

**JURISDICTIONAL BOUNDARY LINE AND
INTERGOVERNMENTAL COOPERATION AGREEMENT**

Village of Creston and City of Rochelle, Illinois

THIS AGREEMENT, made and entered into this _____ day of _____, 2021,
by and between the VILLAGE OF CRESTON, Ogle County, Illinois (“Creston”) and the
CITY OF ROCHELLE, Ogle County, Illinois (“Rochelle”),

WITNESSETH:

THAT WHEREAS, Creston and Rochelle are “units of local government” as defined by
Article VII, Section 1, of the Constitution of the State of Illinois of 1970; and

WHEREAS, units of local government are enabled by Article VII, Section 10 of the
Constitution of the State of Illinois of 1970 to enter into agreements among themselves to obtain
or share services and to exercise, combine or transfer any power or function in any manner not
prohibited by law or ordinance; and

WHEREAS, the Illinois Intergovernmental Cooperation Act, (5 ILCS 220/1 et seq.),
authorizes municipalities to exercise jointly with any public agency of the State, including other
units of local government, any power, privilege, or authority which may be exercised by a unit of
local government individually, and to enter into contracts for the performance of governmental
services, activities and undertakings; and

WHEREAS, 65 ILCS 5/11-12-9 provides “[t]hat if unincorporated territory is within one
and one-half miles of the boundaries of two or more corporate authorities that have adopted
official plans, the corporate authorities involved may agree upon a line which shall mark the
boundaries of the jurisdiction of each of the corporate authorities who have adopted such
agreements”; and

WHEREAS, certain unincorporated territory lies within one and one-half miles of the boundaries of Creston and Rochelle; and,

WHEREAS, Creston and Rochelle have adopted official comprehensive plans for making recommendations with respect to the development of that unincorporated territory.

WHEREAS, Creston and Rochelle recognize the need and desirability to provide for logical future municipal boundaries and areas of municipal authority between their respective corporate limits in order to plan effectively for growth management and potential development between their communities, and to memorialize certain agreements between them related to cooperation with regard to significant infrastructure developments within the unincorporated territory and with regard to maintaining reasonably comparable impact fees and similar development costs in order to foster fair competition; and

WHEREAS, Creston and Rochelle, after due investigation and consideration, have determined to enter into an agreement providing for the establishment of a boundary for their respective jurisdictions in the unincorporated territory lying between and near their boundaries; and

WHEREAS, Creston and Rochelle have determined that the observance of the boundary line in future annexations by either municipality will serve the best interests of both communities; and

WHEREAS, in arriving at this Agreement, Creston and Rochelle have given consideration to the natural flow of stormwater drainage and, when practical, have included all of a single tract of land having common ownership within the jurisdiction of only one municipality; and

WHEREAS, Creston and Rochelle have authorized, by ordinance, the execution of this Agreement as an exercise of their intergovernmental cooperation authority under the Constitution of the State of Illinois, and the Intergovernmental Cooperation Act, and their authority to enter into jurisdictional boundary agreements pursuant to 65 ILCS 5/11-12-9; and

WHEREAS, Creston and Rochelle have caused to be published not less than thirty (30) days and not more than 120 days prior to the formal approval hereof public notice of the proposed boundary agreement by posting a public notice for not less than 15 consecutive days in the same location at which notice of all Village Board or City Council meetings of both Municipalities are posted and publication on at least one occasion in the Rochelle News-Leader, a newspaper of general circulation within the territory that is subject to the proposed agreement; and have otherwise complied with the requirements and is within the terms and conditions of 65 ILCS 5/11-12-9.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises hereinafter contained, the adequacy and sufficiency of which the parties hereto stipulate, Creston and Rochelle agree as follows

Section 1. Incorporation of Recitals. The recitals set forth above are incorporated herein by reference as substantive provisions of this Agreement.

