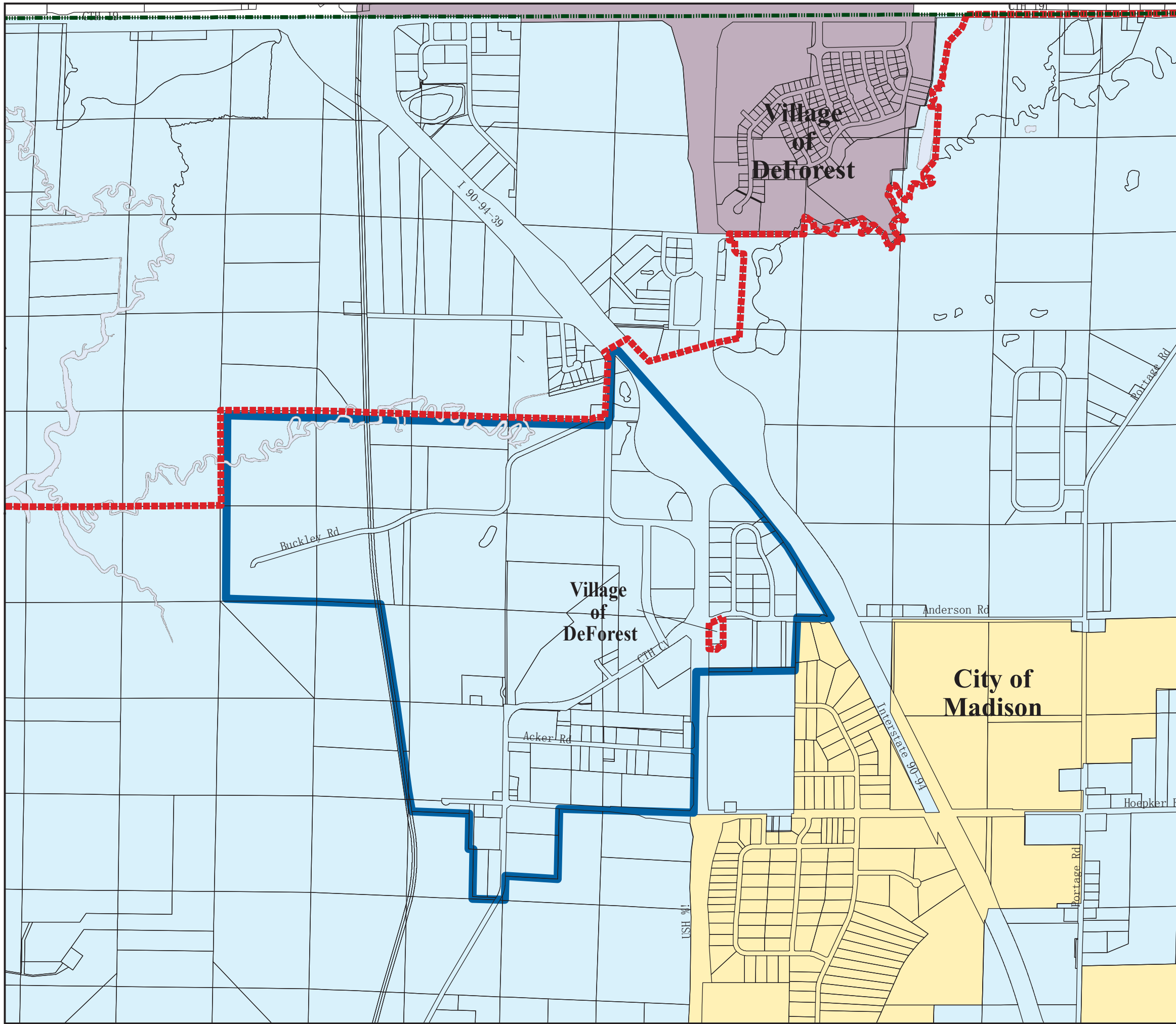





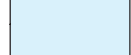


Exhibit 6

**DeForest
Extraterritorial
Water Service Area
(DXWSA)**

Town of Burke
Village of DeForest
City of Sun Prairie and
City of Madison
Cooperative Plan
December 2006

-  Final Boundary Line
 -  Town of Burke Boundary
 -  DeForest Extraterritorial Water Service Area
- Jurisdictions**
-  Village of DeForest
 -  City of Madison
 -  Town of Burke

Data Source:
City of Madison Department of Planning and Development, Planning Unit

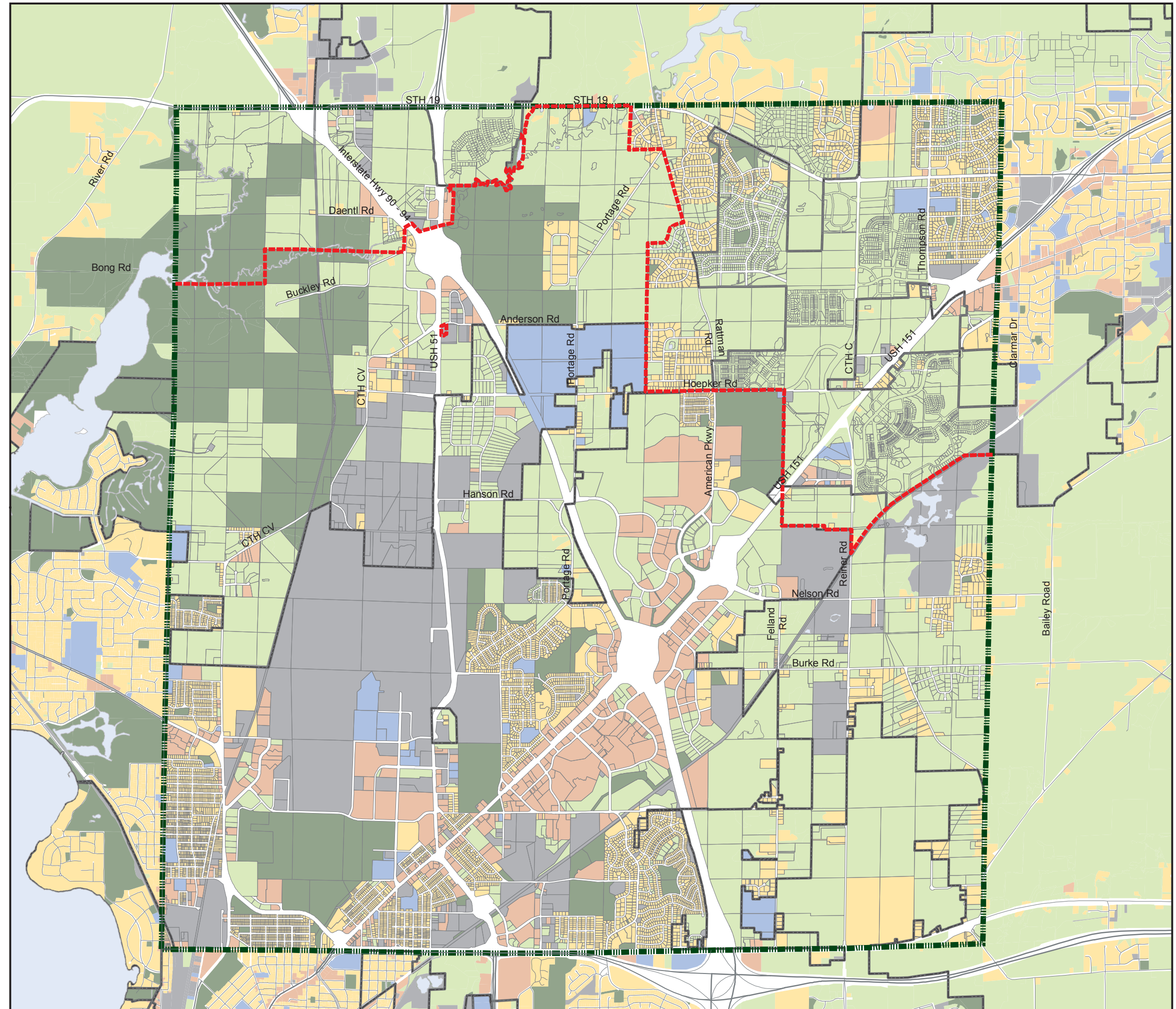


EXHIBIT 7

Map showing Current Land Use

Exhibit 7 Current Land Use

Town of Burke
 Village of DeForest
 City of Sun Prairie and
 City of Madison
 Cooperative Plan
 December 2006



