Common Council Meeting Agenda

April 22, 2025 - 6:05 PM
(Following the Committee of the Whole Meeting)
City Hall Council Chambers

Agenda Published: 4/18/25

AGENDA

1. PRIVILEGE OF THE FLOOR
Each speaker is limited to 3 minutes. The session will conclude at 6:30 pm.

2. CALL TO ORDER, PLEDGE OF ALLEGIANCE

3. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

4. APPROVAL OF MINUTES

A. April 8th, 2025, Common Council Meeting Minutes

5. REPORTS

A. City Clerk

B. Council President

C. Mayor

6. COMMUNICATIONS

7. UTILITY COMMITTEE

A. UT 07-25 Recommend to Common Council to amend Sections 267-8 and 267-9 to reflect current Wisconsin legislation statutes.

B. UT 08-25 Recommend to the Common Council the awarding of a Professional Services contract to Clark Dietz, Inc., for consulting services related to the plan, design and bidding phase of the Jacobs Ridge Lift Station Upgrade for an amount not to exceed $81,000.00, pending final approval from the City Attorney.

C. UT 10-25 Recommend to the Common Council to award the construction contract for 2025 Private Property I/I Dye Water Testing Project to the lowest responsive bidder, Visu-Sewer, Inc., in the amount of $394,520.08. Total project cost not to exceed $394,520.08.

8. COMMUNITY DEVELOPMENT AUTHORITY

A. (2) NJ LD-2500304 Josh Pudelko with Trio Engineering on behalf of Drexel Building Supply - 3370 S. Calhoun Rd. Discussion and possible action to recommend to Common Council approval of a 2-Lot Certified Survey Map.

9. MAYORAL APPOINTMENTS

A. Discussion and Possible Action to approve the Mayoral Appointments per the list as presented

10. DEFERRED, REFERRED & TABLED ITEMS

11. ITEMS REMOVED FROM CONSENT AGENDA, if any

12. CONSENT AGENDA----------

Items under the Consent Agenda have passed unanimously by the Committee of the Whole. Items not passed by a unanimous vote will be removed from consent agenda and will be considered separately.

13. MINUTES

A. April 8, 2025, Committee of the Whole Meeting Minutes

14. UTILITY & FINANCE

A. Discussion and possible action to recommend to the Common Council approval of the April 23rd, 2025, Water Utility claims in the amount of $141,227.91. Sewer Utility claims in the amount of $829,739.11 and General City claims in the amount of $1,397,556.58. City Water Usage EFT OF $17,297.57 and WE Energies EFT of $90,204.84

15. LICENSES & PERMITS

A. Discussion and possible action to recommend to Common Council approval of Kowalske Brewing, doing business as Component Brewing, to sell beer at Malone Park for the Malone Park Beer Gardens to be held on May 24th, June 14th, July 12th, September 6th, and October 11th, 2025 from 12:00 pm to 6:00 pm, as outlined in Form AB-105. The application, along with the Council's recommendation, will be forwarded to the Wisconsin DOR, Division of Alcohol Beverages, for final approval and issuance.

B. Discussion and possible action to recommend to Common Council approval of Kowalske Brewing, doing business as Component Brewing, to sell beer at the New Berlin Historical Society for the Historical Park Beer Gardens to be held on June 15th, July 13th, September 7th and October 12th, 2025 from 1:00 pm to 4:00 pm, as outlined in Form AB-105. The application, along with the Council's recommendation, will be forwarded to the Wisconsin DOR, Division of Alcohol Beverages, for final approval and issuance.

C. Discussion and possible action to recommend to Common Council approval of Kowalske Brewing, doing business as Component Brewing, to sell beer at the New Berlin Public Library for the Public Library Beer Garden event to be held on August 16th, 2025 from 12:00 pm to 6:00 pm, as outlined in Form AB-105. The application, along with the Council's recommendation, will be forwarded to the Wisconsin DOR, Division of Alcohol Beverages, for final approval and issuance.

D. Discussion and possible action to recommend to the Common Council approval of LaMarvon J. Jackson as the new alcohol license agent of Family Entertainment LLC dba Marcus Ridge Cinema for the current license year, which expires on June 30, 2025

16. MISCELLANEOUS

A. Fire Department Update

B. Election of Alderperson to Serve on the Plan Commission - Pursuant to Section 275-15(B)(1), one alderperson shall be elected to serve on the Plan Commission by a two-thirds vote of the Common Council

C. Recommend to the Common Council that a public hearing be set for June 2, 2025 at 6:00 p.m. to be held before the Plan Commission to rescind PUD Overlay Ordinance # 2679 – Mandel Neighborhood Development Plan PUD (also amended by Ordinance # 2688) and adoption of Planned Unit Development Ordinance # 2701 that approves the rezoning of the properties from B-1/PUD (Shopping Center District), Rm-1/PUD (Multiple-Family Residential District:), I-1/PUD (Institutional District) / C-2/PUD (Shoreland-Wetland Holding District) <u>to</u> Rm-1/PUD and C-2/PUD as The Conservancy

Neighborhood Development PUD Ordinance for the parcels located at 1640 S. Moorland Road (includes Tax Keys #'s 1158.989.001, 1158.989.002 & 1158.989.003).

D. Recommend to the Common Council that a joint public hearing be set for June 2, 2025 at 6:01 p.m. to be held before the Plan Commission to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 10 – Land Use and Chapter 19 – "Neighborhood I" National Avenue West) for the properties located at 16370 W. Small Road (Tax Key #: 1285.994.003) and 16380 W. Small Road (Tax Key #: 1285.994.002) from Residential Estate to Suburban Commercial with a PUD overlay and to rezone the properties located at 16370 W. Small Road (Tax Key #: 1285.994.003) and 16380 W. Small Road (Tax Key #: 1285.994.002) from B-2 and R-3 to B-2/PUD.

17. END CONSENT AGENDA----------

18. CLOSED SESSION

19. RECONVENE TO OPEN SESSION

20. ADJOURN

Additional Information

- The agenda packet with supplemental information related to the agenda items is available online at www.NewBerlinWi.gov. Once finalized by the governing body, approved meeting minutes are also posted online.
- The governing body may consider agenda items out of order
- Members, and potentially a quorum of other governmental bodies of the municipality, may be present at the meeting to gather information. No action will be taken by any governmental body other than the one referenced in this notice.
- With reasonable notice, accommodations will be provided under the Americans with Disabilities Act to meet the needs of individuals with disabilities through appropriate aids and services. For more information or to request assistance, please contact the Office of the City Clerk at (262) 786-8610.

Common Council
MEETING MINUTES

April 8, 2025 - 6:05 PM
City Hall Council Chambers

MINUTES

1. PRIVILEGE OF THE FLOOR

Each speaker is limited to 3 minutes. The session will conclude at 6:30 pm.
No members of the public (or attendees) spoke during this portion of the meeting.

2. CALL TO ORDER, PLEDGE OF ALLEGIANCE

Mayor Ament called the Common Council meeting to order at 6:20 PM and led the Pledge of Allegiance.

3. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

City Clerk Rubina R. Medina took the roll call as follows:
Present: Alderperson Hopkins, Alderperson Maxey, Alderperson Harenda, Alderperson Stribl, Alderperson Horbinski, Alderperson Kroupa, Alderperson La Fever
Excused: None

Staff Present: Mayor Dave Ament, City Attorney Thomas Schmitzer, City Clerk Rubina R. Medina

The City Clerk confirmed that a quorum was present and that the meeting was properly posted in compliance with open meetings law.

4. APPROVAL OF MINUTES

A. March 25th, 2025 Common Council Meeting Minutes

MOTION: Motion to approve

VOTE: Motion by: Horbinski
Second by: Maxey
Motion Passed: 7-0

5. REPORTS

A. City Clerk

City Clerk Rubina R. Medina extended her gratitude to all New Berlin residents who participated in the Spring Election, which saw a strong voter turnout of 68%. She also thanked the dedicated election officials and city staff for their efforts in ensuring a smooth and accurate election process. Waukesha County has completed its canvass of New Berlin, confirming that our results were accurate and all vote totals balanced. A special thank you was given to the Mayor and Common Council for their continued support of the Clerk's Office. End of report.

B. Council President

No Report.

C. Mayor

No Report.

6. COMMUNICATIONS

None

7. DEFERRED, REFERRED & TABLED ITEMS

None

8. ITEMS REMOVED FROM CONSENT AGENDA, if any

Item 13D from the Common Council agenda was pulled from the Consent Agenda and considered separately.

MOTION: Motion to approve Item 13D regarding the addition of one (1.0) full-time equivalent (FTE) custodial position for the 2025 budget year, as recommended in the RAS.

ROLL CALL VOTE: Motion by: Stribl
Second by: Horbinski
Motion Passed: 5-2 with Ald. Maxey & Ald. La Fever voting nay

9. CONSENT AGENDA----------

Items under the Consent Agenda have passed unanimously by the Committee of the Whole. Items not passed by a unanimous vote will be removed from consent agenda and will be considered separately.

MOTION: Motion to approve the consent agenda

VOTE: Motion by: Hopkins
Second by: Stribl
Motion Passed 7-0

10. MINUTES

A. March 25, 2025, Committee of the Whole Meeting Minutes

11. UTILITY & FINANCE

A. Discussion and possible action to recommend to the Common Council approval of the April 9th, 2025 Water Utility claims in the amount of $21,090.72, Sewer Utility claims in the amount of $35,921.44 and General City Claims in the amount of $327,534.56. Tax overpayment checks totaling $2,605.97 were also generated. US Bank VISA EFT of $27,512.66

12. LICENSES & PERMITS

A. Discussion and possible action to recommend to Common Council approval of a "Class B" Liquor License for Fox Trot, LLC D.B.A Nickel's Pub located at 13915 W. Greenfield Avenue, per the premise description and application on file

13. MISCELLANEOUS

A. Presentation by Miss Wisconsin

B. Election of Council President (nominations followed by secret ballot if necessary)

C. Discussion and possible action to recommend to Common Council approval to **rescind** a joint public hearing set for May 5, 2025, at 6:00 p.m. to be held before the Plan Commission to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 10 and Chapter 18) for the property located at 6151 S. Moorland Road (Tax Key #: 1288.997.002) from Business Park / Industrial to Mixed-Use Residential AND rezone the property from A-1 and C-1 to Rm-1/PUD and C-1/PUD.

D. Discussion and possible action to recommend to Common Council approval of the addition of a 1.0 FTE custodial position for the 2025 Budget year per the RAS

14. END CONSENT AGENDA----------

15. CLOSED SESSION

City Clerk Medina read the statutory basis for entering into closed session.

MOTION: Motion to convene in closed session at 6:25 PM

ROLL CALL VOTE: Motion by: Stribl
Second by: Kroupa
Motion Passed 7-0

A. *The Common Council may convene in Closed Session pursuant to Wis. Stat. § 19.85(1)(g) to confer with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved, specifically relating to:*

B. Pending Litigation re: Walmart Tax Assessment

16. RECONVENE TO OPEN SESSION

A motion was made in closed session by Ald. Stribl, seconded by Ald. Maxey, to reconvene into open session at 7:04 PM. Motion approved by roll call vote, 7–0.

A. Discussion and possible action regarding Walmart Tax Assessment Litigation

MOTION: Motion to reject the Wal-Mart Tax Assessment Settlement

VOTE: Motion by: Stribl
Second by: Kroupa
Motion Passed 7-0

17. ADJOURN

MOTION: Motion to adjourn the meeting at 7:05 PM

VOTE: Motion by: La Fever
Second by: Kroupa
Motion 7-0

Respectfully Submitted,
Rubina R. Medina, City Clerk

April 22, 2025

TO: Common Council
Mayor Ament
Alderman Harenda

FROM: Sarah Holtz on behalf of the Utility Committee
RE: Items from the March 25, 2025 Utility Committee Meeting requiring Common Council action.

A.	UT 07-25 Consideration of the adoption of Ordinance No. 2705, to amend Sections 267-8 and 267-9 as it pertains to cross connection inspections and well abandonment, to reflect current Wisconsin legislation statutes.
Council Motion:	
	This item was considered at the Utility Committee meeting on March 25, 2025. It was recommended to the Common Council on a vote of 3 - 0. I do hereby make a motion to approve the adoption of Ordinance No. 2705, to amend Sections 267-8 and 267-9 as it pertains to cross connection inspections and well abandonment, to reflect current Wisconsin legislation statutes.

B.	UT 08-25 Recommend to the Common Council the awarding of a Professional Services contract to Clark Dietz, Inc., for consulting services related to the plan, design and bidding phase of the Jacobs Ridge Lift Station Upgrade for an amount not to exceed $81,000.00, pending final approval from the City Attorney.
Council Motion:	
	This item was considered at the Utility Committee meeting on March 25, 2025. It was recommended to the Common Council on a vote of 3 - 0. I do hereby make a motion to approve the awarding of a Professional Services contract to Clark Dietz, Inc., for consulting services related to the plan, design and bidding phase of the Jacobs Ridge Lift Station Upgrade for an amount not to exceed $81,000.00, pending final approval from the City Attorney.

C.	UT 10-25 Recommend to the Common Council to award the construction contract for 2025 Private Property I/I Dye Water Testing Project to the lowest responsive bidder, Visu-Sewer, Inc., in the amount of $394,520.08. Total project cost not to exceed $394,520.08.
Council Motion:	
	This item was considered at the Utility Committee meeting on April 22, 2025. It was recommended to the Common Council on a vote of ____ to ____ . I do hereby make a motion to award the construction contract for 2025 Private Property I/I Dye Water Testing Project to the lowest responsive bidder, Visu-Sewer, Inc., in the amount of $394,520.08. Total project cost not to exceed $394,520.08.

File #: UT 07-25

UC Date: 03-25-25

AP

Water Utility Department
3805 S. Casper Drive
New Berlin, Wisconsin 53151

Phone (262) 786-7086
Fax (262) 786-0792
www.newberlin.org

Requested Action Statement

March 25th, 2025

To: **Utility Committee**
From: **Alex Parker, Utility Manager**

Request to Amend the City of New Berlin's Municipal Code

Issue:	Dated language in the City of New Berlin's Municipal Code, as it pertains to cross connection inspections and well abandonment.
Requested Action:	Recommend to Common Council to amend Sections 267-8 and 267-9 to reflect current Wisconsin legislative statutes.
Fiscal Impact:	N/A
Source of Funds:	N/A
Rationale:	The current language in the City's Municipal Code is dated and not in compliance with the Department of National Resources' standards.

STATE OF WISCONSIN : CITY OF NEW BERLIN : WAUKESHA COUNTY

ORDINANCE NO. 2705

ORDINANCE TO AMEND SECTIONS 267-8 & 267-9 OF THE CITY OF NEW BERLIN MUNICIPAL CODE REGARDING CROSS CONNECTION CONTROL and ABANDONMENT OF PRIVATE WELLS TO UPDATE ADMINISTRATIVE CODE AND STATUTORY REFERENCES

The Common Council of the City of New Berlin do ordain as follows:

SECTION I

Section 267-8, B, of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

B. No person shall establish or permit to be established or maintain or permit to be maintained any cross-connection. No interconnection shall be established whereby potable water from a private, auxiliary or emergency water supply other than the regular public water support of the City may enter the supply or distribution system of the municipality.

SECTION II

Section 267-8, G, of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

G. The City adopts by reference the State Plumbing Code being DSPS 381-384 of the Wis. Adm. Code.

SECTION III

Section 267-8, H, of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

H. This section does not supersede the State Plumbing Code, including, but not limited to DSPS 381-384, Wis. Adm. Code or Wisconsin Statutes Chapter 145 or Chapter 193 of the New Berlin Municipal Code, but is supplementary to them.

SECTION IV

Section 267-9, B, (1), of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

(1) All existing private wells located on any premises presently served by the New Berlin Water Utility and which are unused, unsafe or fail to comply with §NR 812.42, Wis. Adm. Code, or which lack a valid permit under §NR 810.16, Wis. Adm. Code, shall be abandoned and properly filled in accordance with §NR 812.26, Wis. Adm. Code on or before March 30, 1995.

SECTION V

Section 267-9, C, (2), of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

(2) The well is safe and in compliance with §NR 812.42, Wis.Adm. Code.

SECTION VI

Section 267-9, D, of the Municipal Code of the City of New Berlin is hereby amended to read as follows:

D. Methods. Private wells shall be abandoned according to the procedures outlined in §NR 812.26, Wis. Adm. Code.

SECTION VII

All Ordinances or parts of Ordinances contravening the terms and conditions of this Ordinance are hereby to that extent repealed.

SECTION VIII

The several sections of this Ordinance shall be considered severable. If any section shall be considered by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the other portions of the Ordinance.

SECTION IX

This Ordinance shall take effect upon passage and publication as approved by law, and the City Clerk shall so amend the Code of Ordinances of the City of New Berlin, and shall indicate the date and number of this amending ordinance therein.

PASSED AND ADOPTED by the Common Council this _____ day of _____, 2025.

APPROVED:

Countersigned:

_____
David Ament, Mayor

_____
Rubina Medina, Clerk

UTILITY STAFF REPORT
EXECUTIVE SUMMARY

CUSTOMER/PROJECT: Jacobs Ridge Lift Station Upgrade

LOCATION: Jacobs Ridge Lift Station
2345 South 179th Street, New Berlin, WI

REQUEST: To Approve Professional Services Contract for Consulting Services Related to the Lift Station Upgrade

UTILITY MANAGER RECOMMENDATION:
Recommend to the Common Council the awarding of a Professional Services contract to Clark Dietz, Inc., for consulting services related to the plan, design and bidding phase of the Jacobs Ridge Lift Station Upgrade for an amount not to exceed $81,800.00, pending final approval from the City Attorney.

DETAILS IN ATTACHED STAFF REPORT

CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT

Jacobs Ridge Lift Station Upgrade

DATE STAFF REPORT CREATED: March 19th, 2025

CUSTOMER/PROJECT NAME: City of New Berlin
Jacobs Ridge Lift Station Upgrade

ISSUE/DESCRIPTION OF PROJECT: This project consists of a complete refurbishment of the Jacobs Ridge lift station. This would include a new modular building and gas generator, refurbished wet well, and elimination of the elevator and dry well.

REQUESTED ACTION:
Recommend to the Common Council the awarding of a Professional Services contract to Clark Dietz, Inc., for consulting services related to the plan, design and bidding phase of the Jacobs Ridge Lift Station Upgrade for an amount not to exceed $81,800.00, pending final approval from the City Attorney.

FISCAL IMPACT: $81,000.00

SOURCE OF FUNDS: 2025 CIP Budget

RATIONALE:
This project is needed to upgrade an aging facility, which is in need of costly repairs and maintenance, to eliminate multiple safety hazards associated with confined space entry and elevator use.

PREVIOUS ACTION: N/A

FINDINGS: N/A

UTILITY MANAGER RECOMMENDATION: See Executive Summary

ATTACHMENTS: Clark Dietz Professional Services Agreement

PROFESSIONAL SERVICES AGREEMENT

Jacobs Ridge Lift Station Rehabilitation ("Project")

This Agreement is by and between

City of New Berlin ("Client")
3805 S Casper Drive
New Berlin, WI 53151

And

Clark Dietz, Inc. ("Clark Dietz")
500 N. 3rd Street, Suite 703
Wausau, WI 54403

Who agree as follows:

Client hereby engages Clark Dietz to perform the services set forth in PART I – SERVICES BY CLARK DIETZ and Clark Dietz agrees to perform the Services for the compensation set forth in PART III - COMPENSATION. Clark Dietz shall be authorized to commence the Services upon execution of this Agreement and written or verbal authorization to proceed from Client. Client and Clark Dietz agree that this signature page, together with Parts I - IV and attachments referred to therein, constitute the entire Agreement between them relating to the Project.

Agreed to by Client		**Agreed to by Clark Dietz**	
By:	_____	By:	Anna Westphal
Title:	_____	Title:	Vice President
Date:	_____	Date:	February 27, 2025

PART I
SERVICES BY CLARK DIETZ

A. Project Description

The project consists of providing design and bidding engineering services for removal of the existing dry well at the Jacobs Ridge lift station located within the City of New Berlin. A new building will be designed at the existing site to house the new lift station pump control panel, process piping, and a new emergency generator set. New submersible pumps will be selected for installation in the existing wet well, which will be modified for installation of the pumps. The force main from the new building will connect into the existing force main. The existing below-ground dry well will be abandoned and the existing emergency generator set and enclosure will be removed.

B. Scope

1. DESIGN PHASE

a. Prepare a work plan listing information specific to the project, including team members, contact information, schedule, scope of services, deliverables, budget, billing procedures, and quality assurance/quality control methods.

b. Schedule a project kick-off meeting with City Utilities staff to discuss project objectives, schedule, and personnel.

c. Contact the utility companies to perform underground utility locates at the project site.

d. Perform a field topographic survey of the project site, including utilities and property information.

e. Prepare drawings of the project site, including: location plan, existing site plan, and proposed site plan. The design drawings will be based on the field survey of the project site.

f. Evaluate the existing flows to the lift station and estimate the future flow rates.

g. Design and select two identical submersible wastewater pumps based on the estimated future flow rates at the lift station.

h. Select an access hatch and design a replacement wet well cover.

i. Design modifications to the concrete floor in the wet well.

j. Design a concrete block building to house the lift station equipment. The piping, valves, controls equipment, and emergency generator set will be housed inside the building. The building will have a truss roof and poured concrete footings, foundations, and floor. It will be designed to meet all fire safety codes related to housing the generator inside the building. Work will include design of all building electrical and ventilation equipment.

k. Select and design a natural gas generator set to power the lift station equipment during an electrical emergency. The generator set will be designed to run the lift pumps, the control system, and all necessary equipment. The unit will be housed inside the new

block building.

l. Coordinate installation of a new natural gas service to the lift station site.

m. Design a davit crane near the wet well for submersible pump removal.

n. Design connection to the existing force main.

o. Design the SCADA and lift station control panels based on input from City Utilities staff.

p. Prepare mechanical and electrical design drawings.

q. Prepare building structural design drawings.

r. Prepare detailed specifications for the lift station replacement.

s. Submit 50% complete project plans and specifications to the City Utilities staff for review and comment.

t. Prepare internal Quality Assurance / Quality Control (QA/QC) review.

u. Revise project plans and specifications based on comments from City Utilities staff and internal QA/QC review.

v. Submit 90% complete project plans and specifications to the City Utilities staff for review.

w. Prepare front-end documents using the City's standard documents and submit to the City Utilities staff for review and approval.

x. Assist the Utilities staff in obtaining required local permits. Approval from the City's architectural committee will be required. The City shall pay any permit fees.

y. Submit wastewater lift station permit documents to the Wisconsin Department of Natural Resources (WDNR) for approval. One (1) set of review comments is assumed for permit approval.

z. Prepare a construction cost estimate at the 90% completion point.

aa. Meet with the City Utilities staff at the 90% completion point to discuss any necessary revisions to the Contract Documents and present a summary of the project including the estimated construction cost.

bb. Prepare internal QA/QC review.

cc. Prepare final bidding documents based on comments received from the City Utilities staff, internal QA/QC review, and/or regulatory agencies.