Section 2. Jurisdictional Boundary Line.

a) The **WEST** jurisdictional boundary line between Creston and Rochelle for the purpose of establishing their respective jurisdictions for land use planning, official map purposes, zoning, subdivision control and annexation of unincorporated territory, and other municipal purposes, all as hereinafter provided, shall commence on **THE EASTERN MOST NORTH/SOUTH RIGHT OF WAY OF MULFORD ROAD** such that Rochelle shall have jurisdiction of all

property West thereof as depicted upon the map attached hereto and made as **Exhibit A** hereinafter referred to as **‘ROCHELLE JURISDICTIONAL AREA’**, including all areas already annexed into the City as depicted in City’s official zoning map.

b) The **EAST** jurisdictional boundary line between Creston and Rochelle, for the purposes of establishing their respective jurisdictions for land use planning, official map purposes, zoning, sub division control and annexation of unincorporated territory, and other municipal purposes, all as hereinafter provided, shall commence on **THE EASTERN MOST NORTH/SOUTH RIGHT OF WAY OF MULFORD ROAD** such that Creston shall have jurisdiction of all property east thereof as depicted upon the map attached hereto and marked as **Exhibit B** hereinafter referred to as **“CRESTON JURISDICTIONAL AREA”**.

c) The **NORTH** boundary line of said jurisdictional areas shall be the **south right of way of Lind /Gillis Rd.** and the **south** boundary line shall be the **Ogle/Lee County Line** as depicted upon the map attached hereto as **‘Exhibit A’ and ‘Exhibit B’** and made a part hereof.

The Rochelle Jurisdictional Area, together with all territory located within the corporate limits of Rochelle from time to time, shall be within the Rochelle territory (“Rochelle Territory”)

The Creston Jurisdictional Area, together with all territory located within the corporate limits of Creston from time to time, shall be within the Creston territory (“Creston Territory”).

Section 3. Exercise of Authority.

a) Creston agrees that it shall not exercise or attempt to exercise or enforce any comprehensive plan jurisdiction, official map jurisdiction, zoning authority or subdivision control authority within the Rochelle Jurisdictional Area.

- b) Rochelle agrees that it shall not exercise or attempt to exercise or enforce any comprehensive plan jurisdiction, official map jurisdiction, zoning authority or subdivision control authority within the Creston Jurisdictional Area.

Section 4. Statutory Zoning Objections. This Agreement shall not be construed to limit or adversely affect the right of either municipality to file a statutory objection to proposed rezonings within one and one-half (1 ½) miles of its corporate limits.

Section 5. Annexation. Both Creston and Rochelle acknowledge that it is not in their respective best interests to engage in disputes with respect to the annexation of territory. The boundary line established pursuant to this Agreement was carefully studied and considered with respect to those matters heretofore set out in the recitals to this Agreement. Therefore, each municipality agrees not to annex any territory which is located in the other municipality's Territory, as shown on **Exhibit A** and **Exhibit B**. Notwithstanding, subject to approval by both parties and pursuant to an Intergovernmental Agreement between the City of Rochelle and the Village of Creston regarding siting amendments to the Rochelle Landfill No. 2, the City shall not object to the annexation of that certain property owned by Rochelle Waste Disposal, LLC , or its subsidiary consisting of the 124 acres mol at the most eastern portion of the Rochelle Landfill No. 2 as depicted upon the map attached hereto and marked as **Exhibit C**, and made a part hereof.

Creston and Rochelle also agree to take all reasonable and appropriate actions to oppose any involuntary or court-controlled annexation proceedings by property owners who propose to annex territory within either municipality's Territory in a manner inconsistent with this Agreement.

In addition, Creston and Rochelle each hereby agree that each of them waives any right to challenge or otherwise contest the validity of any annexation the other municipality has effected, to the date of this Agreement for territory located within such other municipality's Territory.

Creston and Rochelle further agree not to solicit or otherwise make any requests, formal or informal, to any third party to encourage the disconnection from the other municipality of land within the municipality's Territory or to challenge the validity of the other municipality's past, current, or future annexations within such other municipality's Territory.