- - - - - Final Boundary Line
 - Town of Burke
 - Municipal Boundary Lines
- Land Use
- Residential
 - Commercial
 - Industrial
 - Institutional
 - Park and Open Space
 - Agriculture or Vacant

Data Source:
 City of Madison Department of Planning and Development, Planning Unit
 City of Madison Existing Land Use January 1, 2006
 Areas outside of the City of Madison:
 Existing Land Use January 2000
 Recorded Plats 2006



EXHIBIT 8

DeForest/Token Creek Sanitary District Service Agreement

**AGREEMENT FOR PROVISION OF UTILITY SERVICES BETWEEN THE
VILLAGE OF DEFOREST AND THE TOWN OF BURKE**

THIS AGREEMENT is made and entered into this ____ day of June, 2006, by and between the Village of DeForest, a Wisconsin municipal corporation, with its principal place of business located at 306 DeForest Street, DeForest, WI 53532 (hereinafter "Village") and the Town of Burke, a Wisconsin body politic, with its principal place of business located at 5365 Reiner Road Madison, WI 53511 (hereinafter "Town").

WHEREAS, the Village has entered into a contract (hereinafter referred to as the "Merger Agreement") dated December 9, 2005 to acquire all assets and assume the liabilities of, Token Creek Sanitary District; and

WHEREAS, the utility assets being acquired by the Village are located within the Town in Dane County, Wisconsin; and

WHEREAS, the Village intends to operate such utility assets as a public utility (hereinafter "Village's utility") subject to, among other things, approval by the Public Service Commission of Wisconsin; and

WHEREAS, the Village and the Town are adjacent municipalities; and

WHEREAS, the Town desires to have the Village provide retail utility service to the Town's residents, businesses and other utility customers (hereinafter "Town Customers") on the terms and conditions set forth in this Agreement; and

WHEREAS, the Village, upon acquisition of the utility, is desirous of interconnecting and merging utility infrastructure so as to serve Town and Village residents, businesses and other utility customers, upon the terms and conditions set forth in this Agreement; and

WHEREAS, the Village is willing to provide utility service to the Town residents, businesses and other utility customers upon the terms and conditions set forth in this Agreement; and

WHEREAS, §66.0301, Wis. Stats., provides that Wisconsin villages and towns may enter into cooperative agreements for the receipt or furnishing of services.

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

1. Definitions. When used in this Agreement, the following terms shall have the meanings set forth below:

- a. "*Adequate Utility Service*" means, uninterrupted service of Standard Water Quality in quantities not less than accepted industry standards.
- b. "*MMSD*" means the Madison Metropolitan Sewerage District.
- c. "*PSCW*" means the Public Service Commission of Wisconsin or any successor agency

of the State of Wisconsin vested with regulatory authority over the terms and conditions of municipal public water utility construction and service.

d. "*Standard Water Quality*" means water which meets the standards for quality of public potable water supplies promulgated by federal and state agencies having the authority to establish and enforce such standards, as amended from time to time.

e. "*TCSD*" means Token Creek Sanitary District.

f. "*Town's Service Area*" means the area within the Town where the Village will provide utility services. The "*Town's Service Area*" shall be established by ordinance, which may be amended from time to time, pursuant to section 66.0813(3), Wis. Stats. Any lands in the Town's Service Area which become part of any municipality other than the Town through annexation, incorporation or consolidation shall be automatically removed from the Town's Service Area.

g. "*Utility Extensions*" means new utility mains and all supporting utility facilities that were not in place at the time the Village acquired the utility assets from Token Creek Sanitary District, including but not limited to new sewer and water mains, laterals, lift stations, water towers, wells, booster stations, pumps or over sizing of mains.

h. "*WDNR*" means "Wisconsin Department of Natural Resources or any successor agency of the State of Wisconsin which is vested with regulatory authority over the terms and conditions of municipal public water and/or sanitary sewer construction and service.

2. Term of Agreement. This Agreement shall become effective only if the Village shall close on the acquisition of the TSCD assets consistent with the Merger Agreement. The obligations under this Agreement shall commence immediately upon the Closing as defined in the Merger Agreement. This Agreement shall terminate on the earliest of the following:

- a. Twenty-five (25) years after its effective date;
- b. The date upon which all of the lands included within the Town Service Area have been annexed from the Town to one or more other municipalities;
- c. The date upon which any lands within the Town Service Area are incorporated;
- d. The date upon which all remaining lands within the Town Service Area become part of a new municipality through consolidation of the Town with any other municipality; or
- e. Any date established by mutual agreement between the Town and Village.

3. Effect of Termination. The following provisions shall apply upon termination of this Agreement unless otherwise agreed upon in writing by the parties:

- a. The Village shall continue to serve all existing customers at the time of termination except as follows:

- i. Service to any customer may be discontinued pursuant to any adopted rules relating to disconnection for nonpayment or for violation of other rules of the Village utility.
 - ii. The Village may discontinue service to any customer if similar service to such customer will be provided by another public utility as approved by PSCW.
 - iii. Service to any customer may be discontinued for any other reason if approved by or as authorized under any general regulation promulgated by PSCW .
 - iv. The parties agree to negotiate in good faith for an extension of this Agreement with such modifications as may be requested by either party. Such modifications may include adjustment of the service area in which the Village is obligated to provide future connections.
- b. The Village shall have the right, in its discretion, to allow future connections to existing mains in place at the time of termination.
 - c. The Village shall have the continuing right to serve existing customers located in the Town and shall have the right to maintain, repair, replace and operate its facilities within the Town.
 - d. The rights of the Village as provided in §14 hereof shall continue to the extent reasonably necessary or convenient to serve existing customers, or new customers as permitted by subs. (b) and (c) of this section.

4. Town Service Area. The initial Town Service Area at the commencement of this Agreement shall consist of those areas within the boundaries as shown on the map attached hereto as Exhibit A. The Town's Service Area may be amended only by written agreement between the Town and the Village and with the approval of WPCS if such approval is required by law.

- a. Current TCSD Customers. Within the Town Service Area, the Village shall continue the public water and/or sewer service being provided on the effective date of this Agreement.
- b. Future Customers. The Village further agrees to provide public water and sanitary sewer service to new customers within the Town's Service Area upon the terms and conditions set forth in section 5 of this Agreement. For purposes of this paragraph, "new customers" shall mean the owners or lessees of properties within the Town Service Area who, on the effective date of this Agreement were not receiving any utility service from TCSD, and any customer receiving only public water or sanitary sewer service (but not both) on the effective date hereof, but only to the extent of the

new service requested.

- c. Right to Service. Nothing in this Agreement shall be construed to prohibit the Village from refusing service, or from discontinuing any existing service, to any customer as a result of nonpayment, violation of any ordinance or rule regulating the use of Village utilities, or for any other reason permitted by law, provided that the Village shall not discriminate in the provision of service based on the location of the customer in the Town as opposed to the Village. The Village shall not require any property within the Town Service Area to annex to the Village as a condition of service.