2. BIDDING/NEGOTIATION PHASE

a. Assist the City Utilities with advertising and obtaining the bid for a single prime construction contract.

b. Provide the final Bidding Documents in electronic format and manage distribution of and payment for plan sets and bid documents electronically through our online plan holder service (Quest CDN). The list of plan holders will also be maintained electronically.

c. Address bidders' questions concerning the project and prepare addenda as necessary.

d. Attend and conduct the bid opening and prepare a bid tabulation.

e. Review the bids submitted and provide a written recommendation of contract award to the City.

f. Prepare a Notice of Award and the final contracts for signatures.

C. Schedule

Notice to Proceed	March 2025
Project Kick-off Meeting	March 2025
Field Survey	April 2025
Submittal of 50% Construction Documents	July 2025
Submittal of 90% Construction Documents	September 2025
Submit Construction Cost Estimate	September 2025
Present Plans to Architectural Committee	October 2025
Meet with Utility Staff	October 2025
Final Plan Submittal	November 2025
Project Bid	December 2025
Notice of Award	January 2026

D. Assumptions/Conditions (if applicable)

This agreement is subject to the following assumptions/conditions:

1. This Agreement and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the location of the project.

2. Local permits for this project (street cuts, utility relocations, etc.) will be obtained by the Client with information provided by Clark Dietz. All permit fees will be paid by the Client.

3. State permits for this project will be obtained by the Client with information provided by Clark Dietz. All permit fees will be paid by the Client.

The tasks below can be performed for an additional fee:

1. Preparation of right-of-way or temporary construction easement drawings, descriptions or negotiation/acquisition services;

2. Preparation of assessment roles or schedules;

3. Geotechnical investigations;

4. Processing of Federal permits;

5. Contaminated site Phase I or Phase II environmental assessment investigations or remediation activities;

6. Cultural, historic, archeological, or wetland assessment investigations or remediation activities.

7. Retrieval and procurement of records required pursuant to a Freedom of Information Act request.

The list above is not all-inclusive.

PART II
CLIENT'S RESPONSIBILITIES

Client shall, at its expense, do the following in a timely manner so as not to delay the Services:

A. Information/Reports

Provide Clark Dietz with reports, studies, site characterizations, regulatory decisions and similar information relating to the Services that Clark Dietz may rely upon without independent verification unless specifically identified as requiring such verification.

B. Representative

Designate a representative for the project who shall have the authority to transmit instructions, receive information, interpret and define Client's requirements and make decisions with respect to the Services. **The Client representative for this Agreement will be Alex Parker, Utility Manager.**

C. Decisions

Provide all criteria and full information as to Client's requirements for the Services and make timely decisions on matters relating to the Services.

D. Other

The Client shall be responsible for the following services:

1. Providing as-builts of the lift station and nearby utilities as available.
2. Providing pump curves and run-time data for the existing pumps.
3. Providing electrical data for the existing station.
4. Obtaining any needed temporary construction or permanent easements.

PART III
COMPENSATION

A. Compensation

Total compensation to Clark Dietz for services rendered on the Project in accordance with PART I, SERVICES of this Agreement will be the lump sum amount detailed as follows:

DESIGN PHASE:	$ 75,600
BIDDING PHASE:	$ 6,200
PROJECT TOTAL:	$ 81,800

This lump sum compensation includes salaries, payroll taxes and insurance, employee fringe benefits, general overhead costs, profit, and project related expenses.

B. Billing and Payment

1. Timing/Format
   a. Invoices shall be submitted monthly for Services completed at the time of billing. Invoices shall be considered past due if not paid within 45 calendar days of the date of the invoice. Such invoices shall be prepared in a form supported by documentation required by the Client.
   b. If payment in full is not received by Clark Dietz within 45 calendar days of the date of invoice, invoices shall bear interest at one-and-one-half (1.5) percent of the past due amount per month, which shall be calculated from the date of the invoice.
   c. If the Client fails to make payments within 45 calendar days of the date of invoice or otherwise is in breach of this Agreement, Clark Dietz may suspend performance of services upon seven (7) calendar days' notice to the Client. Clark Dietz shall have no liability to the Client for any costs or damages as a result of suspension caused by any breach of this Agreement by the Client. Upon payment in full by the Client, Clark Dietz shall resume services under this Agreement, and the time schedule and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expense necessary for Clark Dietz to resume performance.
   d. Client shall make payments to Clark Dietz using one of the following methods:

      1) CLARK DIETZ LOCKBOX:
         Clark Dietz, Inc.
         125 West Church Street
         Champaign, IL 61820

      2) ELECTRONIC FUNDS/ACH PAYMENT:
         Account Name : Clark Dietz, Inc
         Bank Name: Hickory Point Bank and Trust
         Address: 225 N. Water St.
         City/State/Zip: Decatur, Il 62523
         Account Number: 3911880
         ABA Routing Number: 071124805

      3) WIRE TRANSFER (*Wire fees are the responsibility of the sending party)
         Bank Name: Hickory Point Bank and Trust
         Address: 225 N. Water St.
         City/State/Zip: Decatur, Il 62523
         ABA/Routing Number: 071124805

Account Title:	Clark Dietz, Inc.
Account Address:	125 W. Church St.
City/State/Zip:	Champaign, IL 61820-3510
Account Number:	3911880

2. Billing Records
   Clark Dietz shall maintain accounting records of its costs in accordance with generally accepted accounting practices. Access to such records will be provided during normal business hours with reasonable notice during the term of this Agreement and for 3 years after completion.

PART IV
STANDARD TERMS AND CONDITIONS

1. STANDARD OF CARE. Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession at the time and within the locality where the services are performed. No warranty or guarantee, express or implied is provided, including warranties or guarantees contained in any uniform commercial code.

2. CHANGE OF SCOPE. The Scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by Clark Dietz and Client. Clark Dietz will promptly notify Client of any perceived changes of scope in writing and the parties shall negotiate modifications to this Agreement.

3. DELAYS. If events beyond the control of Clark Dietz, including, but not limited to, fire, flood, explosion, riot, strike, war, process shutdown, act of God or the public enemy, and act or regulation of any government agency, result in delay to any schedule established in this Agreement, such schedule shall be extended for a period equal to the delay. In the event such delay increases the cost or time required for Clark Dietz to perform its services, Clark Dietz shall be entitled to an equitable adjustment in compensation and extension of time.

4. TERMINATION/SUSPENSION. Either party may terminate this Agreement upon 30 days written notice to the other party in the event of substantial failure by the other party to perform in accordance with its obligations under this Agreement through no fault of the terminating party. Client shall pay Clark Dietz for all Services, including profit relating thereto, rendered prior to termination, plus any expenses of termination.

5. REUSE OF INSTRUMENTS OF SERVICE. All reports, drawings, specifications, computer data, field data notes and other documents prepared by Clark Dietz as instruments of service shall remain the property of Clark Dietz. Clark Dietz shall retain all common law, statutory and other reserved rights, including the copyright thereto. Reuse of any instruments of service including electronic media, for any purpose other than that for which such documents or deliverables were originally prepared, or alteration of such documents or deliverables without written authorization or adaptation by Clark Dietz for the specific purpose intended, shall be at Client's sole risk.

6. ELECTRONIC MEDIA. In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by Clark Dietz, the Client agrees that all such electronic files are instruments of service of Clark Dietz, who shall be deemed the author, and shall retain all common law, statutory law and other rights, without limitation, including copyrights.

The Client agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The Client agrees not to transfer these electronic files to others without the prior written consent of Clark Dietz. The Client further agrees that Clark Dietz shall have no responsibility or liability to Client or others for any changes made by anyone other than Clark Dietz or for any reuse of the electronic files without the prior written consent of Clark Dietz.

Any changes to the electronic specifications by either the Client or Clark Dietz are subject to review and acceptance by the other party. If Clark Dietz is required to expend additional effort to incorporate changes to the electronic file specifications made by the Client, these efforts shall be compensated for as Additional Services.

~~In addition, the Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Clark Dietz, its officers, directors, employees and subconsultants (collectively, Clark Dietz) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than Clark Dietz or from any use or reuse of the electronic files without the prior written consent of Clark Dietz.~~

The Client is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by Clark Dietz and electronic files, the signed or sealed hard-copy construction documents shall govern.

7. OPINIONS OF CONSTRUCTION COST. Any opinion of construction costs prepared by Clark Dietz is supplied for the general guidance of the Client only. Since Clark Dietz has no control over competitive bidding or market conditions, Clark Dietz cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to Client.

8. SAFETY. Clark Dietz specifically disclaims any authority or responsibility for general job site safety and safety of persons other than Clark Dietz employees.

9. RELATIONSHIP WITH CONTRACTORS. Clark Dietz shall serve as Client's professional representative for the services and may make recommendations to Client concerning actions relating to Client's contractors. Clark Dietz specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected by Client's contractors.

10. THIRD PARTY CLAIMS. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Client or Clark Dietz. Clark Dietz's services under this Agreement are being performed solely for the Client's benefit, and no other party or entity shall have any claim against Clark Dietz because of this Agreement or the performance or nonperformance of services hereunder. The Client and Clark Dietz agree to require a similar provision in all contracts with contractors, subcontractors, subconsultants, vendors and other entities involved in this Project to carry out the intent of this provision.

11. MODIFICATION. This Agreement, upon execution by both parties hereto, can be modified only by a written instrument signed by both parties.

12. PROPRIETARY INFORMATION. Information relating to the Project, unless in the public domain, shall be kept confidential by Clark Dietz and shall not be made available to third parties without written consent of Client, unless so required by court order.

13. INSURANCE. Clark Dietz will maintain insurance coverage for Professional, Comprehensive General, Automobile, Worker's Compensation and Employer's Liability in amounts in accordance with legal, and Clark Dietz business requirements. Certificates evidencing such coverage will be provided to Client upon request. For projects involving construction, Client agrees to require its construction contractor, if any, to include Clark Dietz as an additional insured on its commercial general liability policy relating to the Project, and such coverages shall be primary.

14. INDEMNITIES. Clark Dietz agrees, to the fullest extent permitted by law, to indemnify and hold harmless the Client, its officers, directors and employees against all damages, liabilities or costs, to the extent caused by Clark Dietz' negligent performance of professional services under this Agreement and that of its subconsultants or anyone for whom Clark Dietz is legally liable.

~~The Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Clark Dietz, its officers, directors, employees and subconsultants against all damages, liabilities or costs, to the extent caused by the Client's negligent acts in connection with the Project and that of its contractors, subcontractors or consultants or anyone for whom the Client is legally liable.~~

Neither the Client nor Clark Dietz shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

15. LIMITATIONS OF LIABILITY. In recognition of the relative risks and benefits of the Project to both the Client and Clark Dietz, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of Clark Dietz and their officers, directors, partners, employees, shareholders, owners and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of Clark Dietz and their officers, directors, partners, employees, shareholders, owners and subconsultants shall not exceed Clark Dietz's total fee for services rendered on this Project, or $ 250,000, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

16. CONSEQUENTIAL DAMAGES. Notwithstanding any other provision of this agreement, and to the fullest extent permitted by law, neither the Client nor Clark Dietz, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and Clark Dietz shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in this project.

17. ACCESS. Client shall provide Clark Dietz safe access to the project site necessary for the performance of the services.

18. ASSIGNMENT. The rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and insure to the benefit of any permitted assigns.

19. HAZARDOUS MATERIALS. Clark Dietz and Clark Dietz' consultants shall have no responsibility for discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If required by law, the client shall accomplish all necessary inspections and testing to determine the type and extent, if any, of hazardous materials at the project site. Prior to the start of services, or at the earliest time such information is learned, it shall be the duty of the Client to advise Clark Dietz (in writing) of any known or suspected hazardous materials. Removal and proper disposal of all hazardous materials shall be the responsibility of the Client.

20. REMODELING AND RENOVATION. For Clark Dietz' services provided to assist the Client in making changes to an existing facility, the Client shall furnish documentation and information upon which Clark Dietz may rely for its accuracy and completeness. Unless specifically authorized or confirmed in writing by the Client, Clark Dietz shall not be required to perform or have others perform destructive testing or to investigate concealed or unknown conditions. The Client shall indemnify and hold harmless Clark Dietz, Clark Dietz' consultants, and their employees from and against claims, damages, losses and expenses which arise as a result of documentation and information furnished by the Client.

21. CLIENT'S CONSULTANTS. Contracts between the Client and other consultants retained by Client for the Project shall require the consultants to coordinate their drawings and other instruments of service with those of Clark Dietz and to advise Clark Dietz of any potential conflict. Clark Dietz shall have no responsibility for the components of the project designed by the Client's consultants.

22. NO WAIVER. No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate another section of this Agreement or operate as a waiver of any future default, whether like or different in character.

23. SEVERABILITY. The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.

24. STATUTE OF LIMITATION. To the fullest extent permitted by law, parties agree that, except for claims for indemnification, the time period for bringing claims under this Agreement shall expire one year after Project Completion.

25. DISPUTE RESOLUTION. In the event of a dispute arising out of or relating to this Agreement or the services to be rendered hereunder, Clark Dietz and the Client agree to attempt to resolve such disputes in the following manner: First, the parties agree to attempt to resolve such disputes through direct negotiations between the appropriate representatives of each party. Second, if such negotiations are not fully successful, the parties agree to attempt to resolve any remaining dispute by formal nonbinding mediation conducted in accordance with rules and procedures to be agreed upon by the parties.

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 3/20/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Holmes Murphy & Associates
2727 Grand Prairie Parkway
Waukee IA 50263

CONTACT NAME: Audrey McNeill
PHONE (A/C, No, Ext): 309-282-3907 **FAX (A/C, No):**
E-MAIL ADDRESS: amcneill@holmesmurphy.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Twin City Fire Insurance Co	29459
INSURER B : Hartford Accident and Indemnity Company	22357
INSURER C : XL Specialty Insurance	37885
INSURER D : Hartford Insurance Company of Midwest	37478
INSURER E :	
INSURER F :	

INSURED CLADIEPC
Clark Dietz, Inc.
125 West Church Street
Champaign IL 61820

COVERAGES **CERTIFICATE NUMBER:** 327258590 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY			84SBWAC5926	11/1/2024	11/1/2025	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY			84UEGZV4783	11/1/2024	11/1/2025	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
A	X UMBRELLA LIAB X OCCUR			84SBWAC5926	11/1/2024	11/1/2025	EACH OCCURRENCE	$ 10,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 10,000,000
	DED X RETENTION $ 10,000							$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			84WEGAJ1H5Z	11/1/2024	11/1/2025	X PER STATUTE / OTH-ER	
	ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N: N	N / A					E.L. EACH ACCIDENT	$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
C	Professional Liability Claims Made			DPR5035730	11/1/2024	11/1/2025	Each Claim Aggregate	5,000,000 5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Project Reference: Jacobs Ridge Lift Station Rehabilitation
Additional Insured only if required by written contract with respect to General Liability, Automobile Liability and Umbrella/Excess Liability applies on a primary basis and the insurance of the additional insured shall be non-contributory: Certificate Holder, Project Owner and Others as required by written contract.
Waiver of Subrogation only if required by written contract with respect to General Liability, Automobile Liability, Workers Compensation and Umbrella/Excess Liability applies in favor of: Certificate Holder, Project Owner and Others as required by written contract.
Should the above described General Liability, Automobile or Workers' Compensation policies be cancelled before the expiration date, 30 Days written notice (10 Days for Non-Payment) will be delivered to the certificate holder.

CERTIFICATE HOLDER
City of New Berlin
3805 S. Casper Drive
New Berlin WI 53151

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE
Kari Cooley

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Blanket Additional insured - pg 11-12
Primary/Non-Contributory - pg 17
Waiver of Subrogation - pg 17

BUSINESS LIABILITY COVERAGE FORM

Various provisions in this policy restrict coverage. Read the entire policy carefully to determine rights, duties and what is and is not covered.

Throughout this policy the words "you" and "your" refer to the Named Insured shown in the Declarations. The words "we", "us" and "our" refer to the stock insurance company member of The Hartford providing this insurance.

The word "insured" means any person or organization qualifying as such under Section **C.** - Who Is An Insured.

Other words and phrases that appear in quotation marks have special meaning. Refer to Section **G.** - Liability And Medical Expenses Definitions.

A. COVERAGES

1. BUSINESS LIABILITY COVERAGE (BODILY INJURY, PROPERTY DAMAGE, PERSONAL AND ADVERTISING INJURY)

Insuring Agreement

a. We will pay those sums that the insured becomes legally obligated to pay as damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend the insured against any "suit" seeking damages for "bodily injury", "property damage" or "personal and advertising injury" to which this insurance does not apply.

We may, at our discretion, investigate any "occurrence" or offense and settle any claim or "suit" that may result. But:

(1) The amount we will pay for damages is limited as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance; and

(2) Our right and duty to defend ends when we have used up the applicable limit of insurance in the payment of judgments, settlements or medical expenses to which this insurance applies.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Coverage Extension - Supplementary Payments.

b. This insurance applies:

(1) To "bodily injury" and "property damage" only if:

(a) The "bodily injury" or "property damage" is caused by an "occurrence" that takes place in the "coverage territory";

(b) The "bodily injury" or "property damage" occurs during the policy period; and

(c) Prior to the policy period, no insured listed under Paragraph **1.** of Section **C.** – Who Is An Insured and no "employee" authorized by you to give or receive notice of an "occurrence" or claim, knew that the "bodily injury" or "property damage" had occurred, in whole or in part. If such a listed insured or authorized "employee" knew, prior to the policy period, that the "bodily injury" or "property damage" occurred, then any continuation, change or resumption of such "bodily injury" or "property damage" during or after the policy period will be deemed to have been known prior to the policy period.

(2) To "personal and advertising injury" caused by an offense arising out of your business, but only if the offense was committed in the "coverage territory" during the policy period.

c. "Bodily injury" or "property damage" will be deemed to have been known to have occurred at the earliest time when any insured listed under Paragraph **1.** of Section **C.** – Who Is An Insured or any "employee" authorized by you to give or receive notice of an "occurrence" or claim:

(1) Reports all, or any part, of the "bodily injury" or "property damage" to us or any other insurer;

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(2) Receives a written or verbal demand or claim for damages because of the "bodily injury" or "property damage"; or

(3) Becomes aware by any other means that "bodily injury" or "property damage" has occurred or has begun to occur.

d. Damages because of "bodily injury" include damages claimed by any person or organization for care, loss of services or death resulting at any time from the "bodily injury".

e. **Incidental Medical Malpractice**

(1) "Bodily injury" arising out of the rendering of or failure to render professional health care services as a physician, dentist, nurse, emergency medical technician or paramedic shall be deemed to be caused by an "occurrence", but only if:

(a) The physician, dentist, nurse, emergency medical technician or paramedic is employed by you to provide such services; and

(b) You are not engaged in the business or occupation of providing such services.

(2) For the purpose of determining the limits of insurance for incidental medical malpractice, any act or omission together with all related acts or omissions in the furnishing of these services to any one person will be considered one "occurrence".

2. MEDICAL EXPENSES

Insuring Agreement

a. We will pay medical expenses as described below for "bodily injury" caused by an accident:

(1) On premises you own or rent;

(2) On ways next to premises you own or rent; or

(3) Because of your operations;

provided that:

(1) The accident takes place in the "coverage territory" and during the policy period;

(2) The expenses are incurred and reported to us within three years of the date of the accident; and

(3) The injured person submits to examination, at our expense, by physicians of our choice as often as we reasonably require.

b. We will make these payments regardless of fault. These payments will not exceed the applicable limit of insurance. We will pay reasonable expenses for:

(1) First aid administered at the time of an accident;

(2) Necessary medical, surgical, x-ray and dental services, including prosthetic devices; and

(3) Necessary ambulance, hospital, professional nursing and funeral services.

3. COVERAGE EXTENSION - SUPPLEMENTARY PAYMENTS

a. We will pay, with respect to any claim or "suit" we investigate or settle, or any "suit" against an insured we defend:

(1) All expenses we incur.

(2) Up to $1,000 for the cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Business Liability Coverage for "bodily injury" applies. We do not have to furnish these bonds.

(3) The cost of appeal bonds or bonds to release attachments, but only for bond amounts within the applicable limit of insurance. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to $500 a day because of time off from work.

(5) All costs taxed against the insured in the "suit".

(6) Prejudgment interest awarded against the insured on that part of the judgment we pay. If we make an offer to pay the applicable limit of insurance, we will not pay any prejudgment interest based on that period of time after the offer.

(7) All interest on the full amount of any judgment that accrues after entry of the judgment and before we have paid, offered to pay, or deposited in court the part of the judgment that is within the applicable limit of insurance.

Any amounts paid under **(1)** through **(7)** above will not reduce the limits of insurance.

b. If we defend an insured against a "suit" and an indemnitee of the insured is also named as a party to the "suit", we will defend that indemnitee if all of the following conditions are met:

(1) The "suit" against the indemnitee seeks damages for which the insured has assumed the liability of the indemnitee in a contract or agreement that is an "insured contract";

(2) This insurance applies to such liability assumed by the insured;

(3) The obligation to defend, or the cost of the defense of, that indemnitee, has also been assumed by the insured in the same "insured contract";

(4) The allegations in the "suit" and the information we know about the "occurrence" are such that no conflict appears to exist between the interests of the insured and the interest of the indemnitee;

(5) The indemnitee and the insured ask us to conduct and control the defense of that indemnitee against such "suit" and agree that we can assign the same counsel to defend the insured and the indemnitee; and

(6) The indemnitee:

(a) Agrees in writing to:

(i) Cooperate with us in the investigation, settlement or defense of the "suit";

(ii) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the "suit";

(iii) Notify any other insurer whose coverage is available to the indemnitee; and

(iv) Cooperate with us with respect to coordinating other applicable insurance available to the indemnitee; and

(b) Provides us with written authorization to:

(i) Obtain records and other information related to the "suit"; and

(ii) Conduct and control the defense of the indemnitee in such "suit".

So long as the above conditions are met, attorneys' fees incurred by us in the defense of that indemnitee, necessary litigation expenses incurred by us and necessary litigation expenses incurred by the indemnitee at our request will be paid as Supplementary Payments.

Notwithstanding the provisions of Paragraph **1.b.(b)** of Section **B.** – Exclusions, such payments will not be deemed to be damages for "bodily injury" and "property damage" and will not reduce the Limits of Insurance.

Our obligation to defend an insured's indemnitee and to pay for attorneys' fees and necessary litigation expenses as Supplementary Payments ends when:

(1) We have used up the applicable limit of insurance in the payment of judgments or settlements; or

(2) The conditions set forth above, or the terms of the agreement described in Paragraph **(6)** above, are no longer met.

B. EXCLUSIONS

1. Applicable To Business Liability Coverage

This insurance does not apply to:

a. Expected Or Intended Injury

(1) "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property; or

(2) "Personal and advertising injury" arising out of an offense committed by, at the direction of or with the consent or acquiescence of the insured with the expectation of inflicting "personal and advertising injury".

b. Contractual Liability

(1) "Bodily injury" or "property damage"; or

(2) "Personal and advertising injury"

for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement.