Section 6. General Implementation. The parties hereto agree to cooperate to the fullest extent possible, and take all steps reasonably practicable, to achieve any appropriate modification of the postal service boundary, the NIPC and Illinois EPA Facilities Planning Area, the local access telephone service area code, and the Emergency 911 telephone service area, to conform to the boundary defined under this Agreement.

Section 7. Infrastructure.

a) The parties hereto acknowledge that Rochelle may, from time to time, have plans relating to future water and sanitary sewer facilities needed to service property which is located within portions of the Creston Jurisdictional Area. The municipalities agree to cooperate in the construction of such water and sanitary sewer facilities in said areas as may be necessary to service development within said areas when development occurs.

b) Should either municipality construct any such facilities which would be able to service any portion of the other municipality's Jurisdictional Area, the municipalities shall enter into an agreement which provides, among other things, for connection fees to be paid by the municipality which requires the facilities in its respective Jurisdictional Area when any property connects to the facilities, or any developer which constructs the facilities as part of the

development, and to record such agreement, or a memorandum of same, in the office of the Ogle County Recorder.

c) The parties hereto agree that they shall extend Sewer and Water as well as electrical utilities to the east or west, as the case may be, property line of the property developed within their jurisdictional area.

d) The parties hereto agree that they shall cooperate and not unreasonable deny access to same with reference to development of abutting property including for public services such as water, sewer, roadways and storm water management.

e) City of Rochelle and Village of Creston shall share proposed developments and plans as may be necessary to promote the infrastructure development of both parties.

Section 8. Pilot Development. The parties hereto agree that the property now annexed into the City of Rochelle and commonly referred to as the ‘**PILOT DEVELOPMENT**’ and as depicted upon the map attached hereto and marked as Exhibit E and made a part hereof shall remain annexed to the City of Rochelle subject to the following terms and conditions:

a) The City of Rochelle shall pay to the Village of Creston after the City of Rochelle has been reimbursed in the amount of \$500,000 as and for the amount of its infrastructure costs from all revenue derived therefrom, but in any event no later than 5 years from the date of this Agreement, to the Village of Creston 25% of all revenue set forth hereinafter in Section 9 entitled Future Development.

b) Creston hereby waives its right to contest or otherwise take action for the failure to notify same for the re-zoning of that certain parcel annexed by Rochelle within Creston’s one and one-half corporate limits and commonly referred to as the Pilot Development .

Section 9. Future Developments (SHARED REVENUE AREA). Those properties located within the **SHARED REVENUE AREA**, as depicted in **Exhibit D** shall be developed at the sole cost of the City of Rochelle including all improvements of public services such as water, sewer, roadways, stormwater management and electrical utilities.

The City shall pay to the Village the revenue derived from the **SHARED REVENUE AREA**, as follows:

- a) 25% of the Non -Home Rule sales tax as long as both municipalities have a Non-Home Rule Sales Tax at the time of any development subject to this Agreement.
- b) 25% of the Hotel/Motel tax as long as both municipalities have a Hotel/Motel Tax at the time of any development subject to this Agreement.
- c) 25% of the Illinois Retailers Tax/occupational tax paid to or rebated back to the municipality, as long as both municipalities have adopted such a tax at the time of any development subject to this Agreement. This tax specifically excludes any Utility Taxes and Excise Taxes.
- d) 25% of the future Home Rule Sales Tax whether for general merchandise, special merchandise or fuel, so long as both municipalities are home rule. If either one of the municipalities is not home rule, then it shall not be able to share in any Home Rule Sales Tax.
- e) 25% of all gaming revenue derived in the **SHARED REVENUE AREA**.

The above payments shall be made based upon net revenues calculated after the deduction of any and all tax rebates or tax incentive, including tax increment financing districts, development incentive provided to any developer, or any infrastructure improvement costs incurred by the City of Rochelle.

Any party to this agreement shall be free to negotiate any recapture agreement from any development within their jurisdictional area so long as same is negotiated in good faith and not used as an economic tool to encourage development within its own jurisdictional area.

Neither party shall seek, nor receive reimbursement from the other for police or fire protection associated within its respective jurisdictional area other than as subsequently agreed upon hereafter.