5. Terms and Conditions of New Service. Service to new customers within the Town Service Area shall be provided only upon the following conditions:

- a. Town Board Approval. The Town Board shall approve the application for service and shall request the extension of service by the Village.
- b. Development Agreement. The property owner or the Town shall enter into a development agreement with the Village providing that:
 - i. All infrastructure extensions necessary to serve the property will be provided and paid for by or on behalf of the developer;
 - ii. All costs incurred by the Village in reviewing, approving, inspecting and otherwise providing for the extension will be reimbursed by or on behalf of the developer;
 - iii. All facilities to be constructed or installed and which are connected to, or necessary to provide service through, the Village utility facilities shall be dedicated or otherwise conveyed without charge to the Village upon acceptance thereof by the Village;
 - iv. Provisions for the inspection and testing of all facilities as determined necessary by the Village and appropriate guarantees of the condition of all facilities to be owned by the Village;
 - v. Adequate provisions for deposits, performance bonds or other forms of security approved by the Village assuring that all required payments will be made.
- c. Engineering Approval. All plans and specifications shall be submitted to, and approved by, the Village's engineer for compliance with all Village standards and good engineering practices. The engineer shall also determine that the Village utility system has adequate supply and storage capacity to accommodate the new connection and that the connection of the proposed new customer will not result in any unreasonable burden on the Village utility facilities, cause unreasonable cost or expense to the utility operations, or

result in any diminution in the quality of service then being provided to existing customers of the utility. For purposes of this paragraph, any sanitary sewer extension which would require the construction of a new lift station shall be deemed to result in unreasonable maintenance and/or operational costs to the Village utility and may be rejected unless specifically approved by the Village Board.

d. Compliance with Ordinances and Rules. The extension, connection and use of the service to be provided shall comply with all applicable statutes, ordinances and adopted utility rules enacted by the State or Federal government, or agencies of either, the Village or MMSD. The Village may condition any service on the execution by the property owner of a written agreement to comply with all such ordinances and rules then in effect or thereafter enacted or promulgated.

e. Governmental Approvals. All required approvals shall have been obtained from , WDNR and any other state or federal agency with jurisdiction over the proposed connection or service. Sanitary sewer connections shall be permitted only for lands located within the boundaries of the Village's approved sewer service area (Urban Service Area) and of MMSD.

6. Rates.

a. Service Rates. The Village shall provide service to residents of the Town on the same terms and conditions as such service is provided to Village residents, except as otherwise provided in this Agreement. The Village and Town acknowledge that there is currently a significant disparity between Village and TCSD water utility rates. In order to ameliorate the impacts associated with the disparity, the parties agree to a phase-in of the reduction in rates to the TCSD water utility customers. The initial water service rates to TCSD customers upon acquisition of the TCSD assets by the Village shall be reduced, over a period not to exceed three (3) years; whereafter the rates charged to customers within the Town shall be the same rates charged to Village customers. The rate during the first year following acquisition shall be at least 20% less than the rates in effect upon acquisition.

b. Fire Protection Charges. The parties acknowledge that the TCSD water rates include only 50% of the appropriate charges for water for fire protection. The Town shall continue throughout the term of this Agreement to charge the remaining 50% of the fire protection charges as special charges against properties in the Town Service Area and promptly pay the amounts so collected to the Village.

7. Special Assessments and Charges. In the event the Village Board shall determine to finance the cost of construction, reconstruction, replacement or repair of any of the Village's

utility facilities which serve customers in the Town Service Area through special assessments against the properties specially benefited thereby, the Town shall consent, and hereby does consent, that the Village may levy and collect such special assessments against properties within the Town. The Town shall adopt a resolution pursuant to sec. 66.0707(1), Wis. Stats. approving any such assessments so levied and shall collect the assessments and pay them over to the Village Treasurer as provided in sec. 66.0707(3), Wis. Stats. All such costs to be collected through special assessments shall be allocated among the benefited properties in a reasonable manner as required by law.

8. Impact Fees. The Town acknowledges that the Village has enacted an ordinance pursuant to §66.0617, Wis. Stats. which imposes an impact fee on all new construction involving the installation of a new water service, and all other construction, reconstruction, remodeling or other activity requiring a building permit which involves the installation of a higher capacity water meter, to finance the construction of new and/or expanded water supply and storage facilities to the extent the need therefor is caused by new development. The Town agrees that, throughout the term of this Agreement, it shall impose upon all similar developments or activities within the Town Service Area, an impact fee in the amount that would have been charged to the same customer if the service connection were located within the Village, as provided in DeForest Ordinance 2005-12, a copy of which is attached hereto as Exhibit B. Said impact fee shall be charged to all such development activities occurring on or after the effective date of this Agreement, and all impact fees so collected by the Town shall be promptly paid over to the Village to be held in the segregated account maintained for that purpose by the Village to be used solely for the purposes authorized by law.

9. Billing. The Village shall be responsible for billing all of the customers of the Village's utility, including the retail customers in the Town's Service Area. The Village shall bill the Town Customers for retail water service at the same frequency Village customers are billed for retail water service. The bills for retail water service shall be due and payable and must be received at the offices of the Village within 28 days of the date of mailing of the billing. The Town agrees to assist the Village by adopting appropriate resolutions relating to the collection of any delinquent utility bills or fire protection fees owed to the Village by utility customers in the Town's Service Area, pursuant to §§66.0627 and 66.0707, Wis. Stats.

10. Mandatory Connections. The Town agrees that it will establish and enforce, throughout the term of this Agreement, an ordinance requiring all improved parcels within the Town to be connected to the utility system within twelve (12) months of the date when sewer and water service is made available, on terms, conditions and limitations substantially the same as

provided in §12.01 of the DeForest Municipal Code.

11. Connection Fees and Capital Recovery Costs. The parties agree that the Village's utility may establish a schedule of capital cost recovery charges, subject to approval by PSCW, to be implemented consistently throughout all areas served by the Village's utility.

12. Cross-Connections Prohibited. The Village and Town shall prohibit, by ordinance, anyone from cross-connecting a private well or any facilities owned or operated by any other public or private utility to the Village's utility system.

13. Wellhead Protection. The Town agrees to cooperate with the Village by reasonably restricting land development which would be likely to cause adverse environmental impacts detrimental to the Village's water system or the groundwater supply utilized by that system. Such cooperation shall include restricting or prohibiting certain developments, the use of pesticides, herbicides, industrial chemicals or other hazardous or toxic materials in areas, and other practices in areas surrounding existing or proposed future municipal wells to the extent reasonably necessary to protect the quality of the groundwater supply.

14. Infrastructure in Town Streets and Roads. The Town hereby grants its irrevocable approval for the Village to keep in place all utility infrastructure currently within any roads, streets and highways, and on any other public or private land located within the Town. The Town also grants to the Village permission to place utility Extensions or other infrastructure within the streets, roads and highways located in the Town for the purpose of serving utility customers in the Town, the Village or both. The Town hereby authorizes the Village to operate, maintain and repair utility facilities within the streets, roads and highways located in the Town. The Village agrees to restore Town streets, highways, roads and appurtenances in accordance with standards generally applied by the Town to the construction and maintenance of public utilities in its roadways. The Village and Town agree to coordinate, to the extent possible, the placement of Village infrastructure in the roads, streets and highways located in the Town with the Town's street construction, reconstruction and repairs so as to minimize the disturbance of the roads, streets and highways located in the Town and minimize unnecessary costs to either party.

15. Acquisition of Land for Extension of Utilities Within the Town. If the Town requests that the Village extend the Village's retail utility service through private property located in the Town's Service Area, the Town shall negotiate, acquire and grant all necessary utility easements to the Village in real estate needed for the extension of the Village's utility through the private property. Upon granting the easements to the Village, the Village shall be deemed authorized to construct, place, replace, repair, maintain and operate its utility facilities therein as provided in sec. 14 hereof.

16. Applications for Grants. The Village and Town agree to cooperate in applying for grants to offset the cost of providing utility services to residents of the Town and the Village.

17. Default and Enforcement. If either party is in default in any of its obligations under this Agreement, the non-defaulting party shall issue a notice describing the default and specifying the time in which the default shall be cured. The notice shall give the defaulting party at least thirty (30) days within which to cure the default.