This exclusion does not apply to liability for damages because of:

(a) "Bodily injury", "property damage" or "personal and advertising injury" that the insured would have in the absence of the contract or agreement; or

(b) "Bodily injury" or "property damage" assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. Solely for the purpose of liability assumed in an "insured contract", reasonable attorneys' fees and necessary litigation expenses incurred by or for a party other than an insured are deemed to be damages because of "bodily injury" or "property damage" provided:

(i) Liability to such party for, or for the cost of, that party's defense has also been assumed in the same "insured contract", and

(ii) Such attorneys' fees and litigation expenses are for defense of that party against a civil or alternative dispute resolution proceeding in which damages to which this insurance applies are alleged.

c. Liquor Liability

"Bodily injury" or "property damage" for which any insured may be held liable by reason of:

(1) Causing or contributing to the intoxication of any person;

(2) The furnishing of alcoholic beverages to a person under the legal drinking age or under the influence of alcohol; or

(3) Any statute, ordinance or regulation relating to the sale, gift, distribution or use of alcoholic beverages.

This exclusion applies only if you are in the business of manufacturing, distributing, selling, serving or furnishing alcoholic beverages.

d. Workers' Compensation And Similar Laws

Any obligation of the insured under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

e. Employer's Liability

"Bodily injury" to:

(1) An "employee" of the insured arising out of and in the course of:

(a) Employment by the insured; or

(b) Performing duties related to the conduct of the insured's business, or

(2) The spouse, child, parent, brother or sister of that "employee" as a consequence of **(1)** above.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to liability assumed by the insured under an "insured contract".

f. Pollution

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":

(a) At or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to any insured. However, this subparagraph does not apply to:

(i) "Bodily injury" if sustained within a building and caused by smoke, fumes, vapor or soot produced by or originating from equipment that is used to heat, cool or dehumidify the building, or equipment that is used to heat water for personal use, by the building's occupants or their guests;

(ii) "Bodily injury" or "property damage" for which you may be held liable, if you are a contractor and the owner or lessee of such premises, site or location has been added to your policy as an additional insured with respect to your ongoing operations performed for that additional insured at that premises, site or location and such premises, site or location is not and never was owned or occupied by, or rented or loaned to, any insured, other than that additional insured; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire";

(b) At or from any premises, site or location which is or was at any time used by or for any insured or others for the handling, storage, disposal, processing or treatment of waste;

(c) Which are or were at any time transported, handled, stored, treated, disposed of, or processed as waste by or for:

(i) Any insured; or

(ii) Any person or organization for whom you may be legally responsible;

(d) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor. However, this subparagraph does not apply to:

(i) "Bodily injury" or "property damage" arising out of the escape of fuels, lubricants or other operating fluids which are needed to perform the normal electrical, hydraulic or mechanical functions necessary for the operation of "mobile equipment" or its parts, if such fuels, lubricants or other operating fluids escape from a vehicle part designed to hold, store or receive them. This exception does not apply if the "bodily injury" or "property damage" arises out of the intentional discharge, dispersal or release of the fuels, lubricants or other operating fluids, or if such fuels, lubricants or other operating fluids are brought on or to the premises, site or location with the intent that they be discharged, dispersed or released as part of the operations being performed by such insured, contractor or subcontractor;

(ii) "Bodily injury" or "property damage" sustained within a building and caused by the release of gases, fumes or vapors from materials brought into that building in connection with operations being performed by you or on your behalf by a contractor or subcontractor; or

(iii) "Bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire"; or

(e) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants".

(2) Any loss, cost or expense arising out of any:

(a) Request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or

(b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

g. Aircraft, Auto Or Watercraft

"Bodily injury" or "property damage" arising out of the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft owned or operated by or rented or loaned to any insured. Use includes operation and "loading or unloading".

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the ownership, maintenance, use or entrustment to others of any aircraft, "auto" or watercraft that is owned or operated by or rented or loaned to any insured.

This exclusion does not apply to:

(1) A watercraft while ashore on premises you own or rent;

(2) A watercraft you do not own that is:

(a) Less than 51 feet long; and

(b) Not being used to carry persons for a charge;

(3) Parking an "auto" on, or on the ways next to, premises you own or rent, provided the "auto" is not owned by or rented or loaned to you or the insured;

(4) Liability assumed under any "insured contract" for the ownership, maintenance or use of aircraft or watercraft;

(5) "Bodily injury" or "property damage" arising out of the operation of any of the equipment listed in Paragraph **f.(2)** or **f.(3)** of the definition of "mobile equipment"; or

(6) An aircraft that is not owned by any insured and is hired, chartered or loaned with a paid crew. However, this exception does not apply if the insured has any other insurance for such "bodily injury" or "property damage", whether the other insurance is primary, excess, contingent or on any other basis.

h. Mobile Equipment

"Bodily injury" or "property damage" arising out of:

(1) The transportation of "mobile equipment" by an "auto" owned or operated by or rented or loaned to any insured; or

(2) The use of "mobile equipment" in, or while in practice or preparation for, a prearranged racing, speed or demolition contest or in any stunting activity.

i. War

"Bodily injury", "property damage" or "personal and advertising injury", however caused, arising, directly or indirectly, out of:

(1) War, including undeclared or civil war;

(2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or

(3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.

j. Professional Services

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional service. This includes but is not limited to:

(1) Legal, accounting or advertising services;

(2) Preparing, approving, or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications;

(3) Supervisory, inspection, architectural or engineering activities;

(4) Medical, surgical, dental, x-ray or nursing services treatment, advice or instruction;

(5) Any health or therapeutic service treatment, advice or instruction;

(6) Any service, treatment, advice or instruction for the purpose of appearance or skin enhancement, hair removal or replacement or personal grooming;

(7) Optical or hearing aid services including the prescribing, preparation, fitting, demonstration or distribution of ophthalmic lenses and similar products or hearing aid devices;

(8) Optometry or optometric services including but not limited to examination of the eyes and the prescribing, preparation, fitting,demonstration or distribution of ophthalmic lenses and similar products;

(9) Any:

(a) Body piercing (not including ear piercing);

(b) Tattooing, including but not limited to the insertion of pigments into or under the skin; and

(c) Similar services;

(10) Services in the practice of pharmacy; and

(11) Computer consulting, design or programming services, including web site design.

Paragraphs **(4)** and **(5)** of this exclusion do not apply to the Incidental Medical Malpractice coverage afforded under Paragraph **1.e.** in Section **A.** - Coverages.

k. Damage To Property

"Property damage" to:

(1) Property you own, rent or occupy, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;

(2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

(3) Property loaned to you;

(4) Personal property in the care, custody or control of the insured;

(5) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

(6) That particular part of any property that must be restored, repaired or replaced because "your work" was incorrectly performed on it.

Paragraphs **(1)**, **(3)** and **(4)** of this exclusion do not apply to "property damage" (other than damage by fire) to premises, including the contents of such premises, rented to you for a period of 7 or fewer consecutive days. A separate Limit of Insurance applies to Damage To Premises Rented To You as described in Section **D.** - Limits Of Insurance.

Paragraph **(2)** of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to the use of elevators.

Paragraphs **(3)**, **(4)**, **(5)** and **(6)** of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraphs **(3)** and **(4)** of this exclusion do not apply to "property damage" to borrowed equipment while not being used to perform operations at a job site.

Paragraph **(6)** of this exclusion does not apply to "property damage" included in the "products-completed operations hazard".

l. Damage To Your Product

"Property damage" to "your product" arising out of it or any part of it.

m. Damage To Your Work

"Property damage" to "your work" arising out of it or any part of it and included in the "products-completed operations hazard".

This exclusion does not apply if the damaged work or the work out of which the damage arises was performed on your behalf by a subcontractor.

n. Damage To Impaired Property Or Property Not Physically Injured

"Property damage" to "impaired property" or property that has not been physically injured, arising out of:

(1) A defect, deficiency, inadequacy or dangerous condition in "your product" or "your work"; or

(2) A delay or failure by you or anyone acting on your behalf to perform a contract or agreement in accordance with its terms.

This exclusion does not apply to the loss of use of other property arising out of sudden and accidental physical injury to "your product" or "your work" after it has been put to its intended use.

o. Recall Of Products, Work Or Impaired Property

Damages claimed for any loss, cost or expense incurred by you or others for the loss of use, withdrawal, recall, inspection, repair, replacement, adjustment, removal or disposal of:

(1) "Your product";

(2) "Your work"; or

(3) "Impaired property";

if such product, work or property is withdrawn or recalled from the market or from use by any person or organization because of a known or suspected defect, deficiency, inadequacy or dangerous condition in it.

p. Personal And Advertising Injury

"Personal and advertising injury":

(1) Arising out of oral, written or electronic publication of material, if done by or at the direction of the insured with knowledge of its falsity;

(2) Arising out of oral, written or electronic publication of material whose first publication took place before the beginning of the policy period;

(3) Arising out of a criminal act committed by or at the direction of the insured;

(4) Arising out of any breach of contract, except an implied contract to use another's "advertising idea" in your "advertisement";

(5) Arising out of the failure of goods, products or services to conform with any statement of quality or performance made in your "advertisement";

(6) Arising out of the wrong description of the price of goods, products or services;

(7) Arising out of any violation of any intellectual property rights such as copyright, patent, trademark, trade name, trade secret, service mark or other designation of origin or authenticity.

However, this exclusion does not apply to infringement, in your "advertisement", of

(a) Copyright;

(b) Slogan, unless the slogan is also a trademark, trade name, service mark or other designation of origin or authenticity; or

(c) Title of any literary or artistic work;

(8) Arising out of an offense committed by an insured whose business is:

(a) Advertising, broadcasting, publishing or telecasting;

(b) Designing or determining content of web sites for others; or

(c) An Internet search, access, content or service provider.

However, this exclusion does not apply to Paragraphs **a.**, **b.** and **c.** under the definition of "personal and advertising injury" in Section **G.** – Liability And Medical Expenses Definitions.

For the purposes of this exclusion, placing an "advertisement" for or linking to others on your web site, by itself, is not considered the business of advertising, broadcasting, publishing or telecasting;

(9) Arising out of an electronic chat room or bulletin board the insured hosts, owns, or over which the insured exercises control;

(10) Arising out of the unauthorized use of another's name or product in your e-mail address, domain name or metatags, or any other similar tactics to mislead another's potential customers;

(11) Arising out of the violation of a person's right of privacy created by any state or federal act.

However, this exclusion does not apply to liability for damages that the insured would have in the absence of such state or federal act;

(12) Arising out of:

(a) An "advertisement" for others on your web site;

(b) Placing a link to a web site of others on your web site;

(c) Content from a web site of others displayed within a frame or border on your web site. Content includes information, code, sounds, text, graphics or images; or

(d) Computer code, software or programming used to enable:

(i) Your web site; or

(ii) The presentation or functionality of an "advertisement" or other content on your web site;

(13) Arising out of a violation of any anti-trust law;

(14) Arising out of the fluctuation in price or value of any stocks, bonds or other securities; or

(15) Arising out of discrimination or humiliation committed by or at the direction of any "executive officer", director, stockholder, partner or member of the insured.

q. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data".

r. Employment-Related Practices

"Bodily injury" or "personal and advertising injury" to:

(1) A person arising out of any:

(a) Refusal to employ that person;

(b) Termination of that person's employment; or

(c) Employment-related practices, policies, acts or omissions, such as coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation or discrimination directed at that person; or

(2) The spouse, child, parent, brother or sister of that person as a consequence of "bodily injury" or "personal and advertising injury" to the person at whom any of the employment-related practices described in Paragraphs **(a)**, **(b)**, or **(c)** above is directed.

This exclusion applies:

(1) Whether the insured may be liable as an employer or in any other capacity; and

(2) To any obligation to share damages with or repay someone else who must pay damages because of the injury.

s. Asbestos

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the "asbestos hazard".

(2) Any damages, judgments, settlements, loss, costs or expenses that:

(a) May be awarded or incurred by reason of any claim or suit alleging actual or threatened injury or damage of any nature or kind to persons or property which would not have occurred in whole or in part but for the "asbestos hazard";

(b) Arise out of any request, demand, order or statutory or regulatory requirement that any insured or others test for, monitor, clean up, remove, encapsulate, contain, treat, detoxify or neutralize or in any way respond to or assess the effects of an "asbestos hazard"; or

(c) Arise out of any claim or suit for damages because of testing for, monitoring, cleaning up, removing, encapsulating, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of an "asbestos hazard".

t. Violation Of Statutes That Govern E-Mails, Fax, Phone Calls Or Other Methods Of Sending Material Or Information

"Bodily injury", "property damage", or "personal and advertising injury" arising directly or indirectly out of any action or omission that violates or is alleged to violate:

(1) The Telephone Consumer Protection Act (TCPA), including any amendment of or addition to such law;

(2) The CAN-SPAM Act of 2003, including any amendment of or addition to such law; or

(3) Any statute, ordinance or regulation, other than the TCPA or CAN-SPAM Act of 2003, that prohibits or limits the sending, transmitting, communicating or distribution of material or information.

Damage To Premises Rented To You – Exception For Damage By Fire, Lightning or Explosion

Exclusions **c.** through **h.** and **k.** through **o.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with permission of the owner. A separate Limit of Insurance applies to this coverage as described in Section **D.** - Liability And Medical Expenses Limits Of Insurance.

2. Applicable To Medical Expenses Coverage

We will not pay expenses for "bodily injury":

a. Any Insured

To any insured, except "volunteer workers".

b. Hired Person

To a person hired to do work for or on behalf of any insured or a tenant of any insured.

c. Injury On Normally Occupied Premises

To a person injured on that part of premises you own or rent that the person normally occupies.

d. Workers' Compensation And Similar Laws

To a person, whether or not an "employee" of any insured, if benefits for the "bodily injury" are payable or must be provided under a workers' compensation or disability benefits law or a similar law.

e. Athletics Activities

To a person injured while practicing, instructing or participating in any physical exercises or games, sports or athletic contests.

f. Products-Completed Operations Hazard

Included with the "products-completed operations hazard".

g. Business Liability Exclusions

Excluded under Business Liability Coverage.

C. WHO IS AN INSURED

1. If you are designated in the Declarations as:

a. An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.

b. A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds, but only with respect to the conduct of your business.

c. A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.

d. An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

e. A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

2. Each of the following is also an insured:

a. Employees And Volunteer Workers

Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business.

However, none of these "employees" or "volunteer workers" are insureds for:

(1) "Bodily injury" or "personal and advertising injury":

(a) To you, to your partners or members (if you are a partnership or joint venture), to your members (if you are a limited liability company), or to a co-"employee" while in the course of his or her employment or performing duties related to the conduct of your business, or to your other "volunteer workers" while performing duties related to the conduct of your business;

(b) To the spouse, child, parent, brother or sister of that co-"employee" or that "volunteer worker" as a consequence of Paragraph **(1)(a)** above;

(c) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in Paragraphs **(1)(a)** or **(b)** above; or

(d) Arising out of his or her providing or failing to provide professional health care services.

If you are not in the business of providing professional health care services, Paragraph **(d)** does not apply to any nurse, emergency medical technician or paramedic employed by you to provide such services.

(2) "Property damage" to property:

(a) Owned, occupied or used by,

(b) Rented to, in the care, custody or control of, or over which physical control is being exercised for any purpose by you, any of your "employees", "volunteer workers", any partner or member (if you are a partnership or joint venture), or any member (if you are a limited liability company).

b. Real Estate Manager

Any person (other than your "employee" or "volunteer worker"), or any organization while acting as your real estate manager.

c. Temporary Custodians Of Your Property

Any person or organization having proper temporary custody of your property if you die, but only:

(1) With respect to liability arising out of the maintenance or use of that property; and

(2) Until your legal representative has been appointed.

d. Legal Representative If You Die

Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this insurance.

e. Unnamed Subsidiary

Any subsidiary and subsidiary thereof, of yours which is a legally incorporated entity of which you own a financial interest of more than 50% of the voting stock on the effective date of this Coverage Part.

The insurance afforded herein for any subsidiary not shown in the Declarations as a named insured does not apply to injury or damage with respect to which an insured under this insurance is also an insured under another policy or would be an insured under such policy but for its termination or upon the exhaustion of its limits of insurance.

3. Newly Acquired Or Formed Organization

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain financial interest of more than 50% of the voting stock, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and

b. Coverage under this provision does not apply to:

(1) "Bodily injury" or "property damage" that occurred; or

(2) "Personal and advertising injury" arising out of an offense committed

before you acquired or formed the organization.

4. Operator Of Mobile Equipment

With respect to "mobile equipment" registered in your name under any motor vehicle registration law, any person is an insured while driving such equipment along a public highway with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the equipment, and only if no other insurance of any kind is available to that person or organization for this liability. However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person driving the equipment; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

5. Operator of Nonowned Watercraft

With respect to watercraft you do not own that is less than 51 feet long and is not being used to carry persons for a charge, any person is an insured while operating such watercraft with your permission. Any other person or organization responsible for the conduct of such person is also an insured, but only with respect to liability arising out of the operation of the watercraft, and only if no other insurance of any kind is available to that person or organization for this liability.

However, no person or organization is an insured with respect to:

a. "Bodily injury" to a co-"employee" of the person operating the watercraft; or

b. "Property damage" to property owned by, rented to, in the charge of or occupied by you or the employer of any person who is an insured under this provision.

6. Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs **a.** through **f.** below are additional insureds when you have agreed, in a written

contract, written agreement or because of a permit issued by a state or political subdivision, that such person or organization be added as an additional insured on your policy, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by an endorsement issued by us and made a part of this Coverage Part, including all persons or organizations added as additional insureds under the specific additional insured coverage grants in Section **F.** – Optional Additional Insured Coverages.

a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

b. Lessors Of Equipment

(1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

c. Lessors Of Land Or Premises

(1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or

(b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

d. Architects, Engineers Or Surveyors

(1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In connection with your premises; or

(b) In the performance of your ongoing operations performed by you or on your behalf.

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services by or for you, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

e. Permits Issued By State Or Political Subdivisions

(1) Any state or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

(1) Any other person or organization who is not an insured under Paragraphs **a.** through **e.** above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if

(i) The written contract or written agreement requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, inspection, architectural or engineering activities.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE

1. The Most We Will Pay

The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

a. Insureds;

b. Claims made or "suits" brought; or

c. Persons or organizations making claims or bringing "suits".

2. Aggregate Limits

The most we will pay for:

a. Damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" is the Products-Completed Operations Aggregate Limit shown in the Declarations.

b. Damages because of all other "bodily injury", "property damage" or "personal and advertising injury", including medical expenses, is the General Aggregate Limit shown in the Declarations.

This General Aggregate Limit applies separately to each of your "locations" owned by or rented to you.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway or right-of-way of a railroad.

This General Aggregate limit does not apply to "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of fire, lightning or explosion.

3. Each Occurrence Limit

Subject to **2.a.** or **2.b** above, whichever applies, the most we will pay for the sum of all damages because of all "bodily injury", "property damage" and medical expenses arising out of any one "occurrence" is the Liability and Medical Expenses Limit shown in the Declarations.

The most we will pay for all medical expenses because of "bodily injury" sustained by any one person is the Medical Expenses Limit shown in the Declarations.

4. Personal And Advertising Injury Limit

Subject to **2.b.** above, the most we will pay for the sum of all damages because of all "personal and advertising injury" sustained by any one person or organization is the Personal and Advertising Injury Limit shown in the Declarations.

5. Damage To Premises Rented To You Limit

The Damage To Premises Rented To You Limit is the most we will pay under Business Liability Coverage for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner.

In the case of damage by fire, lightning or explosion, the Damage to Premises Rented To You Limit applies to all damage proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of these.

6. How Limits Apply To Additional Insureds

The most we will pay on behalf of a person or organization who is an additional insured under this Coverage Part is the lesser of:

a. The limits of insurance specified in a written contract, written agreement or permit issued by a state or political subdivision; or

b. The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to the Limits of Insurance shown in the Declarations and described in this Section.

If more than one limit of insurance under this policy and any endorsements attached thereto applies to any claim or "suit", the most we will pay under this policy and the endorsements is the single highest limit of liability of all coverages applicable to such claim or "suit". However, this paragraph does not apply to the Medical Expenses limit set forth in Paragraph **3.** above.

The Limits of Insurance of this Coverage Part apply separately to each consecutive annual period and to any remaining period of less than 12 months, starting with the beginning of the policy period shown in the Declarations, unless the policy period is extended after issuance for an additional period of less than 12 months. In that case, the additional period will be deemed part of the last preceding period for purposes of determining the Limits of Insurance.

E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS

1. Bankruptcy

Bankruptcy or insolvency of the insured or of the insured's estate will not relieve us of our obligations under this Coverage Part.

2. Duties In The Event Of Occurrence, Offense, Claim Or Suit

a. Notice Of Occurrence Or Offense

You or any additional insured must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

(1) How, when and where the "occurrence" or offense took place;

(2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

b. Notice Of Claim

If a claim is made or "suit" is brought against any insured, you or any additional insured must:

(1) Immediately record the specifics of the claim or "suit" and the date received; and

(2) Notify us as soon as practicable.

You or any additional insured must see to it that we receive a written notice of the claim or "suit" as soon as practicable.

c. Assistance And Cooperation Of The Insured

You and any other involved insured must:

(1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";

(2) Authorize us to obtain records and other information;

(3) Cooperate with us in the investigation, settlement of the claim or defense against the "suit"; and

(4) Assist us, upon our request, in the enforcement of any right against any person or organization that may be liable to the insured because of injury or damage to which this insurance may also apply.

d. Obligations At The Insured's Own Cost

No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense, other than for first aid, without our consent.

e. Additional Insured's Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance.

f. Knowledge Of An Occurrence, Offense, Claim Or Suit

Paragraphs **a.** and **b.** apply to you or to any additional insured only when such "occurrence", offense, claim or "suit" is known to:

(1) You or any additional insured that is an individual;

(2) Any partner, if you or an additional insured is a partnership;

(3) Any manager, if you or an additional insured is a limited liability company;

(4) Any "executive officer" or insurance manager, if you or an additional insured is a corporation;

(5) Any trustee, if you or an additional insured is a trust; or

(6) Any elected or appointed official, if you or an additional insured is a political subdivision or public entity.

This Paragraph **f.** applies separately to you and any additional insured.

3. Financial Responsibility Laws

a. When this policy is certified as proof of financial responsibility for the future under the provisions of any motor vehicle financial responsibility law, the insurance provided by the policy for "bodily injury" liability and "property damage" liability will comply with the provisions of the law to the extent of the coverage and limits of insurance required by that law.

b. With respect to "mobile equipment" to which this insurance applies, we will provide any liability, uninsured motorists, underinsured motorists, no-fault or other coverage required by any motor vehicle law. We will provide the required limits for those coverages.

4. Legal Action Against Us

No person or organization has a right under this Coverage Form:

a. To join us as a party or otherwise bring us into a "suit" asking for damages from an insured; or

b. To sue us on this Coverage Form unless all of its terms have been fully complied with.

A person or organization may sue us to recover on an agreed settlement or on a final judgment against an insured; but we will not be liable for damages that are not payable under the terms of this insurance or that are in excess of the applicable limit of insurance. An agreed settlement means a settlement and release of liability signed by us, the insured and the claimant or the claimant's legal representative.

5. Separation Of Insureds

Except with respect to the Limits of Insurance, and any rights or duties specifically assigned in this policy to the first Named Insured, this insurance applies:

a. As if each Named Insured were the only Named Insured; and

b. Separately to each insured against whom a claim is made or "suit" is brought.

6. Representations

a. When You Accept This Policy

By accepting this policy, you agree:

(1) The statements in the Declarations are accurate and complete;

(2) Those statements are based upon representations you made to us; and

(3) We have issued this policy in reliance upon your representations.

b. Unintentional Failure To Disclose Hazards

If unintentionally you should fail to disclose all hazards relating to the conduct of your business at the inception date of this Coverage Part, we shall not deny any coverage under this Coverage Part because of such failure.