The Village of Creston and the City of Rochelle shall continue to cooperate in the future with reference to plans for development of the **SHARED REVENUE AREA** and both parties shall continue to share information with one another in reference to proposed developments within said area, to the extent allowed by any Developer and subject to any confidentiality agreements.

Each party hereto agrees that it shall within fourteen (14) days of receipt of any information regarding potential development therein, give full disclosure to the other of said potential development which party shall then be subject to any non-disclosure agreements including the names of individuals or otherwise together with contact numbers, to the extent allowed by any such non-disclosure agreements.

Section 9. Binding Effect. This Agreement shall only be binding upon both municipalities reaching an agreement with the landfill operator concerning the exhumation of Unit 1 of the Rochelle Landfill, the Illinois Environmental Protection Agency (“IEPA”) issues a final and Non-appealable order, and all of the Conditions Precedent and obligations contained in the Intergovernmental Agreement between the City of Rochelle and the Village of Creston being fulfilled. Should either of the municipalities fail to reach an agreement with the landfill operator regarding the exhumation of Unit 1 of the Rochelle Landfill or any of the Conditions Precedent and obligations contained in the Intergovernmental Agreement between the City of Rochelle and the Village of Creston fail to be met, then this agreement shall be null and void and of no legal effect. Should both Creston and Rochelle reach an agreement with the landfill operator and the

IEPA issues a Final and Non-Appealable order regarding the exhumation of Unit 1 of the Rochelle Landfill, then this Agreement shall only be binding upon and shall apply only to the legal relationship between Creston and Rochelle. Nothing herein shall be used or construed to affect, support, bind or invalidate any claims of either Creston and/or Rochelle insofar as such claims shall affect any person, firm or entity for which is not a party to this Agreement.

Section 10. Amendment. Neither Creston nor Rochelle shall directly or indirectly seek any modification of this Agreement through court action and this Agreement shall remain in full force and effect until amended or changed in writing by the mutual agreement of both Creston and Rochelle.

Section 11. Partial Invalidity. If any provisions of this Agreement shall be declared invalid for any reason, such invalidation shall not affect other provisions of this Agreement which can be given effect without the invalid provisions and to this end, the provisions of this Agreement are deemed to be severable.

Section 12. Notice and Service. Any Notice hereunder from either party hereto to the other party shall be in writing and shall be served by registered or certified mail, postage prepaid, return receipt requested addressed as follows:

To Creston: Village of Creston
 110 N. Main St.
 P.O. Box 36
 Creston, IL 60113
 Attn: Village President

To Rochelle: City of Rochelle
 420 N. 6th Street
 Rochelle, IL 61068
 Attn: City Manager

Or to such persons or entities and at such address as either party may from time to time designate by notice to the other party. Notice shall be deemed received on the third business day following deposit in the U.S. Mail in accordance with this Section.

Section 13. Term. This Agreement shall be in full force and effect for a period of twenty (20) years from and after the date hereof. The term of this Agreement may be extended, renewed or revised at the end of this initial term or any extended term thereof by further agreement of Creston and Rochelle.

Section 14. Illinois Law. This Agreement shall be construed in accordance with the laws of the State of Illinois.

Section 15. Execution of Agreement, Recordation. Subject to the terms and conditions herein, this Agreement shall not become effective until a copy thereof, certified as to adoption by the Village Clerk of Creston and the City Clerk of Rochelle has been filed in the Recorder's office of Ogle County. A copy of this Agreement shall be made available in the office of the municipal clerk of each party.

[REMAINDER OF PAGE LEFT BLANK]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals on the date first above written.