18. Notices. Whenever either party is required to give notice to the other, notice shall be sufficient if it is given in writing and mailed to the other party, by registered or certified mail, return receipt requested, at the following addresses:

To the Village: Village of DeForest
306 DeForest Street
DeForest, WI 53532
Attn: Village Administrator

To the Town: Town of Burke
5365 Reiner Road
Madison, WI 53511
Attention: Town Administrator

19. Cooperative Planning and Village Utility Planning. The Town and the Village recognize that because of the lengthy contiguous border between the municipalities and their intention to share utility services, there is a need for compatible master planning for both municipalities. To that end, the Village adopted Resolution 2003-35 on March 3, 2003, and the Town adopted Resolution 050303 on March 5, 2003, authorizing participation by the two municipalities in the preparation of a cooperative plan pursuant to §66.0307, Wis. Stats. The parties agree to include in their joint planning discussions consideration of the effect of all future development activities within the Town on the ability of the Village to provide efficient and cost-effective utility services as provided in this Agreement, and the environmental impacts that result from the provision of that service.

20. Force Majeure. The Village shall at no time be liable to the Town or its residents for failure to supply utility service when such failure is due to circumstances beyond the reasonable control of the Village. The Village shall have the duty to restore utility service as soon as practicable after such failure occurs. Circumstances beyond the control of the Village include, but are not limited to severe weather, acts of God, strikes, lockouts, acts of public enemies, orders of any state or federal government, riot, insurrection, epidemics, vandalism and accidents.

21. Public Service Commission Approval. This Agreement shall become effective upon Closing of the Merger Agreement, or the approval thereof by PSCW, whichever

occurs later.

22. Severability. If any clause, provision or section of this Agreement shall be ruled invalid by any court of competent jurisdiction, the invalidity of such a clause, provision or section shall not affect any of the remaining provisions of this Agreement. If any such determination of invalidity is based on the application of the terms of this Agreement to a specific property or circumstance, such determination shall not affect the validity of this Agreement to any other property or circumstance.

23. Amendments. This Agreement may not be amended except by mutual written consent of the parties and the consent of PSCW, when such consent is required by law.

24. Governing Law. This Agreement shall be construed in accordance with and be governed by the laws of the State of Wisconsin.

25. Assignment. Neither party may assign its interest in this Agreement without the express written consent of the other party, provided, however, that the Village may assign its rights and obligations hereunder to any commission, agency or authority created by the Village for the purpose of managing and/or operating its public water and/or sanitary sewer utility services.

26. Beneficiaries. This Agreement is intended to benefit the Village of DeForest and the Town of Burke only. No third party, including any individual resident of either of the parties shall have any right to enforce this Agreement or claim any right hereunder.

27. Other Agreements. This Agreement represents the entire agreement between the parties with respect to the provision of water and sanitary sewer service within the Town upon acquisition by the Village of the TCSD utility system. The parties acknowledge that this Agreement fulfills the intent of, and obligations of the parties under, that certain "Joint Utility Service District Agreement" dated February 5, 2003. The parties further acknowledge and agree that this Agreement will supersede the Limited Utility Service Agreement entered into between the parties effective February 25, 2003. The parties therefore agree that both the Joint Utility Service District Agreement and the Limited Utility Service Agreement shall, immediately upon the effective date hereof, be terminated. The parties further agree that both parties hereto, and TCSD have fulfilled all of their obligations under the aforementioned agreements and that all parties are fully and forever released from any obligation arising therefrom.

28. 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.

Dated this _____ day of June , 2006.

VILLAGE OF DEFOREST

By: _____
Jeffrey N. Miller, President

Attest: _____
Lu Ann Leggett, Clerk

APPROVED AS TO FORM:

Allen D. Reuter
Village Attorney

TOWN OF BURKE

By: _____
Kevin Viney, Chairman

Attest: _____
Amy Volkmann, Clerk

APPROVED AS TO FORM:

H. Stanley Riffle
Town Attorney

EXHIBIT 9

TERMS OF MADISON'S ACQUISITION OF BURKE UTILITY DISTRICT #1

WHEREAS, in the mid-1990's, Cherokee Park Incorporated ("CPI") encouraged the Town of Burke ("Burke") to expand the water service capacity of the Burke Utility District #1 (BUD#1) beyond what was reasonably necessary to serve its existing and potential customers, in order to also potentially serve future CPI residential development that CPI said it would build on its property in Burke rather than to annex its property to and develop in the City of Madison ("Madison"); and the BUD#1 incurred substantial debt, including an extraordinary loan from Burke, to construct its current water well and reservoir in reliance upon those CPI representations; and

WHEREAS, CPI has not built and will not build the promised development in Burke that may have helped BUD#1 to finance its water well and reservoir, and the lack of sufficient water customers has caused BUD#1 to have some of the highest water utility rates in the State, and, in addition, to operate at a substantial annual loss that must be subsidized by Burke; and

WHEREAS, even though the only infrastructure assets of BUD#1 that are of value to Madison's Water Utility and Sewer Utility are the water mains and sanitary sewer mains serving existing BUD#1 customers, respectively, both Madison and Burke agree that it would be in the best interests of both local governments and the customers of BUD#1 for Madison to acquire BUD#1 and for the Madison Water Utility ("MWU") and Madison Sewer Utility ("MSU") to assume all BUD#1 operations, management and future financial obligations as soon as possible after this Cooperative Plan receives State approval.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, in accordance with the authority granted them under the Wisconsin Statutes, and for their mutual benefit and in the public interest, Burke and Madison agree as follows:

1. The MWU and MSU will jointly manage the BUD#1, effective on April 1, 2007. Operation of BUD#1 by Madison Utilities must be approved by the Wisconsin Public Service Commission ("PSC"), if so required by law.
2. Operating cash of a minimum of \$10,000 shall remain in the BUD#1 and/or be provided by Burke for use by the MWU and MSU. Burke shall not be obligated to continue to subsidize BUD#1 operations with public fire protection and water benefit charges after March 31, 2007. However, Burke shall operate BUD#1 in a fiscally responsible manner through March 31, 2007, such that BUD#1 has no outstanding operational expenses or debt on April 1, 2007, and Burke shall also absorb any and all outstanding general obligation debt retirement entered into for the benefit of the BUD#1, including any loan moneys advanced by Burke to the

BUD#1.

3. The MWU and MSU shall fully absorb all public water and sanitary sewer operations of the BUD#1, as soon as they reasonably can, in the sole discretion of Madison, but not before the State approval of this Cooperative Plan. In the event that the Cooperative Plan is not so approved, the Town will resume operation of BUD#1 upon tender by Madison. Burke and Madison further understand that the PSC will require Burke and/or BUD#1, as the abandoning utility, to comply with the utility abandonment procedures of s. 196.81(1) as codified by Wis. Admin. Code s. PSC 2.11. Burke agrees to timely comply with any such PSC requirements and to make Madison a party to the proceeding(s).
4. BUD#1 water service rates shall not increase above the level approved by the PSC on August 1, 2000, until the BUD#1 water operations are fully absorbed by the MWU, at which time the former BUD#1 customers will pay the same MWU rates as all of its other customers.
5. BUD#1 sanitary sewer service rates shall be determined on the basis of actual cost until the BUD#1 sanitary sewer service operations are fully absorbed by the MSU, at which time the former BUD#1 customers will pay the same MSU rates as all other customers.
6. Burke shall continue to collect all outstanding special assessments for public water and sanitary sewer service infrastructure and pay all such revenues collected to BUD#1 before its operations are fully absorbed by the MWU and MSU, and shall pay all such revenues collected directly to the MWU and MSU, respectively, after BUD#1 operations are fully absorbed by the MWU and MSU. Burke shall provide Madison with a complete schedule of said outstanding special assessments on or before February 1, 2007.
7. The Town shall levy as a tax upon all Town parcels for which utility service was given any delinquent BUD#1 utility service bills and penalty for collection pursuant to applicable Statute, and shall also levy as a tax upon all Town parcels for which utility service was given any delinquent MWU and MSU utility service bills and penalty any after full absorption of public water and sanitary sewer service to parcels in the former BUD#1 for collection pursuant to applicable statute and shall pay all such revenues collected directly to the MWU and MSU, respectively. [Sec. 66.0809, Wis. Stats.]
8. At the time that the MWU and MSU fully absorb all BUD#1 operations, but not before State approval of this Cooperative Plan, Madison shall pay Burke the lump sum of \$423,400 in full payment for all BUD#1 assets and operations, the said sum representing the discounted value at 5% of the current loan from Burke to BUD#1, assuming that this cost could have been eventually recovered from CPI development by the year 2018. The City intends to recover this cost by reimbursement agreement with CPI through imposition of connection charges against CPI development paid upon the issuance of building permits with said costs indexed for inflation.