7. Other Insurance

If other valid and collectible insurance is available for a loss we cover under this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary except when **b.** below applies. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis:

(1) Your Work

That is Fire, Extended Coverage, Builder's Risk, Installation Risk or similar coverage for "your work";

(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion **g.** of Section **A.** – Coverages.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion **k.** of Section **A.** – Coverages.

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in **c.** below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(a)** and **(b)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

8. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

F. OPTIONAL ADDITIONAL INSURED COVERAGES

If listed or shown as applicable in the Declarations, one or more of the following Optional Additional Insured Coverages also apply. When any of these Optional Additional Insured Coverages apply, Paragraph **6.** (Additional Insureds When Required by Written Contract, Written Agreement or Permit) of Section **C.**, Who Is An Insured, does not apply to the person or organization shown in the Declarations. These coverages are subject to the terms and conditions applicable to Business Liability Coverage in this policy, except as provided below:

1. Additional Insured - Designated Person Or Organization

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

a. In the performance of your ongoing operations; or

b. In connection with your premises owned by or rented to you.

2. Additional Insured - Managers Or Lessors Of Premises

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Designated Person Or Organization; but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and shown in the Declarations.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

3. Additional Insured - Grantor Of Franchise

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured - Grantor Of Franchise, but only with respect to their liability as grantor of franchise to you.

4. Additional Insured - Lessor Of Leased Equipment

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Lessor of Leased Equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.

5. Additional Insured - Owners Or Other Interests From Whom Land Has Been Leased

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owners Or Other Interests From Whom Land Has Been Leased, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and shown in the Declarations.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(1) Any "occurrence" that takes place after you cease to lease that land; or

(2) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

6. Additional Insured - State Or Political Subdivision – Permits

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the state or political subdivision shown in the Declarations as an Additional

Insured – State Or Political Subdivision - Permits, but only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.

b. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or municipality; or

(2) "Bodily injury" or "property damage" included in the "product-completed operations" hazard.

7. Additional Insured – Vendors

a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) (referred to below as vendor) shown in the Declarations as an Additional Insured - Vendor, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

b. The insurance afforded to the vendor is subject to the following additional exclusions:

(1) This insurance does not apply to:

(a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

(b) Any express warranty unauthorized by you;

(c) Any physical or chemical change in the product made intentionally by the vendor;

(d) Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

(e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;

(f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

(g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

(h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:

(i) The exceptions contained in Subparagraphs **(d)** or **(f)**; or

(ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.

(2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

8. Additional Insured – Controlling Interest

WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Controlling Interest, but only with respect to their liability arising out of:

a. Their financial control of you; or

b. Premises they own, maintain or control while you lease or occupy these premises.

This insurance does not apply to structural alterations, new construction and demolition operations performed by or for that person or organization.

9. **Additional Insured – Owners, Lessees Or Contractors – Scheduled Person Or Organization**

   a. WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or organization(s) shown in the Declarations as an Additional Insured – Owner, Lessees Or Contractors, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

   (1) In the performance of your ongoing operations for the additional insured(s); or

   (2) In connection with "your work" performed for that additional insured and included within the "products-completed operations hazard", but only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

   b. With respect to the insurance afforded to these additional insureds, this insurance does not apply to "bodily injury", "property damage" or "personal an advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

   (1) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

   (2) Supervisory, inspection, architectural or engineering activities.

10. **Additional Insured – Co-Owner Of Insured Premises**

    WHO IS AN INSURED under Section **C.** is amended to include as an additional insured the person(s) or Organization(s) shown in the Declarations as an Additional Insured – Co-Owner Of Insured Premises, but only with respect to their liability as co-owner of the premises shown in the Declarations.

The limits of insurance that apply to additional insureds are described in Section **D.** – Limits Of Insurance.

How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section **E.** – Liability And Medical Expenses General Conditions.

G. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means the widespread public dissemination of information or images that has the purpose of inducing the sale of goods, products or services through:

   a. (1) Radio;

   (2) Television;

   (3) Billboard;

   (4) Magazine;

   (5) Newspaper;

   b. The Internet, but only that part of a web site that is about goods, products or services for the purposes of inducing the sale of goods, products or services; or

   c. Any other publication that is given widespread public distribution.

   However, "advertisement" does not include:

   a. The design, printed material, information or images contained in, on or upon the packaging or labeling of any goods or products; or

   b. An interactive conversation between or among persons through a computer network.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means a land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment. But "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

   a. Injury;

   b. Sickness; or

   c. Disease

   sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

a. The United States of America (including its territories and possessions), Puerto Rico and Canada;

b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in **a.** above;

c. All other parts of the world if the injury or damage arises out of:

(1) Goods or products made or sold by you in the territory described in **a.** above;

(2) The activities of a person whose home is in the territory described in **a.** above, but is away for a short time on your business; or

(3) "Personal and advertising injury" offenses that take place through the Internet or similar electronic means of communication

provided the insured's responsibility to pay damages is determined in the United States of America (including its territories and possessions), Puerto Rico or Canada, in a "suit" on the merits according to the substantive law in such territory, or in a settlement we agree to.

7. "Electronic data" means information, facts or programs:

a. Stored as or on;

b. Created or used on; or

c. Transmitted to or from

computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

8. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

9. "Executive officer" means a person holding any of the officer positions created by your charter, constitution, by-laws or any other similar governing document.

10. "Hostile fire" means one which becomes uncontrollable or breaks out from where it was intended to be.

11. "Impaired property" means tangible property, other than "your product" or "your work", that cannot be used or is less useful because:

a. It incorporates "your product" or "your work" that is known or thought to be defective, deficient, inadequate or dangerous; or

b. You have failed to fulfill the terms of a contract or agreement;

if such property can be restored to use by:

a. The repair, replacement, adjustment or removal of "your product" or "your work"; or

b. Your fulfilling the terms of the contract or agreement.

12. "Insured contract" means:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with permission of the owner is subject to the Damage To Premises Rented To You limit described in Section **D.** – Liability and Medical Expenses Limits of Insurance.

b. A sidetrack agreement;

c. Any easement or license agreement, including an easement or license agreement in connection with construction or demolition operations on or within 50 feet of a railroad;

d. Any obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;

e. An elevator maintenance agreement; or

f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** includes that part of any contract or agreement that indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing.

However, Paragraph **f.** does not include that part of any contract or agreement:

(1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:

(a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or

(2) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in **(1)** above and supervisory, inspection, architectural or engineering activities.

13. "Leased worker" means a person leased to you by a labor leasing firm under an agreement between you and the labor leasing firm, to perform duties related to the conduct of your business. "Leased worker" does not include a "temporary worker".

14. "Loading or unloading" means the handling of property:

a. After it is moved from the place where it is accepted for movement into or onto an aircraft, watercraft or "auto";

b. While it is in or on an aircraft, watercraft or "auto"; or

c. While it is being moved from an aircraft, watercraft or "auto" to the place where it is finally delivered;

but "loading or unloading" does not include the movement of property by means of a mechanical device, other than a hand truck, that is not attached to the aircraft, watercraft or "auto".

15. "Mobile equipment" means any of the following types of land vehicles, including any attached machinery or equipment:

a. Bulldozers, farm machinery, forklifts and other vehicles designed for use principally off public roads;

b. Vehicles maintained for use solely on or next to premises you own or rent;

c. Vehicles that travel on crawler treads;

d. Vehicles, whether self-propelled or not, on which are permanently mounted:

(1) Power cranes, shovels, loaders, diggers or drills; or

(2) Road construction or resurfacing equipment such as graders, scrapers or rollers;

e. Vehicles not described in **a.**, **b.**, **c.**, or **d.** above that are not self-propelled and are maintained primarily to provide mobility to permanently attached equipment of the following types:

(1) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment; or

(2) Cherry pickers and similar devices used to raise or lower workers;

f. Vehicles not described in **a.**, **b.**, **c.**, or **d.** above maintained primarily for purposes other than the transportation of persons or cargo.

However, self-propelled vehicles with the following types of permanently attached equipment are not "mobile equipment" but will be considered "autos":

(1) Equipment, of at least 1,000 pounds gross vehicle weight, designed primarily for:

(a) Snow removal;

(b) Road maintenance, but not construction or resurfacing; or

(c) Street cleaning;

(2) Cherry pickers and similar devices mounted on automobile or truck chassis and used to raise or lower workers; and

(3) Air compressors, pumps and generators, including spraying, welding, building cleaning, geophysical exploration, lighting and well servicing equipment.

16. "Occurrence" means an accident, including continuous or repeated exposure to substantially the same general harmful conditions.

17. "Personal and advertising injury" means injury, including consequential "bodily injury", arising out of one or more of the following offenses:

a. False arrest, detention or imprisonment;

b. Malicious prosecution;

c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that the person occupies, committed by or on behalf of its owner, landlord or lessor;

d. Oral, written or electronic publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;

e. Oral, written or electronic publication of material that violates a person's right of privacy;

f. Copying, in your "advertisement", a person's or organization's "advertising idea" or style of "advertisement";

g. Infringement of copyright, slogan, or title of any literary or artistic work, in your "advertisement"; or

h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

18. "Pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, vapor, soot, fumes, acids, alkalis, chemicals and waste. Waste includes materials to be recycled, reconditioned or reclaimed.

19. "Products-completed operations hazard";

a. Includes all "bodily injury" and "property damage" occurring away from premises you own or rent and arising out of "your product" or "your work" except:

(1) Products that are still in your physical possession; or

(2) Work that has not yet been completed or abandoned. However, "your work" will be deemed to be completed at the earliest of the following times:

(a) When all of the work called for in your contract has been completed.

(b) When all of the work to be done at the job site has been completed if your contract calls for work at more than one job site.

(c) When that part of the work done at a job site has been put to its intended use by any person or organization other than another contractor or subcontractor working on the same project.

Work that may need service, maintenance, correction, repair or replacement, but which is otherwise complete, will be treated as completed.

The "bodily injury" or "property damage" must occur away from premises you own or rent, unless your business includes the selling, handling or distribution of "your product" for consumption on premises you own or rent.

b. Does not include "bodily injury" or "property damage" arising out of:

(1) The transportation of property, unless the injury or damage arises out of a condition in or on a vehicle not owned or operated by you, and that condition was created by the "loading or unloading" of that vehicle by any insured; or

(2) The existence of tools, uninstalled equipment or abandoned or unused materials.

20. "Property damage" means:

a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of "occurrence" that caused it.

As used in this definition, "electronic data" is not tangible property.

21. "Suit" means a civil proceeding in which damages because of "bodily injury", "property damage" or "personal and advertising injury" to which this insurance applies are alleged. "Suit" includes:

a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent; or

b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent.

22. "Temporary worker" means a person who is furnished to you to substitute for a permanent "employee" on leave or to meet seasonal or short-term workload conditions.

23. "Volunteer worker" means a person who:

a. Is not your "employee";

b. Donates his or her work;

c. Acts at the direction of and within the scope of duties determined by you; and

d. Is not paid a fee, salary or other compensation by you or anyone else for their work performed for you.

24. "Your product":

a. Means:

(1) Any goods or products, other than real property, manufactured, sold, handled, distributed or disposed of by:

(a) You;

(b) Others trading under your name; or

(c) A person or organization whose business or assets you have acquired; and

(2) Containers (other than vehicles), materials, parts or equipment furnished in connection with such goods or products.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your product"; and

(2) The providing of or failure to provide warnings or instructions.

c. Does not include vending machines or other property rented to or located for the use of others but not sold.

25. "Your work":

a. Means:

(1) Work or operations performed by you or on your behalf; and

(2) Materials, parts or equipment furnished in connection with such work or operations.

b. Includes:

(1) Warranties or representations made at any time with respect to the fitness, quality, durability, performance or use of "your work"; and

(2) The providing of or failure to provide warnings or instructions.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for non-payment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the company for non-payment of premium, or by the insured, notice of such cancellation will be provided within ten (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL AUTOMOBILE BROAD FORM ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

To the extent that the provisions of this endorsement provide broader benefits to the "insured" than other provisions of the Coverage Form, the provisions of this endorsement apply.

1. BROAD FORM INSURED

A. Subsidiaries and Newly Acquired or Formed Organizations

The Named Insured shown in the Declarations is amended to include:

(1) Any legal business entity other than a partnership or joint venture, formed as a subsidiary in which you have an ownership interest of more than 50% on the effective date of the Coverage Form. However, the Named Insured does not include any subsidiary that is an "insured" under any other automobile policy or would be an "insured" under such a policy but for its termination or the exhaustion of its Limit of Insurance.

(2) Any organization that is acquired or formed by you and over which you maintain majority ownership. However, the Named Insured does not include any newly formed or acquired organization:

(a) That is a partnership or joint venture,

(b) That is an "insured" under any other policy,

(c) That has exhausted its Limit of Insurance under any other policy, or

(d) 180 days or more after its acquisition or formation by you, unless you have given us notice of the acquisition or formation.

Coverage does not apply to "bodily injury" or "property damage" that results from an "accident" that occurred before you formed or acquired the organization.

B. Employees as Insureds

Paragraph A.1. - WHO IS AN INSURED - of SECTION II - LIABILITY COVERAGE is amended to add:

d. Any "employee" of yours while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

C. Lessors as Insureds

Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

e. The lessor of a covered "auto" while the "auto" is leased to you under a written agreement if:

(1) The agreement requires you to provide direct primary insurance for the lessor and

(2) The "auto" is leased without a driver.

Such a leased "auto" will be considered a covered "auto" you own and not a covered "auto" you hire.

D. Additional Insured if Required by Contract

(1) Paragraph A.1. - WHO IS AN INSURED - of Section II - Liability Coverage is amended to add:

f. When you have agreed, in a written contract or written agreement, that a person or organization be added as an additional insured on your business auto policy, such person or organization is an "insured", but only to the extent such person or organization is liable for "bodily injury" or "property damage" caused by the conduct of an "insured" under paragraphs a. or b. of Who Is An Insured with regard to the ownership, maintenance or use of a covered "auto."

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The insurance afforded to any such additional insured applies only if the "bodily injury" or "property damage" occurs:

(1) During the policy period, and

(2) Subsequent to the execution of such written contract, and

(3) Prior to the expiration of the period of time that the written contract requires such insurance be provided to the additional insured.

(2) How Limits Apply

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the most we will pay on behalf of such additional insured is the lesser of:

(a) The limits of insurance specified in the written contract or written agreement; or

(b) The Limits of Insurance shown in the Declarations.

Such amount shall be a part of and not in addition to Limits of Insurance shown in the Declarations and described in this Section.

(3) Additional Insureds Other Insurance

If we cover a claim or "suit" under this Coverage Part that may also be covered by other insurance available to an additional insured, such additional insured must submit such claim or "suit" to the other insurer for defense and indemnity.

However, this provision does not apply to the extent that you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance.

(4) Duties in The Event Of Accident, Claim, Suit or Loss

If you have agreed in a written contract or written agreement that another person or organization be added as an additional insured on your policy, the additional insured shall be required to comply with the provisions in LOSS CONDITIONS 2. - DUTIES IN THE EVENT OF ACCIDENT, CLAIM , SUIT OR LOSS – OF SECTION IV – BUSINESS AUTO CONDITIONS, in the same manner as the Named Insured.

E. Primary and Non-Contributory if Required by Contract

Only with respect to insurance provided to an additional insured in 1.D. - Additional Insured If Required by Contract, the following provisions apply:

(3) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract or written agreement that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in Other Insurance 5.d.

(4) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract or written agreement that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs **(3)** and **(4)** do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, by the method described in Other Insurance 5.d.

2. AUTOS RENTED BY EMPLOYEES

Any "auto" hired or rented by your "employee" on your behalf and at your direction will be considered an "auto" you hire.

The OTHER INSURANCE Condition is amended by adding the following:

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If an "employee's" personal insurance also applies on an excess basis to a covered "auto" hired or rented by your "employee" on your behalf and at your direction, this insurance will be primary to the "employee's" personal insurance.

3. AMENDED FELLOW EMPLOYEE EXCLUSION

EXCLUSION 5. - FELLOW EMPLOYEE - of SECTION II - LIABILITY COVERAGE does not apply if you have workers' compensation insurance in-force covering all of your "employees".

Coverage is excess over any other collectible insurance.

4. HIRED AUTO PHYSICAL DAMAGE COVERAGE

If hired "autos" are covered "autos" for Liability Coverage and if Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form for any "auto" you own, then the Physical Damage Coverages provided are extended to "autos" you hire or borrow, subject to the following limit.

The most we will pay for "loss" to any hired "auto" is:

(1) $100,000;

(2) The actual cash value of the damaged or stolen property at the time of the "loss"; or

(3) The cost of repairing or replacing the damaged or stolen property,

whichever is smallest, minus a deductible. The deductible will be equal to the largest deductible applicable to any owned "auto" for that coverage. No deductible applies to "loss" caused by fire or lightning. Hired Auto Physical Damage coverage is excess over any other collectible insurance. Subject to the above limit, deductible and excess provisions, we will provide coverage equal to the broadest coverage applicable to any covered "auto" you own.

We will also cover loss of use of the hired "auto" if it results from an "accident", you are legally liable and the lessor incurs an actual financial loss, subject to a maximum of $1000 per "accident".

This extension of coverage does not apply to any "auto" you hire or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company), or members of their households.

5. PHYSICAL DAMAGE - ADDITIONAL TEMPORARY TRANSPORTATION EXPENSE COVERAGE

Paragraph A.4.a. of SECTION III - PHYSICAL DAMAGE COVERAGE is amended to provide a limit of $50 per day and a maximum limit of $1,000.

6. LOAN/LEASE GAP COVERAGE

Under SECTION III - PHYSICAL DAMAGE COVERAGE, in the event of a total "loss" to a covered "auto", we will pay your additional legal obligation for any difference between the actual cash value of the "auto" at the time of the "loss" and the "outstanding balance" of the loan/lease.

"Outstanding balance" means the amount you owe on the loan/lease at the time of "loss" less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; lease termination fees; security deposits not returned by the lessor; costs for extended warranties, credit life Insurance, health, accident or disability insurance purchased with the loan or lease; and carry-over balances from previous loans or leases.

7. AIRBAG COVERAGE

Under Paragraph B. EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

The exclusion relating to mechanical breakdown does not apply to the accidental discharge of an airbag.

8. ELECTRONIC EQUIPMENT - BROADENED COVERAGE

a. The exceptions to Paragraphs B.4 - EXCLUSIONS - of SECTION III - PHYSICAL DAMAGE COVERAGE are replaced by the following:

Exclusions **4.c.** and **4.d.** do not apply to equipment designed to be operated solely by use of the power from the "auto's" electrical system that, at the time of "loss", is:

(1) Permanently installed in or upon the covered "auto";

(2) Removable from a housing unit which is permanently installed in or upon the covered "auto";

(3) An integral part of the same unit housing any electronic equipment described in Paragraphs (1) and (2) above; or

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(4) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system.

b. Section III – Version CA 00 01 03 10 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C.2 and Version CA 00 01 10 01 of the Business Auto Coverage Form, Physical Damage Coverage, Limit of Insurance, Paragraph C are each amended to add the following:

$1,500 is the most we will pay for "loss" in any one "accident" to all electronic equipment (other than equipment designed solely for the reproduction of sound, and accessories used with such equipment) that reproduces, receives or transmits audio, visual or data signals which, at the time of "loss", is:

(1) Permanently installed in or upon the covered "auto" in a housing, opening or other location that is not normally used by the "auto" manufacturer for the installation of such equipment;

(2) Removable from a permanently installed housing unit as described in Paragraph 2.a. above or is an integral part of that equipment; or

(3) An integral part of such equipment.

c. For each covered "auto", should loss be limited to electronic equipment only, our obligation to pay for, repair, return or replace damaged or stolen electronic equipment will be reduced by the applicable deductible shown in the Declarations, or $250, whichever deductible is less.

9. EXTRA EXPENSE - BROADENED COVERAGE

Under Paragraph A. - COVERAGE - of SECTION III - PHYSICAL DAMAGE COVERAGE, we will pay for the expense of returning a stolen covered "auto" to you.

10. GLASS REPAIR - WAIVER OF DEDUCTIBLE

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

11. TWO OR MORE DEDUCTIBLES

Under Paragraph D. - DEDUCTIBLE - of SECTION III - PHYSICAL DAMAGE COVERAGE, the following is added:

If another Hartford Financial Services Group, Inc. company policy or coverage form that is not an automobile policy or coverage form applies to the same "accident", the following applies:

(1) If the deductible under this Business Auto Coverage Form is the smaller (or smallest) deductible, it will be waived;

(2) If the deductible under this Business Auto Coverage Form is not the smaller (or smallest) deductible, it will be reduced by the amount of the smaller (or smallest) deductible.

12. AMENDED DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The requirement in LOSS CONDITIONS 2.a. - DUTIES IN THE EVENT OF ACCIDENT,CLAIM, SUIT OR LOSS - of SECTION IV - BUSINESS AUTO CONDITIONS that you must notify us of an "accident" applies only when the "accident" is known to:

(1) You, if you are an individual;

(2) A partner, if you are a partnership;

(3) A member, if you are a limited liability company; or

(4) An executive officer or insurance manager, if you are a corporation.

13. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure.

14. HIRED AUTO - COVERAGE TERRITORY

Paragraph e. of GENERAL CONDITIONS 7. - POLICY PERIOD, COVERAGE TERRITORY - of SECTION IV - BUSINESS AUTO CONDITIONS is replaced by the following:

e. For short-term hired "autos", the coverage territory with respect to Liability Coverage is anywhere in the world provided that if the "insured's" responsibility to pay damages for "bodily injury" or "property damage" is determined in a "suit," the "suit" is brought in the United States of America, the territories and possessions of the United States of America, Puerto Rico or Canada or in a settlement we agree to.

15. WAIVER OF SUBROGATION

TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - of SECTION IV - BUSINESS AUTO CONDITIONS is amended by adding the following:

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We waive any right of recovery we may have against any person or organization with whom you have a written contract that requires such waiver because of payments we make for damages under this Coverage Form.

16. RESULTANT MENTAL ANGUISH COVERAGE

The definition of "bodily injury" in SECTION V-DEFINITIONS is replaced by the following:

"Bodily injury" means bodily injury, sickness or disease sustained by any person, including mental anguish or death resulting from any of these.

17. EXTENDED CANCELLATION CONDITION

Paragraph 2. of the COMMON POLICY CONDITIONS - CANCELLATION - applies except as follows:

If we cancel for any reason other than nonpayment of premium, we will mail or deliver to the first Named Insured written notice of cancellation at least 60 days before the effective date of cancellation.

18. HYBRID, ELECTRIC, OR NATURAL GAS VEHICLE PAYMENT COVERAGE

In the event of a total loss to a "non-hybrid" auto for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended as follows:

a. If the auto is replaced with a "hybrid" auto or an auto powered solely by electricity or natural gas, we will pay an additional 10%, to a maximum of $2,500, of the "non-hybrid" auto's actual cash value or replacement cost, whichever is less,

b. The auto must be replaced and a copy of a bill of sale or new lease agreement received by us within 60 calendar days of the date of "loss,"

c. Regardless of the number of autos deemed a total loss, the most we will pay under this Hybrid, Electric, or Natural Gas Vehicle Payment Coverage provision for any one "loss" is $10,000.