VILLAGE OF CRESTON, an
Illinois Municipal Corporation,

CITY OF ROCHELLE, an Illinois
Municipal Corporation,

By: _____
Village President

By: _____
City Manager

ATTEST:

ATTEST:

Village Clerk

City Clerk

This Document Prepared by and Return to:

TESS, CRULL & ARNQUIST, LLC

1090 N. 7th St.

P.O. Box 68

Rochelle, IL 61068

(815) 562-8754

(815) 562-3412

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EXHIBIT A

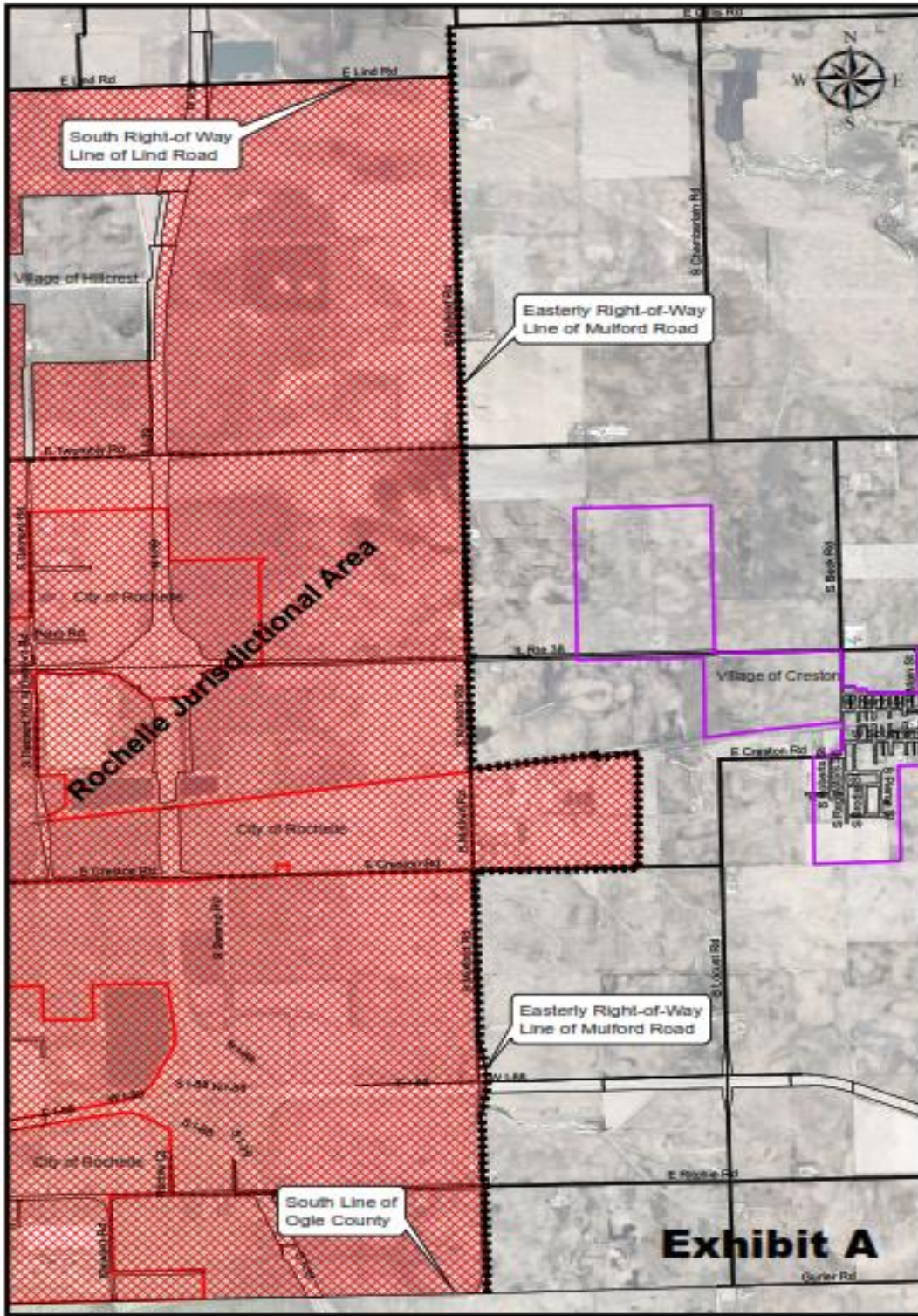


EXHIBIT C

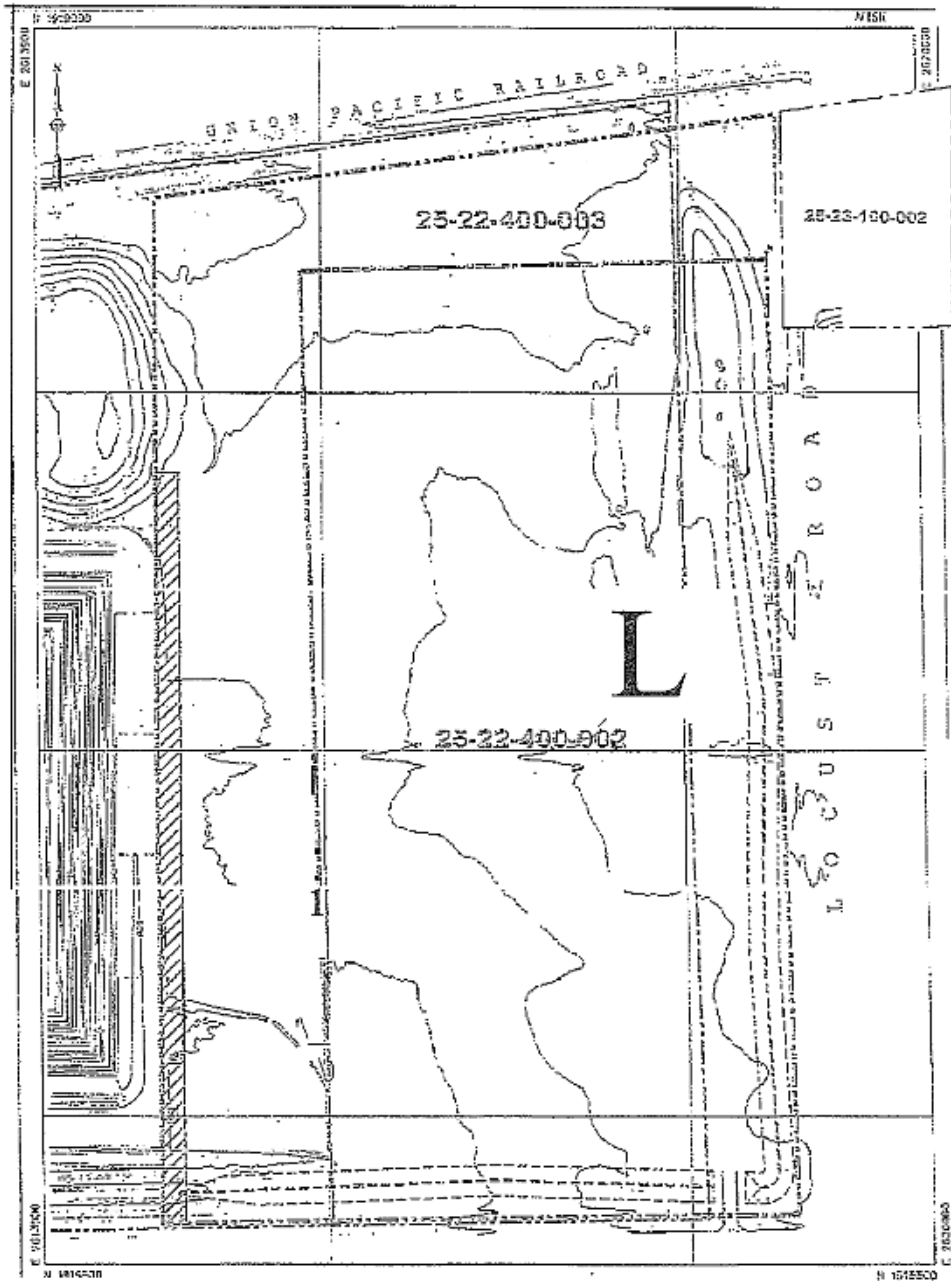


EXHIBIT D

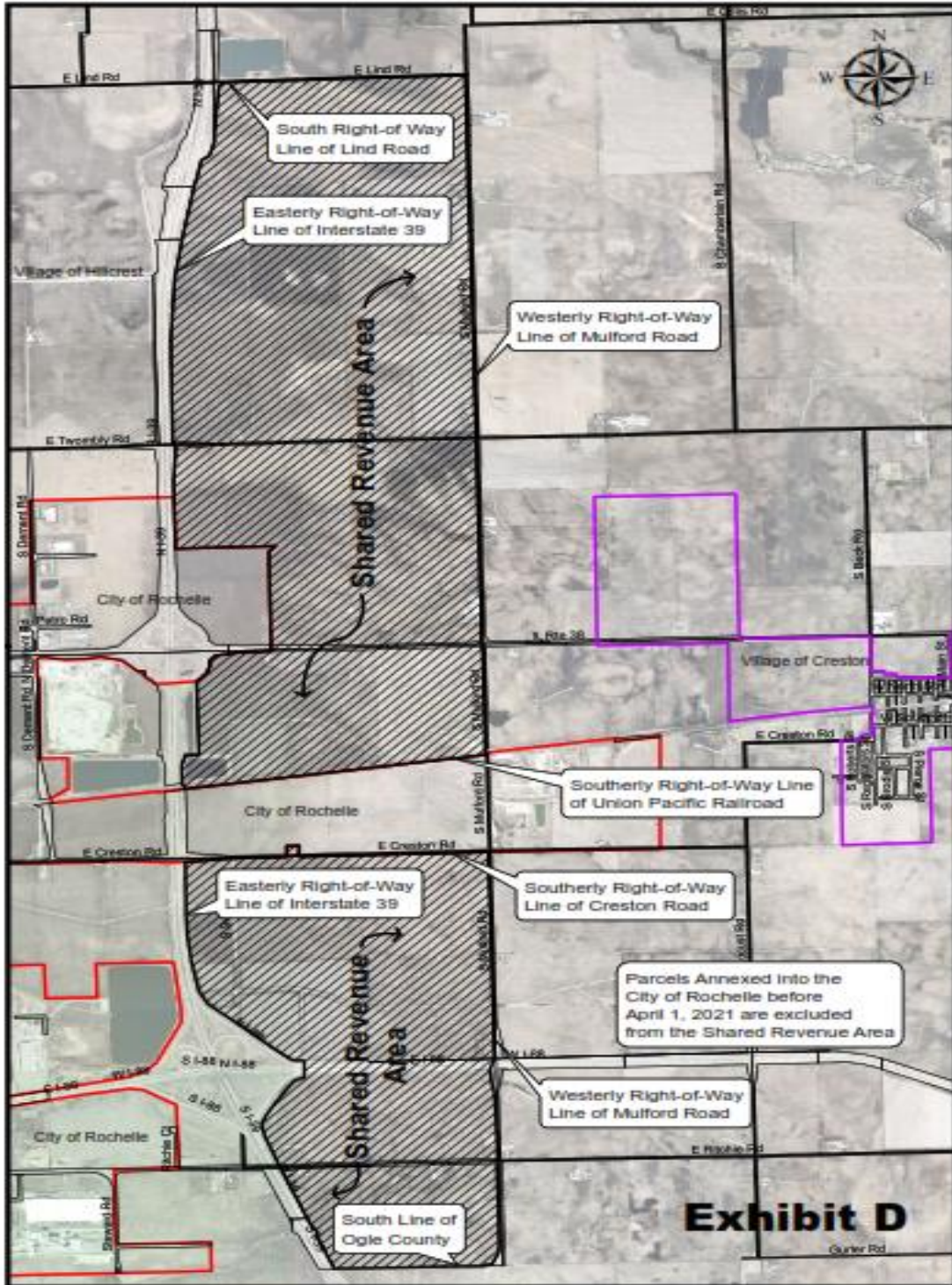


EXHIBIT E