EXHIBIT 10

DeForest Ordinance 2005-12 (water service impact fee)

ORDINANCE 2005-12

AN ORDINANCE CREATING SECTION 8.05 OF THE DEFOREST MUNICIPAL CODE ESTABLISHING IMPACT FEES FOR WATER UTILITY FACILITIES.

WHEREAS, the Village Board finds that land development within the Village of DeForest is creating the need for additional public facilities; and

WHEREAS, the Village Board has determined that it is reasonable and appropriate that the cost of providing new and expanded water utility facilities necessary to serve new developments be borne by the developments that create the need; and

WHEREAS, the Village Board desires to finance a portion of the cost of such new and expanded water utility facilities through the imposition of impact fees; and

WHEREAS, §66.0617 of the Wisconsin Statutes authorizes the Village to impose impact fees for the capital cost of new and expanded public facilities to the extent the need therefor is created by new developments; and

WHEREAS, in accordance with §66.0617(4) of the Wisconsin Statutes, the Village has prepared a needs assessment which includes:

1. An inventory of existing public water utility facilities, including the identification of any existing deficiencies in the quality and quantity of those public facilities for which it is anticipated that an impact fee may be imposed.
2. The identification of the new public water utility facilities, or improvements or expansions of existing facilities, that will be required because of land development.
3. A detailed estimate of the capital costs of providing the new public water utility facilities or the improvements or expansions in the existing water utility facilities; and

WHEREAS, as provided by §66.0617(4)(b) of the Wisconsin Statutes, said needs assessment has been made available for public inspection and copying at the DeForest Municipal Building since February 15, 2005; and

WHEREAS, in accordance with §66.0617 of the Wisconsin Statutes a class one notice under Chapter 985 was published in the DeForest Times-Tribune on March 31, 2005 providing notice of a public hearing on this ordinance which was held on April 18, 2005;

NOW, THEREFORE, the Village Board of DeForest, Wisconsin does ordain as follows:

Section 1. Section 8.05 of the DeForest Municipal Code is hereby created as follows:

8.05 IMPACT FEES FOR WATER UTILITY FACILITIES. (1) **PURPOSE.** The purpose of this section is to establish the mechanism for the imposition of impact fees upon new development to finance the capital costs of acquiring, establishing, upgrading, expanding, and constructing public water utility facilities which are necessary to accommodate land development. This section is intended to assure that new development bears an appropriate share of the cost of

capital expenditures necessary to provide public facilities within the Village of DeForest and its service areas as they are required to serve the needs arising out of land development.

(2) DEFINITIONS. As used in this section:

(a) "Capital costs" means the capital costs to construct, expand or improve Public Facilities as defined in par. (f), including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless such costs relate directly to the public improvement for which the impact fees imposed actually exceed 10% of the capital costs.

(b) "Developer" means any person or entity who applies for a building permit for purposes of Development as defined in par. (c).

(c) "Development" means any man made change to improved or unimproved real property, any change in the use of any structure or land, or any other activity if such change or other activity requires or involves a new connection to the Village Water Utility system or the replacement of an existing water meter with a higher capacity meter.

(d) "Impact Fee" means the fee imposed pursuant to this section.

(e) "Needs Assessment" means the report of the evaluation of the Village's anticipated needs for new and/or expanded public water utility facilities caused by new Development. The report, entitled "Village of DeForest Report on Impact Fees," prepared by Virchow Krause & Co. LLP dated February 15, 2005, is on file in the office of the Village Clerk.

(f) "Public facilities" means facilities for the supply and storage of water as identified in the Needs Assessment. Public Facilities shall not include any part of the water distribution system other than the storage and supply facilities for which the Impact Fee under this section is calculated as set forth in the Needs Assessment.

(g) "Village" means the Village of DeForest.

(3) IMPOSITION OF FEES. (a) Impact Fee Imposed. Impact Fees under this section are hereby imposed on all residential and nonresidential Development.

(b) Basis for Impact Fee Calculation. The Impact Fees imposed by this section are established based on the impact fee report titled "Village of DeForest, DeForest Wisconsin, Report on Water Impact Fees" prepared by Virchow Krause & Company, LLP dated Feb. 15 2005. The amount of the Impact Fees established hereby shall be reviewed by the Village Board periodically provided, however, that the fees shall not be increased unless a new needs assessment is prepared which establishes a basis for the increased fees.

(c) Amount of Impact Fees. Impact Fees imposed under this section shall be determined based on the size of each water meter to be installed to serve the Development. In the event an existing water meter is to be replaced with a higher capacity meter, the Impact Fee shall be limited to the amount by which the fee that would be imposed on a new connection with the higher capacity meter exceeds the charge that would apply to the replaced meter. Impact Fees shall be determined as follows:

Meter Size	Impact Fee
5/8" or 3/4"	\$700
1"	\$1,750
1 1/4"	\$2,625
1 1/2"	\$3,500
2"	\$5,600
3"	\$10,500
4"	\$17,500
6"	\$35,000

(c) Fee Credits. The fees imposed by this section shall be reduced to compensate the Developer for other capital costs imposed by the Village in connection with the Development to provide or pay for Public Facilities, including special assessments, special charges, land dedications or fees in lieu of land dedications. Such credits shall be given only for such costs, fees or dedications required by the Village and which relate to the new Public Facilities for which the fees under this section are imposed.

(4) **PAYMENT OF IMPACT FEES**. All required Impact Fees shall be paid in full by the Developer prior to issuance of a building permit for any Development. No building permit shall be issued unless the Impact Fee imposed by this section is paid.

(5) **IMPACT FEE REVENUE ADMINISTRATION**. (a) Accounting. Revenues from Impact Fees collected pursuant to this section shall be placed in one or more segregated, interest-bearing accounts and shall be accounted for separately from other Village general and utility funds. Impact Fee revenues and interest earned thereon may be expended only for the capital costs for which the Impact Fees were imposed.

(b) Refunds. Impact Fee revenues imposed and collected but not used within twenty (20) years after collection to pay the capital costs for which they were imposed shall be refunded on a prorated proportional basis, as determined by the Village Board, to the then current record owner or owners of the property with respect to which the Impact Fees were imposed.

(6) USE OF IMPACT FEES. Impact Fees collected under this section shall be used solely for the purpose of paying the proportionate costs of providing public facilities that may become necessary due to Development. These costs may include the costs of debt service on bonds or similar debt instruments when the debt has been incurred for the purpose of proceeding with designated public facilities projects prior to the collection of all anticipated Impact Fees for that project, to reimburse the Village for advances of other funds or reserves, and such other purposes consistent with §66.0617, Wis. Stats. as approved by the Village Board.