For the purposes of the coverage provision,

a. A "non-hybrid" auto is defined as an auto that uses only an internal combustion engine to move the auto but does not include autos powered solely by electricity or natural gas.

b. A "hybrid" auto is defined as an auto with an internal combustion engine and one or more electric motors; and that uses the internal combustion engine and one or more electric motors to move the auto, or the internal combustion engine to charge one or more electric motors, which move the auto.

19. VEHICLE WRAP COVERAGE

In the event of a total loss to an "auto" for which Comprehensive, Specified Causes of Loss, or Collision coverages are provided under this Coverage Form, then such Physical Damage Coverages are amended to add the following:

In addition to the actual cash value of the "auto", we will pay up to $1,000 for vinyl vehicle wraps which are displayed on the covered "auto" at the time of total loss. Regardless of the number of autos deemed a total loss, the most we will pay under this Vehicle Wrap Coverage provision for any one "loss" is $5,000. For purposes of this coverage provision, signs or other graphics painted or magnetically affixed to the vehicle are not considered vehicle wraps.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

NOTICE OF CANCELLATION TO CERTIFICATE HOLDER(S)

This policy is subject to the following additional Conditions:

A. If this policy is cancelled by the Company, other than for nonpayment of premium, notice of such cancellation will be provided at least thirty (30) days in advance of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

B. If this policy is cancelled by the Company for nonpayment of premium, or by the insured, notice of such cancellation will be provided within (10) days of the cancellation effective date to the certificate holder(s) with mailing addresses on file with the agent of record or the Company.

If notice is mailed, proof of mailing to the last known mailing address of the certificate holder(s) on file with the agent of record or the Company will be sufficient proof of notice.

Any notification rights provided by this endorsement apply only to active certificate holder(s) who were issued a certificate of insurance applicable to this policy's term.

Failure to provide such notice to the certificate holder(s) will not amend or extend the date the cancellation becomes effective, nor will it negate cancellation of the policy. Failure to send notice shall impose no liability of any kind upon the Company or its agents or representatives.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

Policy Number: 84 WEG AJ1H5Z **Endorsement Number:**
Effective Date: 11/01/24 Effective hour is the same as stated on the Information Page of the policy.
Named Insured and Address: CLARK DIETZ, INC.
125 W CHURCH ST
CHAMPAIGN IL 61820

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE

Any person or organization for whom you are required by contract or agreement to obtain this waiver from us. Endorsement is not applicable in KY, NH, NJ or for any MO construction risk

Countersigned by Paula A Dixon
Authorized Representative

UTILITY STAFF REPORT
EXECUTIVE SUMMARY

CUSTOMER/PROJECT: City of New Berlin 2025 Private Property I/I Dye Water Testing Project (PPII)

LOCATION: Northeast Corner of the City

REQUEST: Award Construction Contract for 2025 Private Property I/I Dye Water Testing Project

UTILITY MANAGER RECOMMENDATION:
Recommend to the Common Council to award the construction contract for 2025 Private Property I/I Dye Water Testing Project to the lowest responsive bidder, Visu-Sewer, Inc., in the amount of $394,520.08. Total project cost not to exceed $394,520.08.

1. In April 2025, the City of New Berlin Utility solicited bids for Private Property I/I Dye Water Testing Investigation in the northwest corner of the City.

2. On April 16, 2025, the Utility received 2 bids for the PP I/I Project. Staff reviewed the bids and determined that Visu-Sewer, Inc., was the lowest responsive bidder.

3. A bid award recommendation and summary of the bid job is attached to the staff report.

<u>DETAILS IN ATTACHED STAFF REPORT</u>

CITY OF NEW BERLIN
UTILITIES DEPARTMENT
STAFF REPORT

2025 Private Property I/I Dye Water Testing Project

DATE STAFF REPORT CREATED: April 17, 2025

CUSTOMER/PROJECT NAME: City of New Berlin

ISSUE/DESCRIPTION OF PROJECT: This project consists of cleaning, CCTVing and inspection of approximately 56,292 lineal feet of sanitary sewers in the northeast corner of the City.

DATE OF COMPLETENESS DETERMINATION:

REQUESTED ACTION:
Recommend to the Common Council to award the construction contract for 2025 Private Property I/I Dye Water Testing Project to the lowest responsive bidder, Visu-Sewer, Inc., in the amount of $394,520.08. Total project cost not to exceed $394,520.08.

FISCAL IMPACT: $394,520.08

SOURCE OF FUNDS: MMSD Private Property I/I Grant

RATIONALE:
To investigate our system for I/I and Private Property I/I. We need to continue using funds available for cleaning, testing and inspections. MMSD will reimburse funds used to the City of New Berlin for all costs associated with the project.

UNIQUE SITE CHARACTERISTICS: N/A

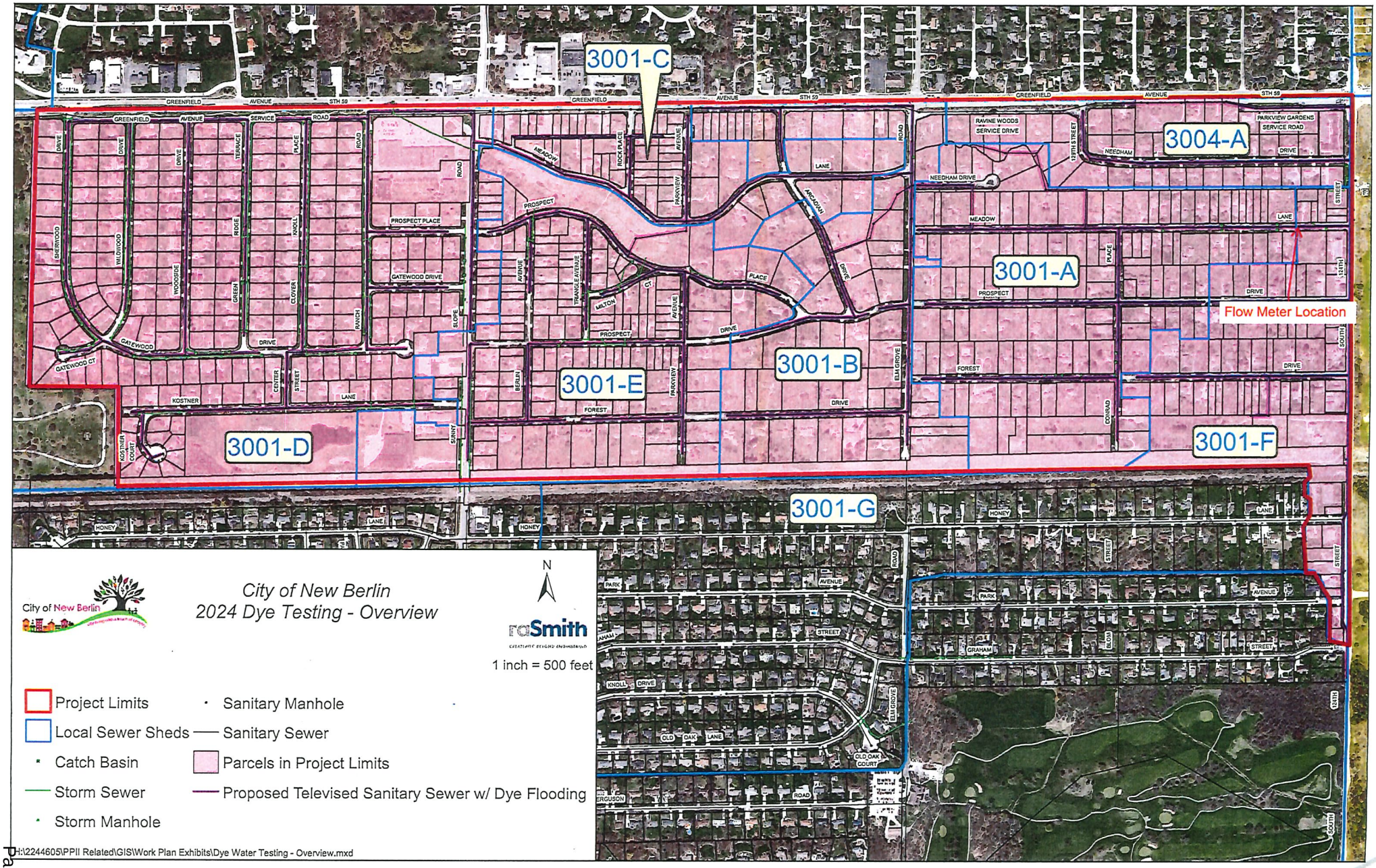
SANITARY SEWER PROVISION: N/A

WATER USAGE CALCULATION: N/A

ENVIRONMENTAL IMPACT: N/A

PLANNING COMMISSION APPROVAL: N/A

TRAFFIC IMPACT: N/A


3001-C
3004-A
3001-A
3001-B
3001-E
3001-D
3001-F
3001-G
Flow Meter Location
GREENFIELD AVENUE
STH 59
SERVICE ROAD
PROSPECT PLACE
GATEWOOD DRIVE
GATEWOOD CT
KOSTNER
KOSTNER COURT
HONEY
LANE
FOREST
PROSPECT
MEADOW
NEEDHAM DRIVE
RAVINE WOODS SERVICE DRIVE
PARKVIEW GARDENS SERVICE ROAD
NEEDHAM
ELM GROVE
OLD OAK LANE
OLD OAK COURT
KNOLL DRIVE
GRAHAM
PARK AVENUE
124TH STREET
SOUTH
CONRAD
SUNNY
BERLIN
MILTON
ARCADIAN
ROCK PLACE
PARKVIEW
TRANQUILITY AVENUE
CENTER STREET
WILDWOOD
WOODSIDE
SHERWOOD
RIDGE
KNOLL
CLOVER
GREEN
RANCH
SLOPE
TERRACE
PLACE
ROAD
DRIVE
N
City of New Berlin
2024 Dye Testing - Overview
raSmith
1 inch = 500 feet
Project Limits
Local Sewer Sheds
Catch Basin
Storm Sewer
Storm Manhole
Sanitary Manhole
Sanitary Sewer
Parcels in Project Limits
Proposed Televised Sanitary Sewer w/ Dye Flooding
H:\2244605\PPII Related\GIS\Work Plan Exhibits\Dye Water Testing - Overview.mxd

raSmith
CREATIVITY BEYOND ENGINEERING

R.A. Smith, Inc.
16745 W. Bluemound Road
Brookfield, WI 53005-5938
(262) 781-1000 | rasmith.com

April 16, 2025

Alex Parker, Utility Manager
City of New Berlin
4000 S Casper Drive
New Berlin, WI 53151

Re: 2025 Dye Water Testing Project Award Recommendation

Dear Alex Parker:

Bids were opened at 11:00 a.m. on April 16, 2025, via the secure online Quest vBid site for the above-referenced project. A summary of the bids are as follows (also enclosed is a detailed bid summary):

Bidder	Bid
Visu-Sewer	$394,520.08
National Power Rodding	$1,079,130.00

Our engineer's estimate for construction was $256,716.00. We believe that the price from Visu-Sewer is reasonable and was submitted competitively and in good faith.

Therefore, we recommend that the City of New Berlin award the project to the lowest responsive, responsible bidder, Visu-Sewer in the amount of $394,520.08.

Please feel free to call me if you have any questions or comments regarding the above.

Sincerely,
raSmith, Inc

Benjamin High, P.E.
Village Engineer – Butler
Enclosure

2025 New Berlin Dye Testing Project (#9604647)
Owner: City of New Berlin
raSmith Project Number: 2254600
MMSD Funding Agreement: M10005NB04
Bid Opening: 04/16/2025 11:00 AM CST

				Visu-Sewer		National Power Rodding Corp	
Bid Item	Item Description	UofM	Quantity	Unit Price	Extension	Unit Price	Extension
1	Traffic Control	LS	1	$25,000.00	$25,000.00	$75,000.00	$75,000.00
2	Televise Sanitary Lateral	EA	213	$350.00	$74,550.00	$750.00	$159,750.00
3	Clean & Televise Sanitary Sewer with Storm Sewer/Ditch Dye Water Testing	LF	56,292	$5.24	$294,970.08	$15.00	$844,380.00
			BID TOTAL		**$394,520.08**		**$1,079,130.00**

MOTION SHEET

TO: Common Council
Mayor Ament
Ald. Horbinski

FROM: Community Development Authority/Joelle Erickson

DATE: April 22, 2025

RE: April 10, 2025, CDA items requiring Common Council action

A.	LD-2500304 Josh Pudelko with Trio Engineering on behalf of Drexel Building Supply - 3370 S. Calhoun Rd. Discussion and possible action to recommend to Common Council approval of a 2-Lot Certified Survey Map.
Council Motion:	
	This item was considered at the CDA meeting on April 10, 2025. It was recommended to the Common Council by a unanimous vote. I do hereby make a motion to recommend to the Common Council the approval of a 2-Lot Certified Survey Map for the property located at 3370 S. Calhoun Road, subject to the application, and plans on file as outlined in the Staff Report Executive Summary.

STAFF REPORT
EXECUTIVE SUMMARY

APPLICANT/PROJECT:	**Josh Pudelko with Trio Engineering / 2-Lot Certified Survey Map**	
LOCATION:	**3370 S. Calhoun Road (Tax Key #: 1210.994)**	
REQUEST:	**Approval of a 2-Lot Certified Survey Map**	
REVIEW SCHEDULE:	**CSM Received:**	**2/25/2025**
	Completeness Determination:	**2/25/2025**
	90-day time limit expires:	**5/26/2025**
	Final Common Council Action:	**4/22/2025**
D.R.C. RECOMMENDATION:	**Recommend to Common Council approval of a 2-Lot Certified Survey Map for the property located at 3370 S. Calhoun Road, subject to the application, plans on file and the following conditions:**	

1. **Applicant shall correct all drafting errors and requested changes identified by Staff on the final CSM prior to the City signing.**
2. **A final copy of the CSM shall be submitted and reviewed prior to City signing. All owners and surveyor must sign prior to City signing the CSM. Surveyor Stamp is required.**
3. **The CSM shall be recorded with Waukesha County Register of Deeds prior to the issuance of any new zoning or building permits.**
4. **Applicant and/or property owner shall apply for and obtain appropriate building, plumbing and electrical permits prior to any construction on any parcel.**
5. **Provide additional detail on the 40' access easement in favor of Lot 2.**
6. **Page 4, paragraph 3, replace 'Moreland' with 'Moorland'.**
7. **Applicant shall coordinate with City staff to execute and record a Conservation Easement at the time of Use, Site and Architecture application for a future development.**

<u>DETAILS IN ATTACHED STAFF REPORT:</u>

CITY OF NEW BERLIN
DEPARTMENT OF COMMUNITY DEVELOPMENT
COMMUNITY DEVELOPMENT AUTHORITY STAFF REPORT

Meeting of April 10, 2025

Josh Pudelko with Trio Engineering / 2-Lot Certified Survey Map
3370 S. Calhoun Road

DATE STAFF REPORT PREPARED: 3/7/2025

APPLICANT / OWNER(S): Josh Pudelko with Trio Engineering / J Fleischman Solutions, LLC

REQUEST / DESCRIPTION OF PROJECT: Approval of a 2-Lot Certified Survey Map for the property located at 3370 S. Calhoun Road.

DATE OF APPLICATION / DATE FILED WITH CITY CLERK: 2/25/2025

DATE OF COMPLETENESS DETERMINATION: 2/25/2025

PRE-APPLICATION CONFERENCE HELD: Yes
Date(s) of Meeting(s): 12/17/2025
Site Visit(s): 3/7/2025

CONCEPTUAL PLAN: Yes

SIZE OF DEVELOPMENT / PARCEL(S):
Current Parcel: 91.96 Acres

CURRENT ZONING: M-1/SPO (Light Manufacturing District / New Berlin Industrial Park Special Plan Overlay) & (C-2/SPO Shoreland Wetland Holding District / New Berlin Industrial Park Special Plan Overlay)

CURRENT LAND USE: Drexel Building Supply

PROPOSED ZONING: N/A

PROPOSED LAND USE: N/A

PROPOSED LOT SIZE:
Lot 1: 40.1148 Acres
Lot 2: 51.8182 Acres

PROPOSED DENSITY: N/A

ADJACENT ZONING AND LAND USE:

North:	Zoning:	M-1/SPO/C-2/SPO	Land Use:	Industrial
South:	Zoning:	R-3/C-1	Land Use:	Residential (Vacant)
East:	Zoning:	R-3/C-2/I-1	Land Use:	Residential/Daycare
West:	Zoning:	A-1/R-1/R-2	Land Use:	Vacant & Residential

CONFORMANCE WITH COMPREHENSIVE PLAN AND MUNICIPAL CODE: Yes

Chapter 13: Neighborhood "C": New Berlin Industrial Park: Yes, this submittal meets the intent of this Chapter.

Planning Context / Vision / Development Policies:

Vision:

- *The New Berlin Industrial Park will continue to be a major economic engine and job center for the City. The primary land use should continue to be business, with some limited retail and service businesses located along the eastern edge of the industrial park.*

Development Policies:

- *The Industrial Park should remain oriented to business and light industrial uses, attracting incubator businesses when possible.*

Land use:

- *Future Land Use Map: Business Park/Industrial*

ZONING CODE (Chapter 275): Yes, this request is consistent with §275-35B(4) of the Zoning Code and the NBIP SPO, 275-39F.

DEVELOPMENT CODE (Chapter 235): N/A

REZONING REQUIRED: No

CONDITIONAL USE REQUIRED: No

PUBLIC HEARING REQUIRED: No

USE / SITE / ARCHITECTURAL REVIEW:
Use Approval Required: No
Site Plan Required: Yes, see attached CSM.
Architectural Review Required: N/A

PROPOSED ARCHITECTURE: N/A

UNIQUE SITE CHARACTERISTICS:
Environmental Corridor: Yes
Wetland On Property: Yes, Heartland Ecological completed a wetland and corridor delineation on 10/25/2024 for the vacant portion of the CSM.
Conservancy Districts (C-1, C-2): Yes
NRCS Map Classification: Not Inventoried
Floodplain: Yes
Topography / Geologic: Site slopes to the west.

BIKE & PEDESTRIAN FACILITIES PLAN: No improvements identified.

PARK & OPEN SPACE PLAN: No improvements identified.

NATURAL RESOURCES PROTECTION:
Limits of Disturbance (LOD): N/A
Wildlife Habitat Protection: N/A
Wildlife Management Plan: N/A

ENVIRONMENTAL IMPACT: Wachtel Tree Science completed a tree inventory on the vacant land project area. This will be submitted at the time of Use, Site and Architecture application.

STORMWATER MANAGEMENT / DRAINAGE PLAN: Applicant is required to adhere to all City of New Berlin Codes, Ordinances and Plans regarding storm water conveyance and maintenance as identified by the Department of Community Development.

SANITARY SEWER PROVISION:
Within Current Sewer Service Area: Yes
Basin Capacity Available: Yes
Adequate Linkage: N/A
Onsite System Required: No

WATER USAGE CALC.: N/A

TRAFFIC IMPACT: TIA is not required.

SCHOOL DISTRICT IMPACT: N/A
Notice Sent to Affected School District(s): No

PREVIOUS ACTION (12900 W. NATIONAL AVENUE):
2/6/2020 Plan Commission approved the Drexel Building Supply development.

CONSISTENCY WITH PREVIOUS ACTION: Yes

FINDINGS:

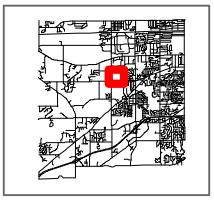
1. Please see the applicant's letter dated February 20, 2025 attached.
2. Per §275-35D, the minimum lot area is 40,000 square feet and the minimum lot width is 200' in the M-1 District. The proposed lots meets these minimum lot dimensions.
3. Heartland Ecological completed a wetland and corridor delineation on 10/25/2024 for the vacant portion of the CSM. Applicant has received Army Corps confirmation that two isolated wetland pockets in the middle of the vacant area are not waters of the state. They intend to apply for and obtain a DNR permit to fill these wetland pockets in order to develop the vacant area.
4. Wachtel Tree Science completed a tree inventory on the vacant land for the future development area. DCD Staff would put the applicant on notice that future Use, Site and Architecture applications may require a Conservation Easement.
5. Applicant included an Army Corps of Engineering Approved Jurisdictional Determination Letter dated February 13, 2025. They are only taking jurisdiction of the main perimeter wetland, not the pockets in the middle of the vacant area.

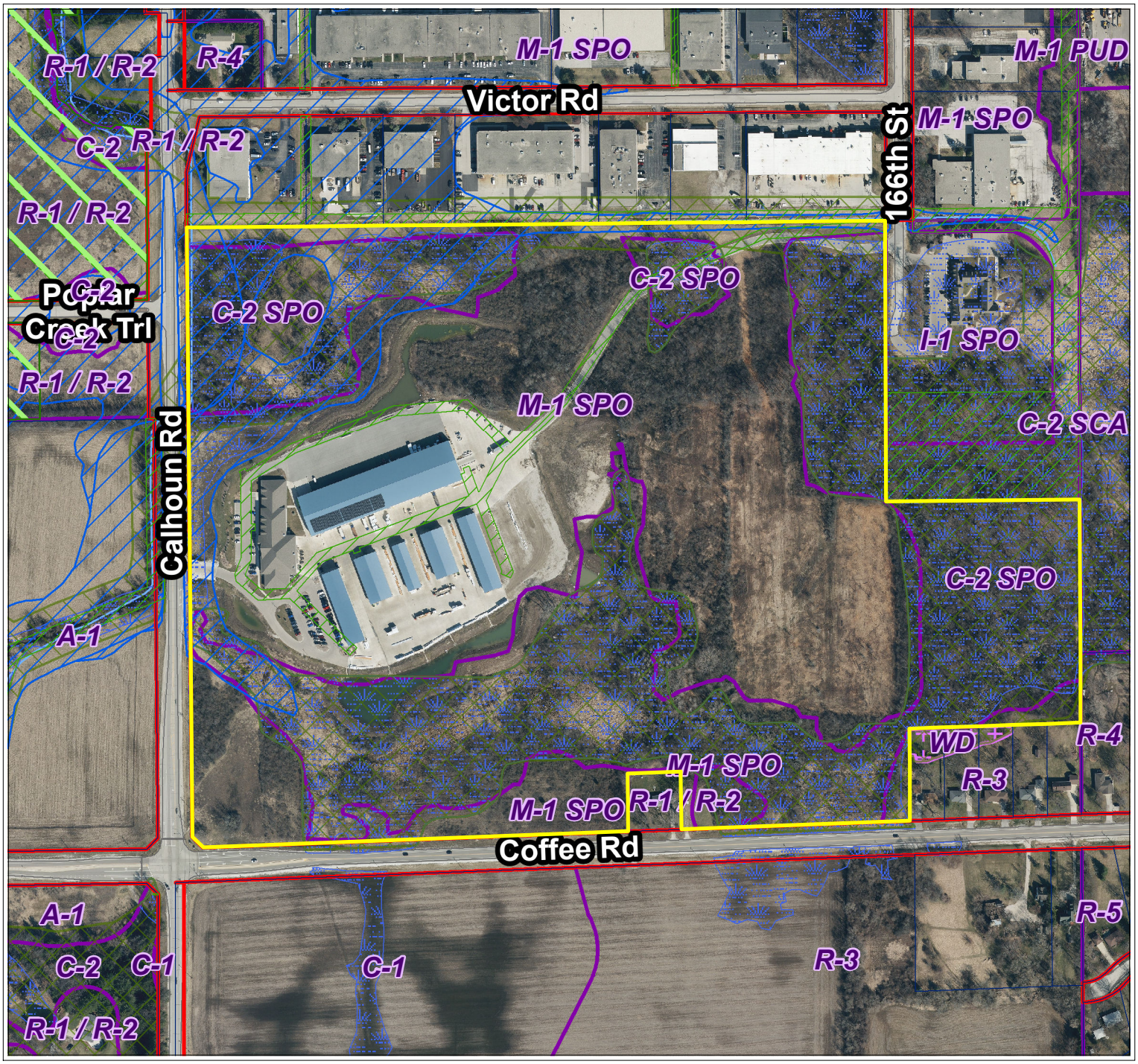
D.R.C. RECOMMENDATION: Recommend to Common Council approval of a 2-Lot Certified Survey Map for the property located at 3370 S. Calhoun Road, subject to the application, plans on file and the following conditions: **See Executive Summary.**

ATTACHMENTS:
Location Map
CSM

LD-2500304
DREXEL BUILDING SUPPLY
3370 S CALHOUN RD
TAX KEY # 1210.994

City of New Berlin
Community Development





City of New Berlin
Department of Community Development
3805 S Casper Dr.
New Berlin WI 53151
(262) 797-2445
www.newberlin.org

Legend

- Parcels
- Road Right-of-Way

FEMA Flood Zone (2023)

Flood Zone

- FEMA Flood - Zone A
- FEMA Flood - Zone AE
- Zoning Boundaries

Zoning Wetland Registration

Wetland Registration Type

- Registered Wetland
- Outside Wetland

Environmental Corridor

Corridor Type

- Isolated Natural Resource Area
- Primary Environmental Corridor
- Secondary Environmental Corridor
- Wetland

Sewer Service Area (MMSD)

Sewershed

- Current
- Ultimate

N

0 160 320 Feet

The information and depictions herein have been produced using data available through photogrametric means by the City of New Berlin. The informations and depictions herein are for informational purposes and the City of New Berlin specifically disclaims accuracy in this reproduction and specifically admonishes and advises that any and all depiction, measurements, distances depicted herein and as to which specific or precise accuracy is required should be determined by procurement of certified maps, surveys, plats, Flood Insurance Studies, or other official means.