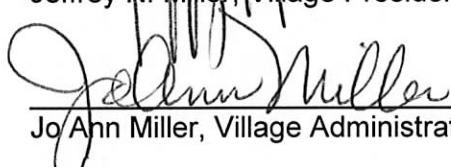
(7) APPEALS. The payment of an Impact Fee imposed under this section may be contested as to the amount, collection or use of the Impact Fee to the Village Board, provided that the applicant files a written notice of appeal with the Village Clerk within thirty (30) days of the decision being appealed. Such notice of appeal shall be entitled "Notice of Appeal of Impact Fee" and shall state the applicant's name, address, telephone number, address (if available) and legal description of the land upon which the Development for which the Impact Fee is imposed is located, and a statement of the nature of and reasons for the appeal. The Village Clerk shall schedule the appeal for consideration by the Village Board at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the applicant of the time, date and place of such meeting in writing by regular mail, deposited in the mail no later than ten (10) days before the date of such meeting. Upon review of such appeal, the Village Board may adjust the amount, collection or use of the Impact Fee upon just and reasonable cause shown.

(8) SEVERABILITY. If any section, phrase, sentence, or portion of this section is for any reason determined invalid or unenforceable by any court of competent jurisdiction, such portions shall be deemed separate, distinct, and independent provisions, and such determination shall not affect the validity of the remaining portions hereof. If this section, or any provision herein, is determined to be invalid or unenforceable as to any individual property or set of circumstances, such determination shall not affect the applicability thereof to any other property or circumstances.

Section 2. This ordinance shall take effect upon its enactment.

Enacted at a regular Village Board meeting this 18th day of April, 2005.

Attest: 
Susan Harper, Village Clerk


Jeffrey N. Miller, Village President

Jo Ann Miller, Village Administrator

Date Enacted: April 18, 2005 Vote: 7-0

EXHIBIT 11

Modification to the Madison-Sun Prairie Community Separation Agreements

A. Modifications to the Defined Permanent Open Space Areas

The Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan modifies and supersedes the permanent open space provisions of the existing City of Madison-City of Sun Prairie Intergovernmental Agreement Regarding Community Separation, executed in 1991 and modified in 1993, and 1995, as illustrated in **Exhibit 12** and described further below:

1. North of U. S. Highway 151

- a. A substantial landscaped buffer zone shall be established and maintained along the north frontage of USH 151 between the American Parkway/Nelson Road interchange and the CTH C/Reiner Road interchange. The buffer zone shall be a minimum of 300 feet in depth measured from the near edge of the USH 151 right-of-way, and shall be preserved from development where no development is now present and be ultimately restored where development is now present.

The buffer zone is specifically intended to provide a natural undeveloped appearance along the highway frontage, and no development, signage or other urban improvements shall be permitted, other than a single community welcome sign for the City of Madison consistent with the character and intent of the zone, stormwater management facilities, and access roads thoroughly screened by landscaped berms from the highway. The entire area of the frontage buffer zone shall be planted with a mixture of native plant materials that include large deciduous and coniferous trees, appropriate understory shrubs and groundcovers to create and maintain a natural appearance. Where development is located adjacent to the buffer zone, the plantings are intended to screen the development visually from USH 151 travelers. Additional berming within the buffer zone may be appropriate as needed to help to screen development on lands to the north.

Madison and Sun Prairie agree to require fee dedication and/or easements and other implementation measures in an effort to secure the permanent preservation of this USH 151 buffer zone as part of development approvals within their respective jurisdictions.

The landscaped buffer zone is intended to be permanent open space extending beyond the term of this Cooperative Plan.

- b. A continuous permanent open space area is recommended north of USH 151, within Section 14 (T8N R10E) and extending generally between USH 151 and

Hoepker Road. The recommended minimum width of this open space area is 2,000 feet, as illustrated conceptually in **Exhibit 12**, but the area may be wider or narrower at specific locations. This open space area has been acquired by Madison as part of its commitment to implement the 1991 City of Madison-City of Sun Prairie Intergovernmental Agreement Regarding Community Separation, as modified in 1993 and 1995; but no plans have been prepared for its ultimate use at this time. Recognizing that other elements of the 1991 Intergovernmental Agreement regarding establishment of a wide, continuous open space corridor extending north of Hoepker Road toward Token Creek have not been, and will not be, implemented, it is mutually agreed by the parties that the boundaries of this recommended open space area may be modified by Madison through further more-detailed planning, and that portions of the current open space area within the City of Madison may instead be developed with more intensive uses at some future time, provided that such development is compatible with uses in the balance of the open space area.

- c. Madison, Sun Prairie and Burke shall work cooperatively to establish multi-use bicycle/pedestrian paths or trails within the designated open space area north of USH 151 as needed to connect with other existing or proposed future trail connections north and west to Token Creek County Park and Cherokee Marsh and south and east to existing and proposed future trail connections south of USH 151. The location of the trail linkages will be determined through cooperative planning by Madison, Sun Prairie, Burke and Dane County.
2. South of U. S. Highway 151
 - a. A substantial landscaped buffer zone shall be established and maintained along the south frontage of USH 151 between the American Parkway/Nelson Road interchange and the CTH C/Reiner Road interchange. The buffer zone shall be preserved from development where no development is now present and be ultimately restored where development is now present. The buffer zone is specifically intended to provide a natural, undeveloped appearance along the highway frontage, and to visually screen adjacent development to the east from USH 151 travelers.

Between the American Parkway/Nelson Road interchange and the south boundary of the Capital Avenue plat, the buffer zone shall be a minimum of 300 feet in depth measured from the near edge of the USH 151 right-of-way. No changes are made to the open space provisions in the existing Landfill/Ancillary Facilities Agreement that apply to the landscaped buffer zone along the USH 151 frontage of the Waste Management property. From a point on the south boundary of the Capital Avenue plat 300 feet from the near edge of the USH 151 right-of-way, the buffer zone shall narrow following a straight line extending generally northeasterly to the point where the west line

of the east one-half of the NE quarter of Section 14 of T8N-R10E intersects the east boundary of the USH 151 right-of-way, as illustrated in **Exhibit 12**. The current buffer zone along the USH 151 frontage of the Capital Avenue plat is only 50 feet, but at such future time as properties within the Capital Avenue plat may be re-subdivided and/or redeveloped in combination with other parcels with different or expanded uses, the parties agree that the expanded buffer zone as shown in **Exhibit 12** shall be implemented to the extent feasible, including potential implementation as a condition of development approvals.

The buffer zone is specifically intended to provide a natural undeveloped appearance along the USH 151 frontage, and no development, signage or other urban improvements shall be permitted, other than a single community welcome sign for the City of Sun Prairie consistent with the character and intent of the zone. The entire area of the frontage buffer zone shall be planted with a mixture of native plant materials that include large deciduous and coniferous trees, appropriate understory shrubs and groundcovers to create and maintain a natural appearance. Where development is located adjacent to the buffer zone, the plantings are intended to screen the development visually from USH 151 travelers. Additional berming within the buffer zone may be appropriate as needed to help to screen development on lands to the south.

Madison and Sun Prairie agree to require fee dedication and/or easements and other implementation measures in an effort to secure the permanent preservation of this USH 151 buffer zone as part of development approvals within their respective jurisdictions.

The landscaped buffer zone is intended to be permanent open space extending beyond the term of this Cooperative Plan.

- b. On the Waste Management property, no changes are made to the provisions in the 1993 Landfill/Ancillary Facilities Agreement by and among Browning-Ferris Industries of Wisconsin, Inc. (now Waste Management, Inc.), the City of Madison, the City of Sun Prairie and Dane County regarding land uses and open space preservation. This agreement provides that development uses on the property now owned by Waste Management are limited to an integrated solid waste facility consisting of 1) a special waste landfill, 2) a hauling company, 3) a materials recovery facility, and 4) a transfer station, which activities are specifically confined to identified locations within the property by the terms of the agreement. The agreement also provides that the use of the balance of the property, as well as the final use of the landfill portion of the property after closure of the landfill, shall be limited to open space and conservancy uses approved by Madison, Sun Prairie, and Dane County except for necessary landfill monitoring and maintenance activities. The Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan modifies this provision to specify that Sun Prairie will cede

its approval of future open space and conservancy uses on the Waste Management property to Madison.