February 20, 2025

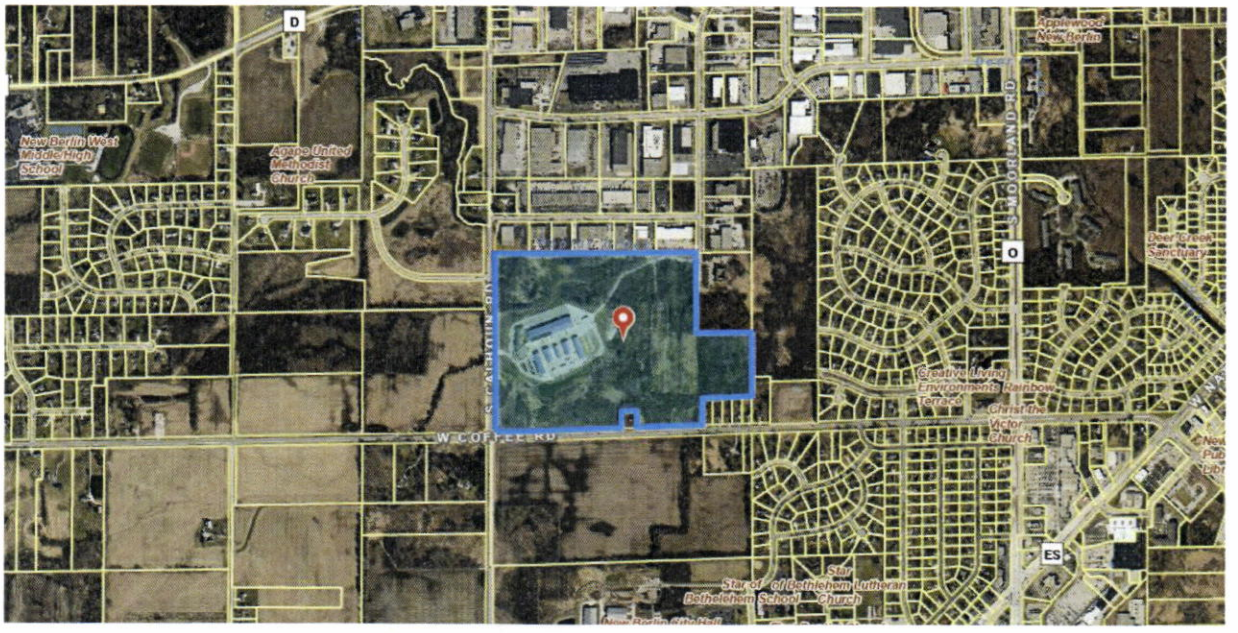
Greg Kessler
Director
City of New Berlin
3805 S. Casper Dr.
New Berlin, WI 53151

Re: CDA Review - Certified Survey Map

Dear Mr. Kessler,

This letter is regarding the property located at 3370 S. Calhoun Rd. in New Berlin, Wisconsin. Drexel Building Supply would like to request review by the Community Development Authority of a proposed Certified Survey Map of the property. The land division will divide the lot into two parcels. The current zoning for the parcel consists of both M-1 SPO and C-2 SPO.

Please see below for a general location map.



Josh Pudelko, M.S., P.E.
President
Trio Engineering

CONSULTING ENGINEERING LAND SURVEYING LAND PLANNING

Trio Engineering, LLC • 4100 N. Calhoun Road Brookfield, WI 53005 • t: 262.790.1480 f: 262.790.1481 • jpudelko@trioeng.com

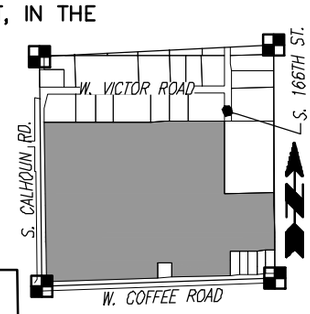
CERTIFIED SURVEY MAP NO. _____

PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHEAST 1/4, AND THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 15, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.

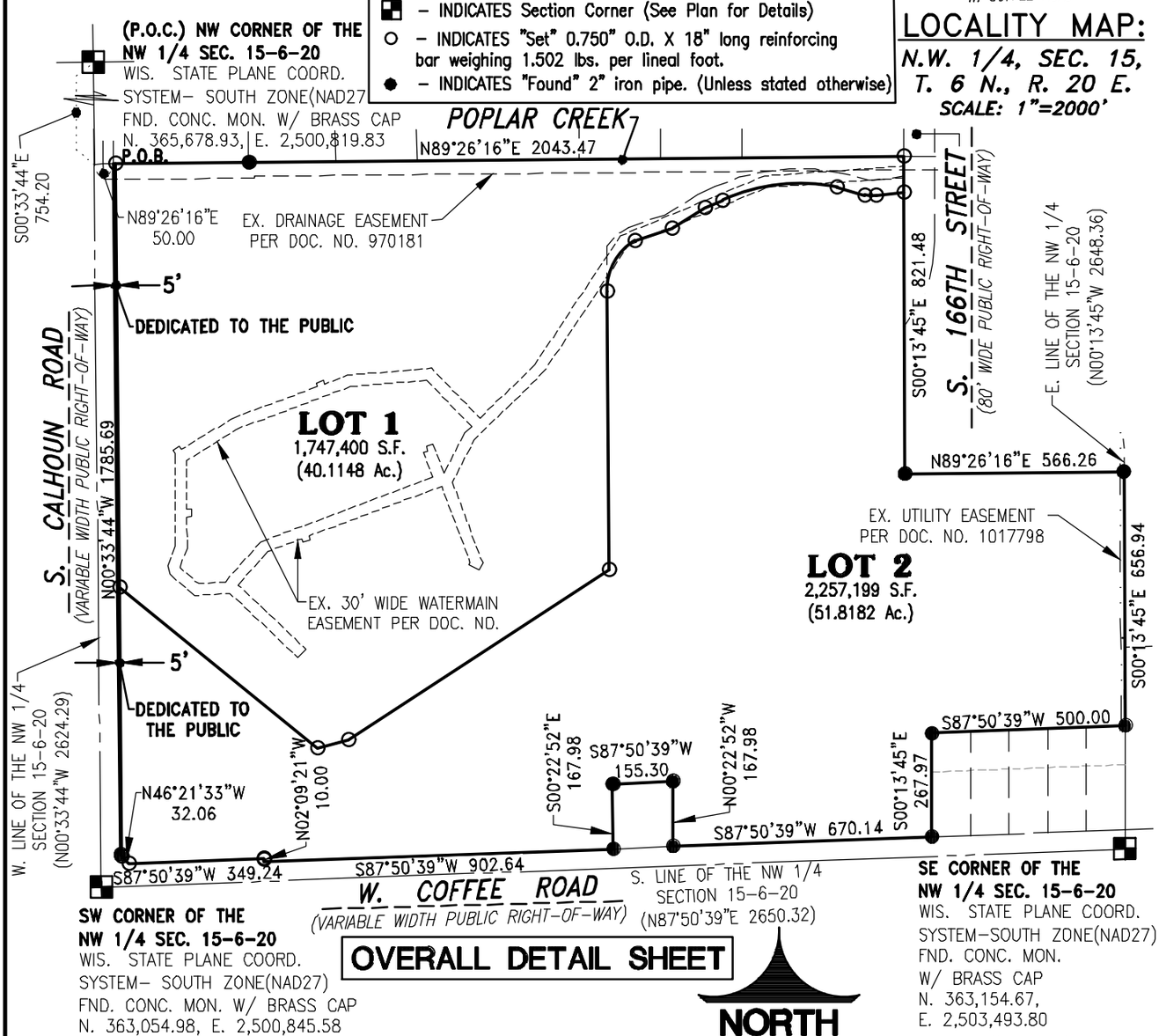
CURVE TABLE:

NO.	RADIUS	CENTRAL ANGLE	ARC	CHORD	CHORD BEARING	TANGENT IN	TANGENT OUT
C1	75.00	24°07'30"	31.58	31.35	S87°03'20"E	S74°59'35"E	N80°52'55"E
C2	488.00	35°33'51"	302.91	298.07	N83°36'09.5"E	N65°49'14"E	S78°36'55"E
C3	150.00	59°00'12"	154.47	147.73	N29°07'51"E	N00°22'15"W	N58°37'57"E

LEGEND:
- ■ – INDICATES Section Corner (See Plan for Details)
- ○ – INDICATES "Set" 0.750" O.D. X 18" long reinforcing bar weighing 1.502 lbs. per lineal foot.
- ● – INDICATES "Found" 2" iron pipe. (Unless stated otherwise)



LOCALITY MAP:
N.W. 1/4, SEC. 15, T. 6 N., R. 20 E.
SCALE: 1"=2000'



PREPARED FOR:
J FLEISCHMAN SOLUTIONS LLC
110 E MAIN ST
CAMPBELLSPORT, WI 53010

PREPARED BY:
TRIO ENGINEERING, LLC
4100 N. CALHOUN RD. SUITE 300
BROOKFIELD, WI 53005
PHONE: 262-790-1480

NOTES:
- ALL BEARINGS ARE REFERENCED TO THE GRID NORTH OF THE WISCONSIN STATE PLANE COORDINATE SYSTEM (NAD1927) – SOUTH ZONE, IN WHICH THE SOUTH LINE OF THE N.W. 1/4 OF SECTION 15, T.6N., R.20E., IS TAKEN TO BEAR NORTH 87°50'39" EAST.
- ALL TELEPHONE LINES, ELECTRIC LINES, CABLE TELEVISION LINES, TELECOMMUNICATION LINES AND OTHER SIMILAR UTILITY SERVICES SHALL BE PLACED UNDERGROUND UNLESS THE APPLICANT OR UTILITY CAN DEMONSTRATE THAT UNDERGROUNDING IS NOT FEASIBLE.
- THE WETLANDS SHOWN HEREON ON LOT 1 WERE DELINEATED ERIC PARKER, PSW, STANTEC, IN OCTOBER, 2015 AND PROVIDED TO TRIO ENGINEERING LLC IN DIGITAL FORMAT.
- THE WETLANDS SHOWN HEREON ON LOT 2 WERE DELINEATED BY ERIC PARKER, SPWS, HEARTLAND ECOLOGICAL GROUP, INC., ON OCTOBER 25, 2024 AND PROVIDED TO TRIO ENGINEERING LLC IN DIGITAL FORMAT.
- THE 100 YEAR FLOODLINE SHOWN HEREON WAS TAKEN FROM FEMA FLOOD MAP FIRM 55133C0332H AND 55133C0351H, DATED OCTOBER 19, 2023.

DRAFTED THIS 6TH DAY OF FEBRUARY, 2025. REVISED 3-13-25.
THIS INSTRUMENT WAS DRAFTED BY TED R. INDERMUEHLE, S-3119

JOB NO. 19031-1071-01
SHEET 1 OF 6

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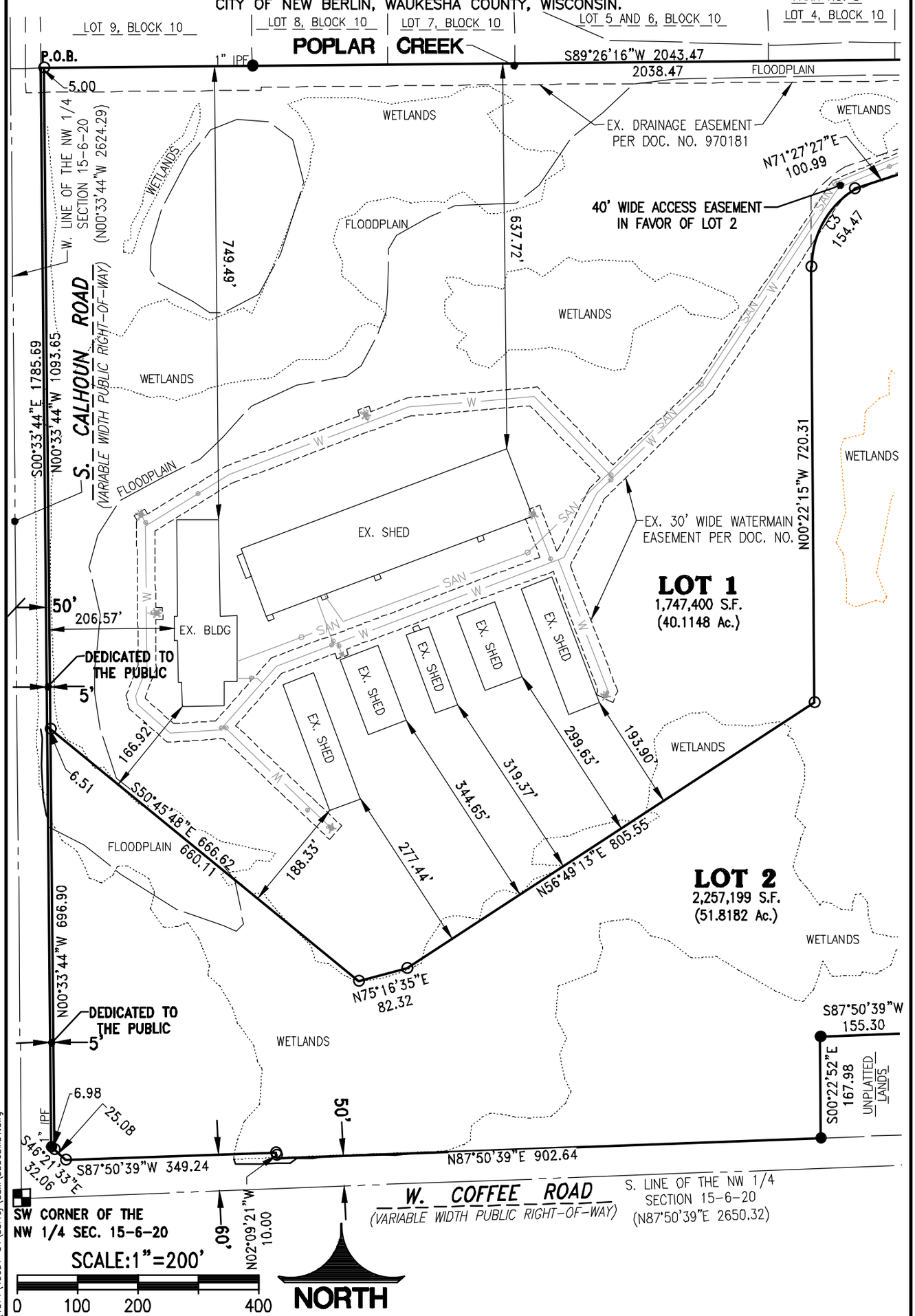
CERTIFIED SURVEY MAP NO. _____

PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHEAST 1/4, AND THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 15, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.



DRAFTED THIS 6TH DAY OF FEBRUARY, 2025. REVISED 3-13-25.
THIS INSTRUMENT WAS DRAFTED BY TED R. INDERMUEHLE, S-3119

JOB NO. 19031-1071-01
SHEET 2 OF 6

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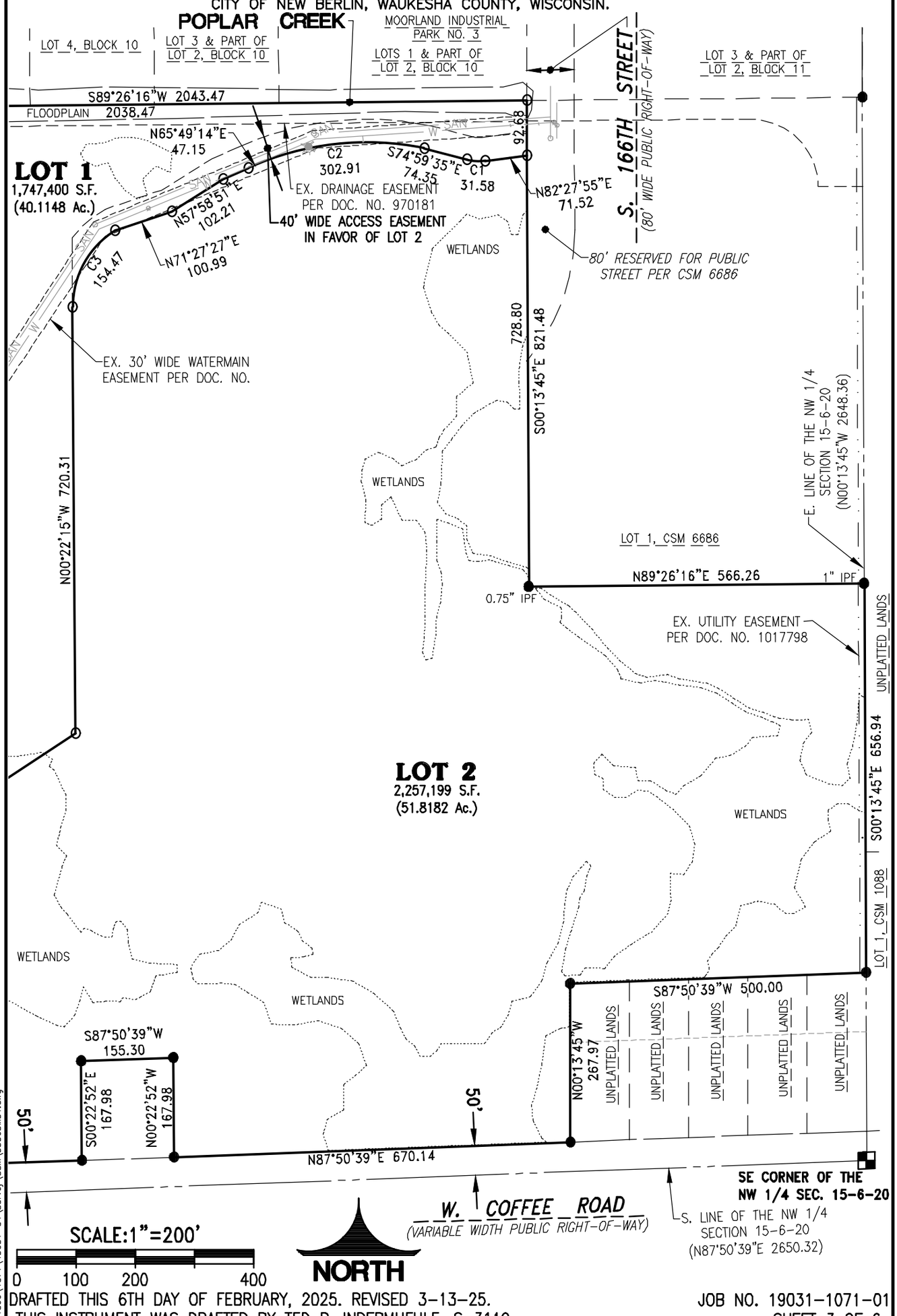
CERTIFIED SURVEY MAP NO. _____

PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHEAST 1/4, AND THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 15, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.



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THIS INSTRUMENT WAS DRAFTED BY TED R. INDERMUEHLE, S-3119

JOB NO. 19031-1071-01
SHEET 3 OF 6

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CERTIFIED SURVEY MAP NO._____

PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHEAST 1/4, AND THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 15, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.

SURVEYOR'S CERTIFICATE:

STATE OF WISCONSIN)
)ss
COUNTY OF WAUKESHA)

I, Ted R. Indermuehle, Professional Land Surveyor, do hereby certify:

That I have surveyed, divided and mapped a part of the Northwest 1/4, Northeast 1/4, Southeast 1/4, and the Southwest 1/4 of the Northwest 1/4 of Section 15, Town 6 North, Range 20 East, in the City of New Berlin, Waukesha County, Wisconsin, now being more particularly bounded and described as follows:

Commencing at the Northwest Corner of the said Northwest 1/4 Section; Thence South 00°33'44" East along the West line of the said Northwest 1/4 Section, 754.20 feet to a point on the South line of "Moreland Industrial Park No. 3" and its extension; Thence North 89°26'16" East, along said South line, 50.00 feet to a point on the East Right-of-Way of "South Calhoun Road" and the place of beginning of lands hereinafter described;

Thence continuing North 89°26'16" East along said South line, 2043.47 feet to a point on the West line of Certified Survey Map Number 6686; Thence South 00°13'45" East along said West line, 821.48 feet to a point on the South line of said Certified Survey Map; Thence North 89°26'16" East along said South line, 566.26 feet to a point on the East line of said Northwest 1/4; Thence South 00°13'45" East along said East line, 656.94 feet to a point; Thence South 87°50'39" West 500.00 feet to a point; Thence South 00°13'45" East 267.97 feet to a point on the North Right-of-Way of "West Coffee Road"; Thence South 87°50'39" West along said North line, 670.14 feet to a point; Thence North 00°22'52" West 167.98 feet to a point; Thence South 87°50'39" West 155.30 feet to a point; Thence South 00°22'52" East 167.98 feet to a point on the North Right-of-Way of "West Coffee Road"; Thence South 87°50'39" West along said North line, 902.64 feet to a point; Thence North 02°09'21" West along said North line, 10.00 feet to a point; Thence South 87°50'39" West along said North line, 349.24 feet to a point; Thence North 46°21'33" West 32.06 feet to a point on the East Right-of-Way of "South Calhoun Road"; Thence North 00°33'44" West along said East line, 1785.69 feet to the point of beginning.

Said Gross Land area contains 4,013,540 Square Feet (or 92.1382 Acres) of land more or less. Said Net Land area after Right-of-Way dedication contains 4,004,599 Square Feet (or 91.9329 Acres) of land more or less.

That I have made such survey, land division and map by the direction of **J FLEISCHMAN SOLUTIONS LLC**, owners of said lands.

That such map is a correct representation of all the exterior boundaries of the land surveyed and the land division thereof made.

That I have fully complied with the provisions of Chapter 236 of the Wisconsin Statutes and the Subdivision Regulations of the City of New Berlin, in surveying, dividing and mapping the same.

Dated this_____ day of_____, 20_____.

_____
Ted R. Indermuehle, P.L.S.
Professional Land Surveyor, S-3119
TRIO ENGINEERING, LLC
4100 N. Calhoun Road, Suite 300
Brookfield, WI 53005
Phone: (262)790-1480

Drafted this 6th day of FEBRUARY 2025. Revised 3-13-25. Job. No. 19031-1071-01
THIS INSTRUMENT WAS DRAFTED BY TED R. INDERMUEHLE, S-3119 SHEET 4 OF 6
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CERTIFIED SURVEY MAP NO._____

PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHEAST 1/4, AND THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 15, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.

OWNER'S CERTIFICATE OF DEDICATION:

As owners, we hereby certify that we have caused the land described on this map to be surveyed, divided and mapped as represented on this map in accordance with the provisions of Chapter 236 of the Wisconsin Statutes, and the Subdivision Regulations of the City of New Berlin, this ___ day of _____, 20 _____.

_____
Albert Fleischman, Owner

STATE OF WISCONSIN)
) ss
COUNTY OF)

Personally came before me this _____ day of _____, 20_____, J FLEISCHMAN SOLUTIONS LLC, Owners, to me known to be the persons who executed the foregoing instrument and acknowledged the same.

_____
Print Name: _____
Notary Public, _____County, WI
My commission expires: _____

CITY OF NEW BERLIN COMMON COUNCIL APPROVAL:

Approved by the Common Council of City of New Berlin on this _____ day of _____, 20_____.

_____ _____
David Ament, Mayor Rubina Medina, City Clerk

CITY OF NEW BERLIN PLAN COMISSION APPROVAL:

Approved by the City Plan Commission of the City of New Berlin on this _____ day of _____, 20_____.

_____ _____
David Ament, Mayor Nikki Jones, Secretary

CONSENT OF CORPORATE MORTGAGEE:

Drafted this 6th day of FEBRUARY 2025. Revised 3-13-25. Job. No. 19031-1071-01
THIS INSTRUMENT WAS DRAFTED BY TED R. INDERMUEHLE, S-3119 SHEET 5 OF 6
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CERTIFIED SURVEY MAP NO._____

PART OF THE NORTHWEST 1/4, NORTHEAST 1/4, SOUTHEAST 1/4, AND THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 15, TOWN 6 NORTH, RANGE 20 EAST, IN THE CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN.

_____, a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin, mortgagee of the above described land, does hereby consent to the surveying, dividing, mapping and dedicating of the land described on this Certified Survey Map, and does hereby consent to the above certificate of **J FLEISCHMAN SOLUTIONS LLC**, owner, this _____ day of_____, 20 _____.

Mortgagee:
Citizens Bank

By:_____

Name:_____

Title:_____

STATE OF WISCONSIN)
) ss
COUNTY OF)

Personally came before me this _____ day of _____, 20_____, _____, _____ of the above named corporation, to me known to be the person who executed the foregoing instrument, and to me known to be such _____of said corporation, and acknowledged that they executed the foregoing instrument as such officer as the deed of said corporation, by its authority.

_____
Print Name: _____
Notary Public, _____County, WI
My commission expires: _____

Those areas identified as Floodplain/Wetland Preservation Areas on Pages 2 and 3 of 6 of this Certified Survey Map shall be subject to the following restrictions:

1. Grading, filling and removal of topsoil or other earthen materials are prohibited, unless specifically authorized by the municipality in which this land is located and, if applicable, the City of New Berlin, the Wisconsin Department of Natural Resources and the Army Corps of Engineers.
2. The removal or destruction of any vegetative cover, i.e., trees, shrubs, grasses, etc., is prohibited, with the exception that invasive, dead, diseased, or dying vegetation may be removed, at the discretion of the landowner, and with approval from the City of New Berlin. Silvicultural thinning, upon the recommendation of a forester or naturalist and with approval from the City of New Berlin, shall also be permitted.
3. Grazing by domesticated animals, i.e., horses, cows, etc., is prohibited, unless grazing is conducted in order to manage invasive vegetation, and approval is obtained by the City of New Berlin.
4. The introduction of plant material not indigenous to the existing environment is prohibited.
5. Ponds are prohibited unless designed to enhance the natural environment. Ponds that may be permitted are subject to the approval of the municipality in which they are located and, if applicable, the City of New Berlin, the Wisconsin Department of Natural Resources and the Army Corps of Engineers.
6. The construction of buildings is prohibited.

Drafted this 6th day of FEBRUARY 2025. Revised 3-13-25. Job. No. 19031-1071-01
THIS INSTRUMENT WAS DRAFTED BY TED R. INDERMUEHLE, S-3119 SHEET 6 OF 6
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City of New Berlin

city living with a touch of country

DATE: April 21, 2025

TO: Rubina Medina
City Clerk

FR: Mayor Dave Ament

RE: Mayoral Appointments for the April 22, 2025 Common Council Mtg

Community Development Authority
Brian Felda
3300 S Wehr Rd
New Berlin WI 53146
bjfelda@yahoo.com
414-840-0685
(Reappointment)
(Current term expires 5/8/2025)

Expiration Date
5/8/2029

For Office Purposes Only						
TT	Eml	Web	OnBs	Ltr	Ethcs	HB

Plan Commission
Margaret (Meg) Gardner
2850 S Acredale Road
New Berlin WI 53151
262-282-6460
meg.gardner5@gmail.com
(New Appointment)
(Replace Brian McGrath)

Expiration Date
4/30/2028

For Office Purposes Only						
TT	Eml	Web	Provox	Ltr	Ethcs	HB

Safety Commission
Charles (Chuck) Garrigues
13750 W National Ave #4411
New Berlin WI 53151
262-278-0115
chuckgarrigues@gmail.com
(Reappointment)
(Current term expires 4/30/25)

Expiration Date
4/30/2027

For Office Purposes Only						
TT	Eml	Web	Provox	Ltr	Ethcs	HB

Committee of the Whole
MEETING MINUTES

April 8, 2025 - 6:00 PM
Council Chambers
3805 S. Casper Drive

MINUTES

1. CALL MEETING TO ORDER

Mayor Ament called the Committee of the Whole meeting to order at 6:00 PM

2. ROLL CALL; DECLARATION OF QUORUM; PUBLIC NOTICE

City Clerk Rubina R. Medina took the roll call as follows:
Present: Alderperson Hopkins, Alderperson Maxey, Alderperson Harenda, Alderperson Stribl, Alderperson Horbinski, Alderperson Kroupa, Alderperson La Fever
Excused: None

Staff Present: Mayor Dave Ament, City Attorney Thomas Schmitzer, City Clerk Rubina R. Medina

The City Clerk confirmed that a quorum was present and that the meeting was properly posted in compliance with open meetings law.

3. APPROVAL OF MINUTES

A. March 25, 2025, Committee of the Whole Meeting Minutes

MOTION: Motion to approve

VOTE: Motion by: Maxey
Second by: Strible
Motion Passed: 7-0

4. UTILITY & FINANCE

A. Discussion and possible action to recommend to the Common Council approval of the April 9th, 2025 Water Utility claims in the amount of $21,090.72, Sewer Utility claims in the amount of $35,921.44 and General City Claims in the amount of $327,534.56. Tax overpayment checks totaling $2,605.97 were also generated. US Bank VISA EFT of $27,512.66

MOTION: Motion to approve

VOTE: Motion by: Kroupa
Second by: Harenda
Motion Passed: 7-0

5. LICENSES & PERMITS

A. Discussion and possible action to recommend to Common Council approval of a "Class B" Liquor License for Fox Trot, LLC D.B.A Nickel's Pub located at 13915 W. Greenfield Avenue, per the premise description and application on file

MOTION: Motion to approve

VOTE: Motion by: Stribl
Second by: Hopkins
Motion Passed 7-0

6. MISCELLANEOUS

A. Presentation by Miss Wisconsin

Brenda Baudo, Executive Director of the Miss Wisconsin Organization, gave a brief presentation to the City Council and audience members in attendance.

B. Election of Council President (nominations followed by secret ballot if necessary)

Mayor Ament introduced the item and opened the floor for nominations. Alderman Stribl nominated Ken Harenda for Council President. With no additional nominations, the floor was closed.

MOTION: Motion to close nominations

VOTE: Motion by: Hopkins
Second by: Stribl
Motion Passed 7-0

MOTION: Motion to approve Ken Harenda as Council President

VOTE: Motion by: Stribl
Second by: Maxey
Motion Passed 7-0

C. Discussion and possible action to recommend to Common Council approval to **rescind** a joint public hearing set for May 5, 2025, at 6:00 p.m. to be held before the Plan Commission to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 10 and Chapter 18) for the property located at 6151 S. Moorland Road (Tax Key #: 1288.997.002) from Business Park / Industrial to Mixed-Use Residential AND rezone the property from A-1 and C-1 to Rm-1/PUD and C-1/PUD.

MOTION: Motion to approve rescinding the joint public hearing

VOTE: Motion by: Stribl
Second by: Kroupa
Motion Passed 7-0

D. Discussion and possible action to recommend to Common Council approval of the addition of a 1.0 FTE custodial position for the 2025 Budget year per the RAS

MOTION: Motion to approve

VOTE: Motion by: Horbinski
Second by: Stribl
Motion Passed 6-1 with Ald. Maxey voting nay

7. ADJOURN

MOTION: Motion to adjourn at 6:18 PM

VOTE: Motion by: Kroupa
Second by: Harenda
Motion 7-0

Respectfully Submitted,
Rubina R. Medina, City Clerk

Form
AB-105

Producer Full-Service Retail Sales Application

Date 04/07/2025

Part A: Producer Information

1. Business Legal Name (individual name if sole proprietor) Kowalske Brewing	
2. Business Name or DBA Component Brewing	3. Agent Name David Kowalske
4. FEIN 82-4547890	5. Wisconsin Seller's Permit Number 456-1030207982-06
6. Wisconsin Producer Permit Number 309-1030207982-02	7. Producer Type ☑ Brewery ☐ Winery ☐ Liquor Manufacturer/Rectifier
8. Contact Person's First Name David	9. Last Name Kowalske 10. M.I. E
11. Contact Person's Phone (262) 565-8782	12. Contact Person's Email dj@componentbrewing.com

Part B: Production Quantity

Note: Check appropriate quantity for permit held (see instructions). If you hold more than one producer permit, check the total aggregate quantity produced for each type of permit. Enter the highest quantity produced in any of the last three calendar years.

Brewery	Manufacturer/Rectifier	Winery
☐ Less than 250 barrels	☐ Less than 1,500 liters	☐ Less than 1,000 gallons
☑ 250 - 2,499 barrels	☐ 1,500 - 4,999 liters	☐ 1,000 - 4,999 gallons
☐ 2,500 - 7,499 barrels	☐ 5,000 - 34,999 liters	☐ 5,000 - 24,999 gallons
☐ 7,500 or more barrels	☐ 35,000 or more liters	☐ 25,000 or more gallons
Calendar year: 2024	Calendar year:	Calendar year:
Quantity: 400	Quantity:	Quantity:

Complete only ONE of Part C, D or E.

Part C: Request for Full-Service Retail Sales at the Production Premises

1. Start Date	2. Production Premises Address	
3. City	4. State	5. Zip Code
6. County	7. Governing Municipality ☐ City ☐ Town ☐ Village of:	

Part D: Request for Fixed Full-Service Retail Outlet

1. Are you transferring one fixed full-service retail outlet to a new location? . . . . . ☐ Yes ☐ No
If yes, complete boxes 2 through 9.

2. Current Outlet Name		
3. Current Outlet Premises Address		
4. City	5. State	6. Zip Code
7. County	8. Governing Municipality ☐ City ☐ Town ☐ Village of:	9. Premises Phone Number

Continued →

Part D: Request for Fixed Full-Service Retail Outlet (Cont.)

New Fixed Retail Outlet Information (complete boxes 10 through 23)

10. Start Date	11. New Outlet Name		
12. New Outlet Premises Address			
13. City		14. State	15. Zip Code
16. County	17. Governing Municipality ☐ City ☐ Town ☐ Village of:		18. Premises Phone Number

19. Premises Description - Describe the building or buildings and any outside areas where alcohol beverages are produced, sold, stored, or consumed, and related records are kept. Describe all rooms within the building, including living quarters. Authorized alcohol beverage activities and storage of records may occur only on the premises described in this application. Attach a map or diagram and additional sheets if necessary.

20. Will you operate a restaurant on the premises? ☐ Yes ☐ No

21. What alcohol beverages will be offered for sale? (check all that apply) ☐ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

22. What alcohol beverages does the permittee produce? (check all that apply) ☐ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

23. How will customers be served? (check all that apply) ☐ Samples ☐ On-premises consumption ☐ Off-premises consumption

Part E: Request for Unlimited Transfer Full-Service Retail Outlet

1. Name of Event (if applicable)
Malone Park Beer Gardens

2. Dates of Operation (attach a schedule, if necessary)	3. Hours of Operation
5/24, 6/14, 7/12, 9/6, 10/11, all 2025	12-6PM

4. Premises Address
16400 W Al Stigler Pkwy

5. City	6. State	7. Zip Code
New Berlin	WI	53151

8. County	9. Governing Municipality ☑ City ☐ Town ☐ Village of: New Berlin
Waukesha	

10. Organizer of Event (if not the named applicant)	11. Email and/or Phone Number for Organizer of Event
Katie Roth	kroth@newberlin.org
12. Organizer Website	13. Event Website
N/A	N/A

14. Premises Description - Describe the building or buildings and any outside areas where alcohol beverages are produced, sold, stored, or consumed, and related records are kept. Describe all rooms within the building, including living quarters. Authorized alcohol beverage activities and storage of records may occur only on the premises described in this application. Attach a map or diagram and additional sheets if necessary.

Beer trailer will be set up in Malone Park for an afteroon/evening beer garden with live music and a food truck. We are also working with NB Parks & Rec to potentially add other vendors and activities to the events.

15. On-Site Contact (Last Name, First Name)	16. On-Site Contact Phone	17. On-Site Contact Email
Roth, Katie	(262) 797-2443	kroth@newberlin.org

18. Will you operate a restaurant on the premises? ☐ Yes ☑ No

19. What alcohol beverages will be offered for sale? (check all that apply) ☑ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

20. What alcohol beverages does the permittee produce? (check all that apply) ☑ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

21. How will customers be served? (check all that apply) ☐ Samples ☑ On-premises consumption ☐ Off-premises consumption

Continued →

Part F: Attestation

Who must sign this application?

- sole proprietor
- general partner of a partnership
- corporate officer
- member of an LLC

READ CAREFULLY BEFORE SIGNING:

I understand and agree to the following:

- I will not operate this location outside of the dates and times approved by the municipality and Division of Alcohol Beverages.
- I will operate this location according to municipal ordinance and restrictions imposed as a condition of receiving this authorization.
- I will purchase alcohol beverages I do not produce from an authorized source, such as a Wisconsin-permitted wholesaler.
- I will operate this location according to Wisconsin law and administrative regulation including but not limited to: underage restrictions, closing hours, licensed operators, and record keeping requirements.

Further, under penalty of law, I have answered each of the above questions completely and truthfully. I agree that I am acting solely on behalf of the applicant business and not on behalf of any other individual or entity seeking the authorization. Further, I agree that the rights and responsibilities conferred by the authorization, if granted, will not be assigned to another individual or entity. I understand that lack of access to any portion of a premises during inspection will be deemed a refusal to allow inspection. Such refusal is a misdemeanor and grounds for revocation of this authorization. I understand that any authorization issued contrary to Wis. Stats. Chapter 125 shall be void under penalty of Wisconsin law. I further understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than $1,000 if convicted.

Signature	Date
David E. Kowalske	04/07/2025

Last Name	First Name	M.I.
Kowalske	David	E

Title	Email	Phone
Member	dj@componentbrewing.com	(262) 565-8782

Part G: For Municipal Use Only (Complete if Requesting Authorization in Part D or E)

1. Will the municipality limit the scope of alcohol beverages offered for sale? ☐ Yes ☐ No
2. Will the municipality impose any requirements or restrictions for the full-service retail outlet? ☐ Yes ☐ No
3. Describe municipal restrictions indicated in questions 1 or 2 above.

4. Last Name of Municipal Official	5. First Name	6. M.I.
Medina	Rubina	R

7. Signature of Municipal Official	8. Date
Rubina R. Medina	4-8-25

9. Date Application was Filed with Clerk	10. Date Full-Service Retail Outlet Approved by Governing Body
4-9-25	4-22-25

Form
AB-105

Producer Full-Service Retail Sales Application

Date 04/07/2025

Part A: Producer Information

1. Business Legal Name (individual name if sole proprietor) Kowalske Brewing	
2. Business Name or DBA Component Brewing	3. Agent Name David Kowalske
4. FEIN 82-4547890	5. Wisconsin Seller's Permit Number 456-1030207982-06
6. Wisconsin Producer Permit Number 309-1030207982-02	7. Producer Type ☑ Brewery ☐ Winery ☐ Liquor Manufacturer/Rectifier
8. Contact Person's First Name David	9. Last Name Kowalske 10. M.I. E
11. Contact Person's Phone (262) 565-8782	12. Contact Person's Email dj@componentbrewing.com

Part B: Production Quantity

Note: Check appropriate quantity for permit held (see instructions). If you hold more than one producer permit, check the total aggregate quantity produced for each type of permit. Enter the highest quantity produced in any of the last three calendar years.

Brewery	Manufacturer/Rectifier	Winery
☐ Less than 250 barrels	☐ Less than 1,500 liters	☐ Less than 1,000 gallons
☑ 250 - 2,499 barrels	☐ 1,500 - 4,999 liters	☐ 1,000 - 4,999 gallons
☐ 2,500 - 7,499 barrels	☐ 5,000 - 34,999 liters	☐ 5,000 - 24,999 gallons
☐ 7,500 or more barrels	☐ 35,000 or more liters	☐ 25,000 or more gallons
Calendar year: 2024	Calendar year:	Calendar year:
Quantity: 400	Quantity:	Quantity:

Complete only ONE of Part C, D or E.

Part C: Request for Full-Service Retail Sales at the Production Premises

1. Start Date	2. Production Premises Address		
3. City		4. State	5. Zip Code
6. County		7. Governing Municipality ☐ City ☐ Town ☐ Village of:	

Part D: Request for Fixed Full-Service Retail Outlet

1. Are you transferring one fixed full-service retail outlet to a new location? ☐ Yes ☐ No
If yes, complete boxes 2 through 9.

2. Current Outlet Name			
3. Current Outlet Premises Address			
4. City		5. State	6. Zip Code
7. County	8. Governing Municipality ☐ City ☐ Town ☐ Village of:		9. Premises Phone Number

Continued →

Part D: Request for Fixed Full-Service Retail Outlet (Cont.)

New Fixed Retail Outlet Information (complete boxes 10 through 23)

10. Start Date	11. New Outlet Name		
12. New Outlet Premises Address			
13. City		14. State	15. Zip Code
16. County	17. Governing Municipality ☐ City ☐ Town ☐ Village of:		18. Premises Phone Number

19. Premises Description - Describe the building or buildings and any outside areas where alcohol beverages are produced, sold, stored, or consumed, and related records are kept. Describe all rooms within the building, including living quarters. Authorized alcohol beverage activities and storage of records may occur only on the premises described in this application. Attach a map or diagram and additional sheets if necessary.

20. Will you operate a restaurant on the premises? ☐ Yes ☐ No

21. What alcohol beverages will be offered for sale? (check all that apply) ☐ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

22. What alcohol beverages does the permittee produce? (check all that apply) ☐ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

23. How will customers be served? (check all that apply) ☐ Samples ☐ On-premises consumption ☐ Off-premises consumption

Part E: Request for Unlimited Transfer Full-Service Retail Outlet

1. Name of Event (if applicable)			
Historical Park Beer Gardens			
2. Dates of Operation (attach a schedule, if necessary)	3. Hours of Operation		
6/15/25, 7/13/25, 9/7/25, 10/12/25	1-4PM		
4. Premises Address			
19885 W National Ave.			
5. City		6. State	7. Zip Code
New Berlin		WI	53146
8. County		9. Governing Municipality ☐ City ☐ Town ☐ Village	
Waukesha		of: New Berlin	
10. Organizer of Event (if not the named applicant)	11. Email and/or Phone Number for Organizer of Event		
Katie Roth	kroth@newberlin.org		
12. Organizer Website	13. Event Website		
N/A	N/A		

14. Premises Description - Describe the building or buildings and any outside areas where alcohol beverages are produced, sold, stored, or consumed, and related records are kept. Describe all rooms within the building, including living quarters. Authorized alcohol beverage activities and storage of records may occur only on the premises described in this application. Attach a map or diagram and additional sheets if necessary.

Beer trailer will be set up at the historical society campus in conjunction with the outdoor plan for the rest of the day's activities. Event will be primarily outside in the historical park on site, with the buildings on premises open for guests to enter and check out. No beer will be sold inside any of the historical buildings.

15. On-Site Contact (Last Name, First Name)	16. On-Site Contact Phone	17. On-Site Contact Email
Roth, Katie	(262) 797-2443	kroth@newberlin.org

18. Will you operate a restaurant on the premises? ☐ Yes ☑ No

19. What alcohol beverages will be offered for sale? (check all that apply) ☑ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

20. What alcohol beverages does the permittee produce? (check all that apply) ☑ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

21. How will customers be served? (check all that apply) ☐ Samples ☑ On-premises consumption ☐ Off-premises consumption

Continued →

Part F: Attestation

Who must sign this application?

- sole proprietor
- general partner of a partnership
- corporate officer
- member of an LLC

READ CAREFULLY BEFORE SIGNING:

I understand and agree to the following:

- I will not operate this location outside of the dates and times approved by the municipality and Division of Alcohol Beverages.
- I will operate this location according to municipal ordinance and restrictions imposed as a condition of receiving this authorization.
- I will purchase alcohol beverages I do not produce from an authorized source, such as a Wisconsin-permitted wholesaler.
- I will operate this location according to Wisconsin law and administrative regulation including but not limited to: underage restrictions, closing hours, licensed operators, and record keeping requirements.

Further, under penalty of law, I have answered each of the above questions completely and truthfully. I agree that I am acting solely on behalf of the applicant business and not on behalf of any other individual or entity seeking the authorization. Further, I agree that the rights and responsibilities conferred by the authorization, if granted, will not be assigned to another individual or entity. I understand that lack of access to any portion of a premises during inspection will be deemed a refusal to allow inspection. Such refusal is a misdemeanor and grounds for revocation of this authorization. I understand that any authorization issued contrary to Wis. Stats. Chapter 125 shall be void under penalty of Wisconsin law. I further understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than $1,000 if convicted.