- c. A permanent open space area is recommended in an irregularly shaped area located adjacent to and east of the USH 151 landscaped buffer zone described in Section A.2.a. between the current east boundary of the Waste Management property and the south boundary of the Capital Avenue plat, as illustrated in **Exhibit 12**. Land uses within this area shall be permanent open space uses as defined in Chapter 5 of the 1990 City of Madison Peripheral Area Development Plan and consistent with the general objective of maintaining a visual sense of non-developed open space along this segment of the USH 151 corridor.
- d. The recommended continuous community separation open space corridor that includes the permanent open space area north of USH 151 described in Section A.1.b., and the open space uses on the Waste Management property described in Section A.2.b., is extended eastward to encompass additional lands east of Reiner Road, as illustrated in **Exhibit 12** and described further below:
 - i. A permanent open space area is recommended east of Reiner Road beginning at the southwest corner of the First Addition to Smith's Crossing subdivision plat in the City of Sun Prairie; thence east and southeasterly to the Canadian Pacific railroad right-of-way; thence northeasterly following the railroad right-of-way to the east boundary of the Town of Burke (T8N-R10E); thence south following the Town line to a point approximately 2,000 feet north of the centerline of Nelson Road; thence west and southwesterly to encompass the large wooded hill located northeast of the Nelson Road/Reiner Road intersection; thence northwesterly to a point on Reiner Road approximately 1,500 feet north of the centerline of Nelson Road. The boundary of the recommended permanent open space area is illustrated conceptually in **Exhibit 12**.

The recommended minimum width of this permanent open space corridor is 2,000 feet, but the corridor may be wider or narrower depending on the locations of specific open space features and/or lands with development constraints. Detailed Madison land use and open space plans will establish the exact boundaries of the open space areas to be preserved, the uses allowed on any recommended development areas adjacent to or within open space preservation areas, and the specific methods for ensuring long-term protection of the most desirable open space lands.

It is expressly intended that the wooded hill and steep slopes located east of Reiner Road be maintained in an essentially natural state, free not only

from urban development, but from intensive recreational uses that would alter its visual character.

- ii. Land uses within the future permanent open space areas shall be consistent with permanent open space uses as defined in Chapter 5 of the 1990 City of Madison Peripheral Area Development Plan. This provision is not intended to prohibit the expansion, reconfiguration or reconstruction of existing residential properties located within the recommended open space areas.
- iii. Madison, Sun Prairie and Burke shall each have the opportunity to comment on all proposed land uses within the permanent open space area prior to consideration by the municipality with development approval jurisdiction.
- e. Madison, Sun Prairie and Burke shall work cooperatively to establish multi-use bicycle/pedestrian paths or trails within the designated open space area south of USH 151 as needed to connect with other existing or proposed regional trail connections north of USH 151, east toward Sun Prairie, and south toward Madison and proposed recreational trail connections extending along the Door Creek corridor and south to Lake Kegonsa. The location of the trail linkages will be determined through cooperative planning by Madison, Sun Prairie, Burke and Dane County.

B. Modifications to the Defined Development Areas

The Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan modifies and supersedes the development area provisions of the existing City of Madison-City of Sun Prairie Intergovernmental Agreement Regarding Community Separation, executed in 1991 and modified in 1993, and 1995, as illustrated in **Exhibit 12** and described further below:

- 1. North of U. S. Highway 151
 - a. Provisions limiting the allowed land uses that may be established within the defined Sun Prairie Future Development Area located west of relocated CTH C and south of the former Hoepker Road right-of-way are hereby null and void, and the allowed types of development shall be established by Sun Prairie land use plans.

Notwithstanding the preceding provision, Sun Prairie agrees that any development on lands adjacent to the defined permanent open space area shall be of high quality design, that building facades facing the open space shall incorporate materials and design similar to the other facades, and that any building loading and service areas, outdoor storage or parking areas shall include substantial landscape screening that will effectively reduce their

visibility from the open space area. It is further agreed that lighting and signage within the development area shall seek to minimize any visual impacts on the adjacent open space area, including use of downcast and shielded lighting fixtures and other appropriate methods. In no case shall signage other than that is not consistent with Sun Prairie standards be placed where it will be substantially visible from within the open space area.

Madison and Burke shall have the opportunity to comment on all land use plan amendments and proposed developments within the Sun Prairie Future Development Area prior to consideration of the proposal.

- b. As described in Section A.1.b., above, a portion of the recommended open space area north of USH 151 currently owned by, and within, the City of Madison may instead be developed with more intensive uses at some future time, provided that such development is compatible with uses in the balance of the open space area. Madison agrees that any development on lands adjacent to the defined permanent open space area shall be of high quality design, that building facades facing the open space shall incorporate materials and design similar to the other facades, and that any building, loading and service areas, outdoor storage, or parking areas shall include substantial landscape screening that will effectively reduce their visibility from the open space area. It is further agreed that lighting and signage within the development area shall seek to minimize visual impacts on the adjacent open space area, including use of downcast and shielded lighting fixtures and other appropriate methods. In no case shall signage that is not consistent with Madison standards be placed where it will be substantially visible from within the open space area.

Specific boundaries and allowed types of development within a future development area, in the event that one is created at a future time, shall be established by Madison land use plans.

Sun Prairie and Burke shall each have the opportunity to comment on all land use plan amendments or proposed developments establishing or within a future Madison development area north of USH 151 prior to consideration of the proposal.

2. South of USH 151

- a. A General Development Area is established north of the current Waste Management property, south of the Capital Avenue plat, and east of the USH 151 landscaped buffer zone and recommended permanent open space area described in Sections A.2.a. and A.2.c., as illustrated in **Exhibit 12**.

Within the General Development Area, the allowed types of development shall be established by Sun Prairie land use plans. Lighting within the General Development Area shall seek to minimize any visual impacts on the adjacent landscaped buffer zone and open space areas, including use of downcast and shielded lighting fixtures and other appropriate methods; and signage that is not consistent with Sun Prairie standards shall not be placed where it will be substantially visible from the USH 151 corridor.

- b. Madison, Sun Prairie and Burke shall each have the opportunity to comment on all land use plan amendments or proposed developments within the General Development Area prior to consideration of the proposal by the municipality with development approval jurisdiction.

C. Modifications to the Ultimate Jurisdictional Boundaries

The Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan modifies and supersedes the ultimate jurisdictional boundaries provisions of the existing City of Madison-City of Sun Prairie Intergovernmental Agreement Regarding Community Separation.

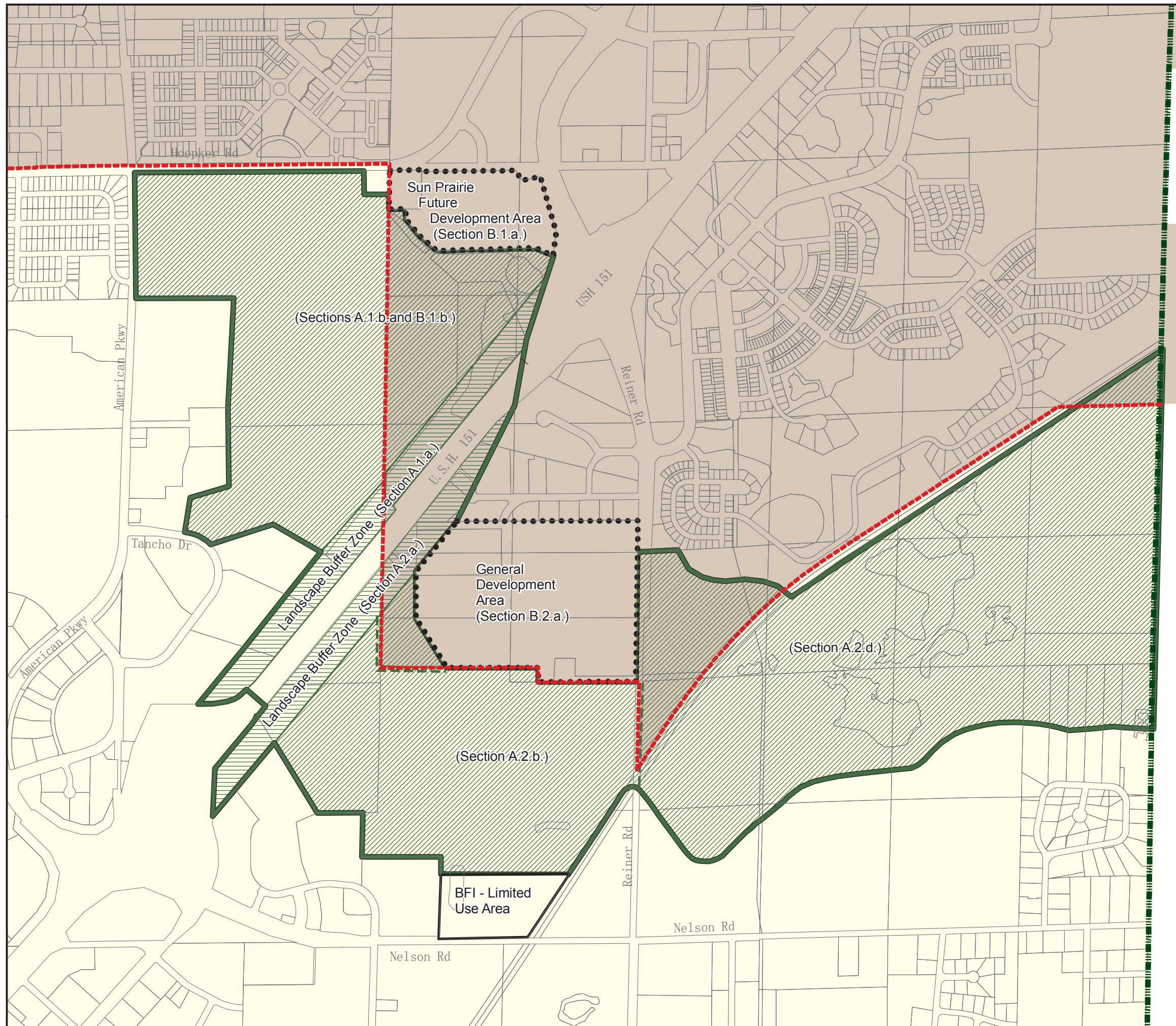
1. The ultimate jurisdictional boundary between the City of Madison and the City of Sun Prairie is established by the Boundary Adjustment Area Plans defined in the Town of Burke, Village of DeForest, City of Sun Prairie and City of Madison Cooperative Plan, as illustrated in **Exhibit 2** and **Exhibit 3**.
2. Article 4.b. of the revision to the Madison-Sun Prairie Intergovernmental Agreement Regarding Community Separation executed on March 3, 1993, which provides for the future detachment of a portion of the current Waste Management landfill property from the City of Madison and its attachment to the City of Sun Prairie at the request of the City of Sun Prairie, is hereby null and void.






Exhibit 12

**Madison-Sun Prairie Community
Separation Agreement Area**

Exhibit 12 Madison-Sun Prairie Community Separation Agreement Area

Town of Burke
Village of DeForest
City of Sun Prairie and
City of Madison
Cooperative Plan
December 2006



-  Final Boundary Line
-  Recommended Open Space
-  Landscaped Buffer Zone
-  Future City of Sun Prairie
-  Future City of Madison

Data Source:
City of Madison Department of Planning and Development, Planning Unit



Exhibit 13

Burke/Sun Prairie Revenue Sharing Area

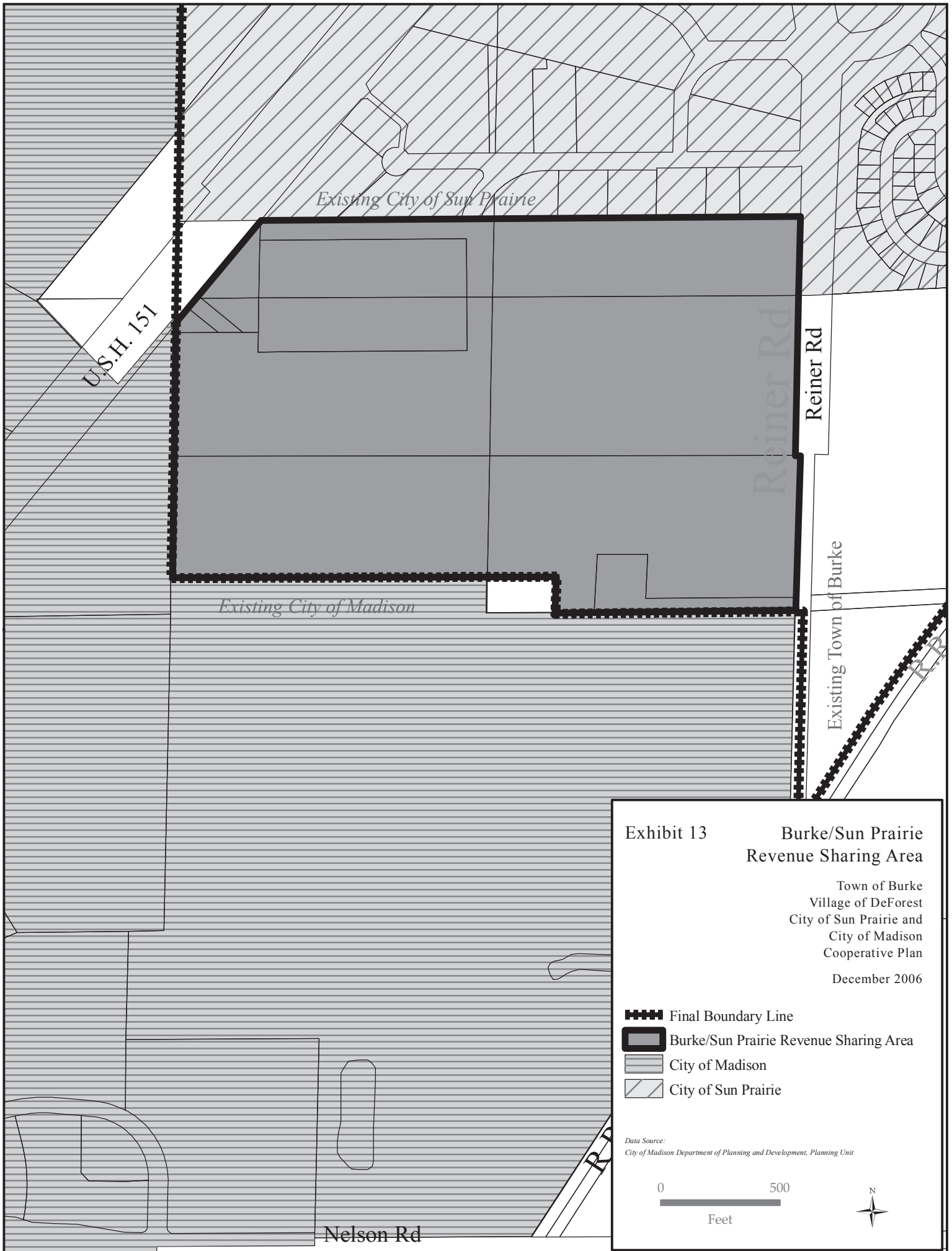






Exhibit 13 **Burke/Sun Prairie
Revenue Sharing Area**

Town of Burke
Village of DeForest
City of Sun Prairie and
City of Madison
Cooperative Plan
December 2006

-  Final Boundary Line
-  Burke/Sun Prairie Revenue Sharing Area
-  City of Madison
-  City of Sun Prairie

Data Source:
City of Madison Department of Planning and Development, Planning Unit