Signature	Date
David E. Kowalske	04/07/2025

Last Name	First Name	M.I.
Kowalske	David	E

Title	Email	Phone
Member	dj@componentbrewing.com	(262) 565-8782

Part G: For Municipal Use Only (Complete if Requesting Authorization in Part D or E)

1. Will the municipality limit the scope of alcohol beverages offered for sale? ☐ Yes ☐ No
2. Will the municipality impose any requirements or restrictions for the full-service retail outlet? ☐ Yes ☐ No
3. Describe municipal restrictions indicated in questions 1 or 2 above.

4. Last Name of Municipal Official	5. First Name	6. M.I.
Medina	Rubina	R

7. Signature of Municipal Official	8. Date
Rubina Medina	4/9/2025

9. Date Application was Filed with Clerk	10. Date Full-Service Retail Outlet Approved by Governing Body
4-9-25	4-22-25

Form
AB-105

Producer Full-Service Retail Sales Application

Date 04/07/2025

Part A: Producer Information

1. Business Legal Name (individual name if sole proprietor) Kowalske Brewing	
2. Business Name or DBA Component Brewing	3. Agent Name David Kowalske
4. FEIN 82-4547890	5. Wisconsin Seller's Permit Number 456-1030207982-06
6. Wisconsin Producer Permit Number 309-1030207982-02	7. Producer Type ☑ Brewery ☐ Winery ☐ Liquor Manufacturer/Rectifier
8. Contact Person's First Name David	9. Last Name Kowalske 10. M.I. E
11. Contact Person's Phone (262) 565-8782	12. Contact Person's Email dj@componentbrewing.com

Part B: Production Quantity

Note: Check appropriate quantity for permit held (see instructions). If you hold more than one producer permit, check the total aggregate quantity produced for each type of permit. Enter the highest quantity produced in any of the last three calendar years.

Brewery	Manufacturer/Rectifier	Winery
☐ Less than 250 barrels	☐ Less than 1,500 liters	☐ Less than 1,000 gallons
☑ 250 - 2,499 barrels	☐ 1,500 - 4,999 liters	☐ 1,000 - 4,999 gallons
☐ 2,500 - 7,499 barrels	☐ 5,000 - 34,999 liters	☐ 5,000 - 24,999 gallons
☐ 7,500 or more barrels	☐ 35,000 or more liters	☐ 25,000 or more gallons
Calendar year: 2024	Calendar year:	Calendar year:
Quantity: 400	Quantity:	Quantity:

Complete only ONE of Part C, D or E.

Part C: Request for Full-Service Retail Sales at the Production Premises

1. Start Date	2. Production Premises Address		
3. City		4. State	5. Zip Code
6. County		7. Governing Municipality ☐ City ☐ Town ☐ Village of:	

Part D: Request for Fixed Full-Service Retail Outlet

1. Are you transferring one fixed full-service retail outlet to a new location? . . . . . ☐ Yes ☐ No
If yes, complete boxes 2 through 9.

2. Current Outlet Name			
3. Current Outlet Premises Address			
4. City		5. State	6. Zip Code
7. County	8. Governing Municipality ☐ City ☐ Town ☐ Village of:		9. Premises Phone Number

Continued →

Part D: Request for Fixed Full-Service Retail Outlet (Cont.)

New Fixed Retail Outlet Information (complete boxes 10 through 23)

10. Start Date	11. New Outlet Name		
12. New Outlet Premises Address			
13. City		14. State	15. Zip Code
16. County	17. Governing Municipality ☐ City ☐ Town ☐ Village of:		18. Premises Phone Number

19. Premises Description - Describe the building or buildings and any outside areas where alcohol beverages are produced, sold, stored, or consumed, and related records are kept. Describe all rooms within the building, including living quarters. Authorized alcohol beverage activities and storage of records may occur only on the premises described in this application. Attach a map or diagram and additional sheets if necessary.

20. Will you operate a restaurant on the premises? ☐ Yes ☐ No

21. What alcohol beverages will be offered for sale? (check all that apply) ☐ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

22. What alcohol beverages does the permittee produce? (check all that apply) ☐ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

23. How will customers be served? (check all that apply) ☐ Samples ☐ On-premises consumption ☐ Off-premises consumption

Part E: Request for Unlimited Transfer Full-Service Retail Outlet

1. Name of Event (if applicable)
Public Library Beer Garden

2. Dates of Operation (attach a schedule, if necessary)	3. Hours of Operation
Saturday 8/16/25	12-6PM

4. Premises Address
15105 W Library Lane

5. City	6. State	7. Zip Code
New Berlin	WI	53151

8. County	9. Governing Municipality ☑ City ☐ Town ☐ Village of: New Berlin
Waukesha	

10. Organizer of Event (if not the named applicant)	11. Email and/or Phone Number for Organizer of Event
Katie Roth	kroth@newberlin.org
12. Organizer Website	13. Event Website
N/A	N/A

14. Premises Description - Describe the building or buildings and any outside areas where alcohol beverages are produced, sold, stored, or consumed, and related records are kept. Describe all rooms within the building, including living quarters. Authorized alcohol beverage activities and storage of records may occur only on the premises described in this application. Attach a map or diagram and additional sheets if necessary.

Beer trailer will be set up in Malone Park for an afteroon/evening beer garden with live music and a food truck. We are also working with NB Parks & Rec to potentially add other vendors and activities to the events.
This event is a one-off at this location due to the planned construction at Malone.

15. On-Site Contact (Last Name, First Name)	16. On-Site Contact Phone	17. On-Site Contact Email
Roth, Katie	(262) 797-2443	kroth@newberlin.org

18. Will you operate a restaurant on the premises? ☐ Yes ☑ No

19. What alcohol beverages will be offered for sale? (check all that apply) ☑ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

20. What alcohol beverages does the permittee produce? (check all that apply) ☑ Beer ☐ Wine ☐ Intoxicating Liquor (other than wine)

21. How will customers be served? (check all that apply) ☐ Samples ☑ On-premises consumption ☐ Off-premises consumption

Continued ⟶

Part F: Attestation

Who must sign this application?

- sole proprietor
- general partner of a partnership
- corporate officer
- member of an LLC

READ CAREFULLY BEFORE SIGNING:

I understand and agree to the following:

- I will not operate this location outside of the dates and times approved by the municipality and Division of Alcohol Beverages.
- I will operate this location according to municipal ordinance and restrictions imposed as a condition of receiving this authorization.
- I will purchase alcohol beverages I do not produce from an authorized source, such as a Wisconsin-permitted wholesaler.
- I will operate this location according to Wisconsin law and administrative regulation including but not limited to: underage restrictions, closing hours, licensed operators, and record keeping requirements.

Further, under penalty of law, I have answered each of the above questions completely and truthfully. I agree that I am acting solely on behalf of the applicant business and not on behalf of any other individual or entity seeking the authorization. Further, I agree that the rights and responsibilities conferred by the authorization, if granted, will not be assigned to another individual or entity. I understand that lack of access to any portion of a premises during inspection will be deemed a refusal to allow inspection. Such refusal is a misdemeanor and grounds for revocation of this authorization. I understand that any authorization issued contrary to Wis. Stats. Chapter 125 shall be void under penalty of Wisconsin law. I further understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than $1,000 if convicted.

Signature	Date
David E. Kowalske	04/07/2025

Last Name	First Name	M.I.
Kowalske	David	E

Title	Email	Phone
Member	dj@componentbrewing.com	(262) 565-8782

Part G: For Municipal Use Only (Complete if Requesting Authorization in Part D or E)

1. Will the municipality limit the scope of alcohol beverages offered for sale? ☐ Yes ☐ No
2. Will the municipality impose any requirements or restrictions for the full-service retail outlet? ☐ Yes ☐ No
3. Describe municipal restrictions indicated in questions 1 or 2 above.

4. Last Name of Municipal Official	5. First Name	6. M.I.
Medina	Rubina	R

7. Signature of Municipal Official	8. Date
Rubina R. Medina	4-9-25

9. Date Application was Filed with Clerk	10. Date Full-Service Retail Outlet Approved by Governing Body
4-9-25	4-22-25

Form
AB-101

Alcohol Beverage Appointment of Agent

Date
03/03/2025

Agent Type *(check one)*

☐ Original (no fee) ☒ Successor ($10 fee for municipal licensees only)

PAID
APR 1 4 2025
Treasurer - City of New Berlin

Part A: Business Information

1. Legal Business Name (individual name if sole proprietor)
Family Entertainment, LLC

2. Business Trade Name or DBA
Ridge Cinema

3. Entity Type *(check one)*
☒ Limited Liability Company ☐ Corporation ☐ Nonprofit Organization

4. Alcohol Beverage Business Authorization *(check one)*
☒ Municipal Retail License ☐ State Permit

5. If successor agent, provide State Permit or Municipal Retail License Number
2024 23 (Theater 2024 1)

6. Describe the reason for appointing a successor agent, if successor is checked above.
Former Agent, Mark A. Peterson, Sr. retired from Marcus.

Part B: Agent Information

1. Last Name	2. First Name	3. M.I.
Jackson	LaMarvon	J.

4. Email	5. Phone

6. Home Address

7. City	8. State	9. Zip Code	10. Date of Birth

11. Drivers License/State ID Number	12. Drivers License/State ID State of Issuance

Part C: Agent Questions

1. Have you satisfied the responsible beverage server training requirement? Submit proof of completion. ☒ Yes ☐ No

2. Have you completed Form AB-100, *Alcohol Beverage Individual Questionnaire* (licensee) or Form AB-300, *Alcohol Beverage Personal Questionnaire* (permittee)? ☒ Yes ☐ No

3. Have you been a Wisconsin resident for at least 90 continuous days? See instructions for exceptions. ☒ Yes ☐ No

Continued →

Part D: Business Attestation

READ CAREFULLY BEFORE SIGNING: I, the **Undersigned**, authorize the above-named individual to act for the above-named corporation, nonprofit organization, or limited liability company with full authority and control of the premises and of all alcohol beverage activities on such premises. I certify that I am authorized by the above-named entity to authorize this individual to act on behalf of the entity. If I am appointing a successor agent, I rescind all previous agent appointments for this premises. Further, I understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than $1,000 if convicted.

Last Name	First Name	M.I.
Bartelt	Steven	S.

Title	Email	Phone
Vice President	LisaNault@marcuscorp.com	414-905-1216

Signature	Date
	March 3, 2025

Part E: Agent Attestation

READ CAREFULLY BEFORE SIGNING: I, the **Agent**, hereby accept this appointment as agent for the above-named corporation, nonprofit organization, or limited liability company and assume full responsibility for the conduct of all alcohol beverage activities on the premises for the above-named business. I further understand that I may be prosecuted for submitting false statements and affidavits in connection with this application, and that any person who knowingly provides materially false information on this application may be required to forfeit not more than $1,000 if convicted.

Last Name	First Name	M.I.
Jackson	LaMarvon	J.

Signature	Date
	March 3, 2025

New Berlin Fire Department

Annual Update, Performance & Community Safety Initiatives

April 22, 2025

Common Council

MISSION

To provide exceptional services while committed to building a safer community.

VISION

To continually strive to be a caring, understanding, people first organization committed to excellence in all we do.

NBFD VALUES

TRUST
Nurturing positive relationships at all levels of the organization

RESPECT
Treat everyone with dignity and worth

PROFESSIONALISM
Conducting oneself with responsibility, integrity, accountability, and excellence

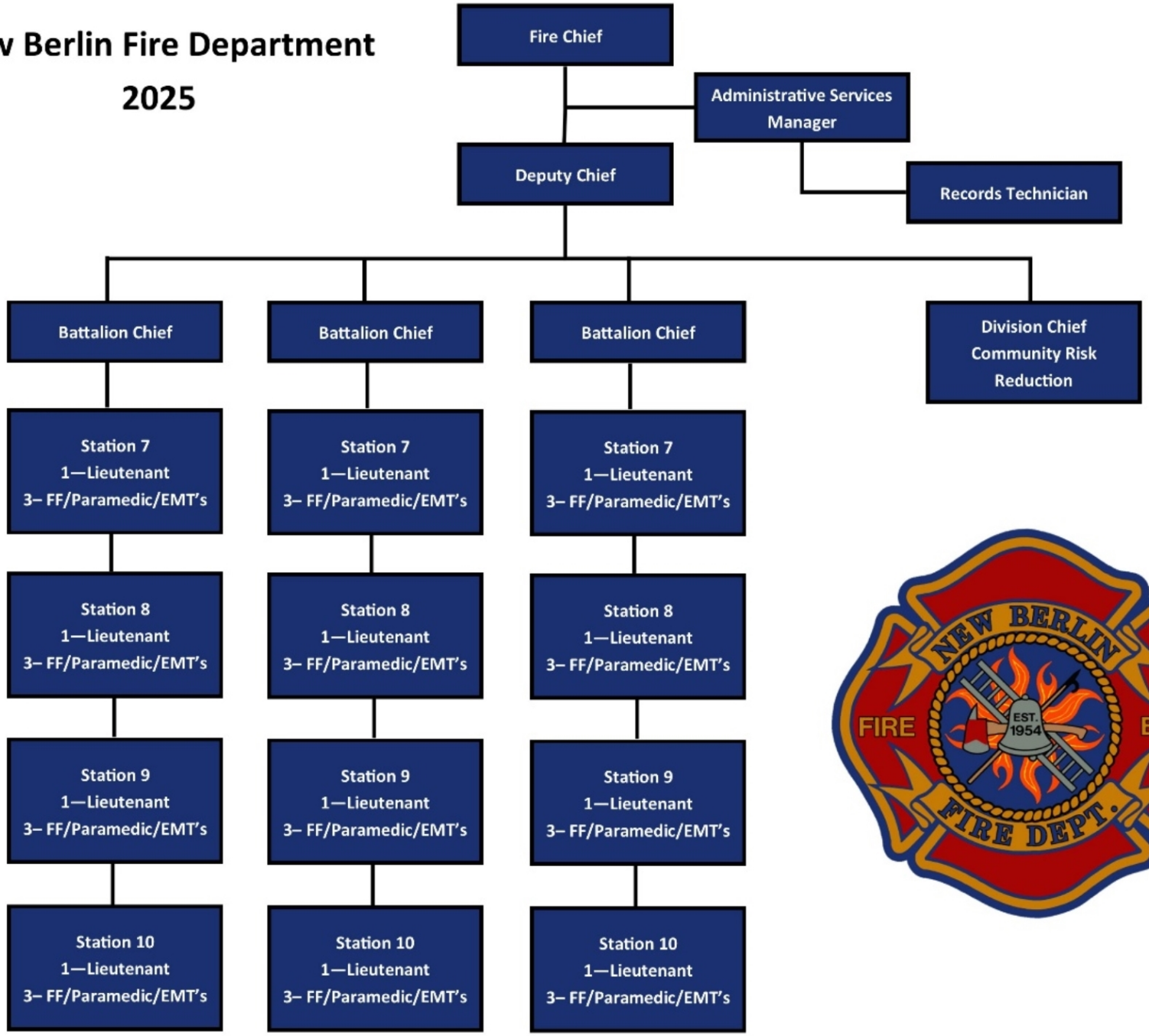
POSITIVE ATTITUDE
Doing what it takes and inspiring others to do the same

INVEST
To put the time, effort and energy into bettering the department and each other

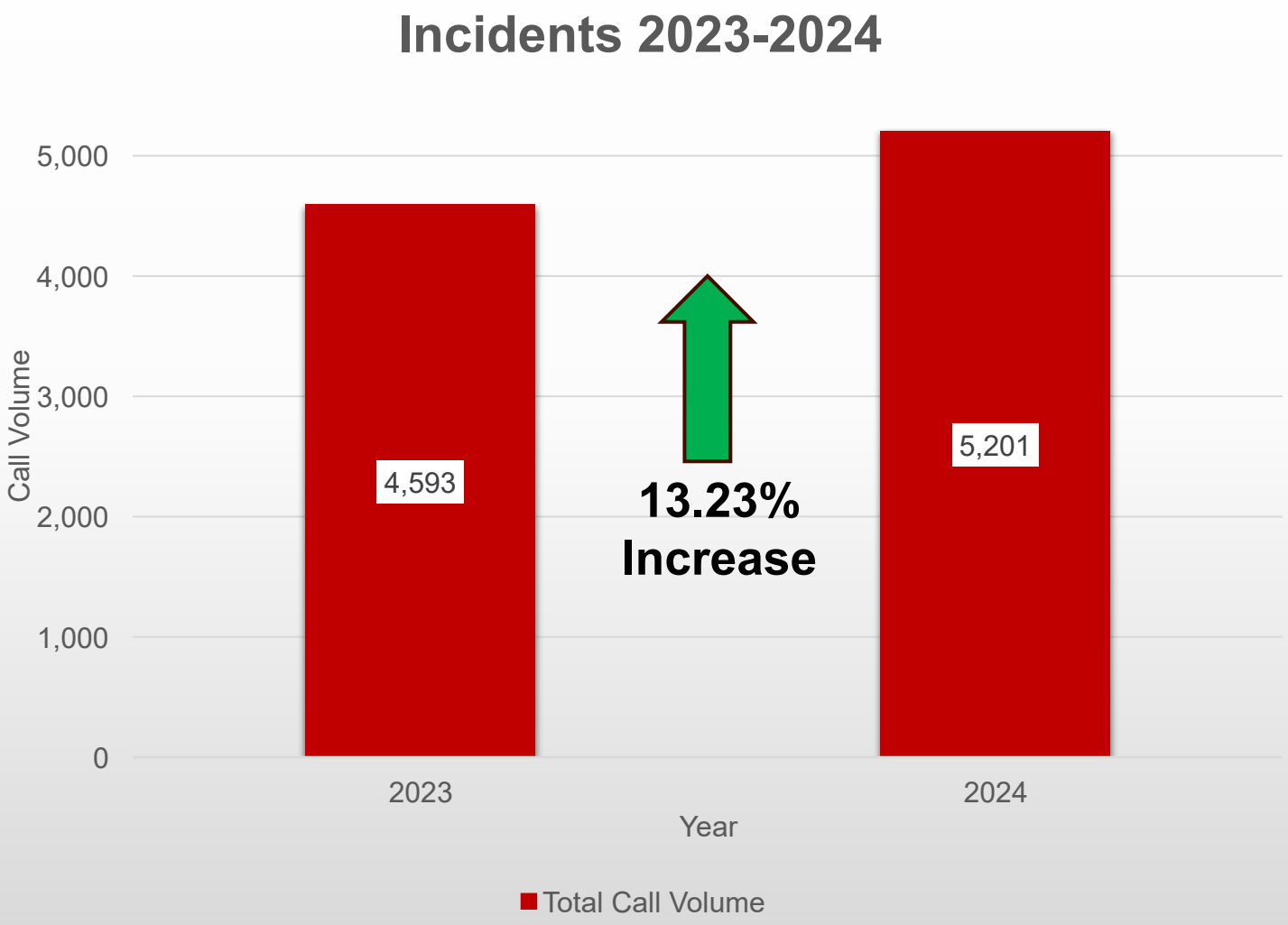
LOYALTY
Committing to see the department grow and succeed

New Berlin Fire Department

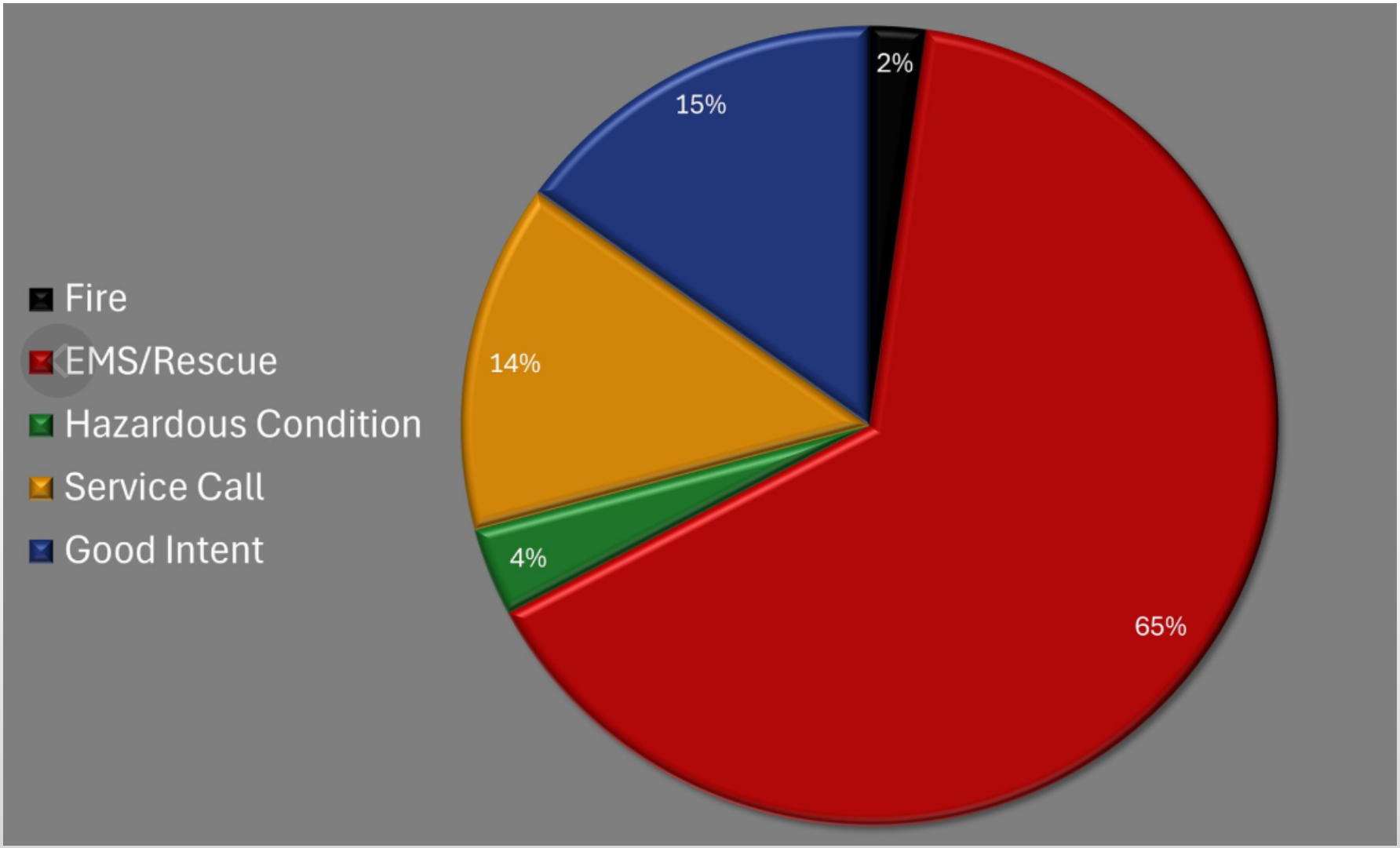
2025



2024 Performance and Response Statistics



2024 Performance and Response Statistics



EMS Incident Statistics

The New Berlin Department received **5,201** calls for service in 2024

- Total – **3,848** calls for service that were EMS related **74%**

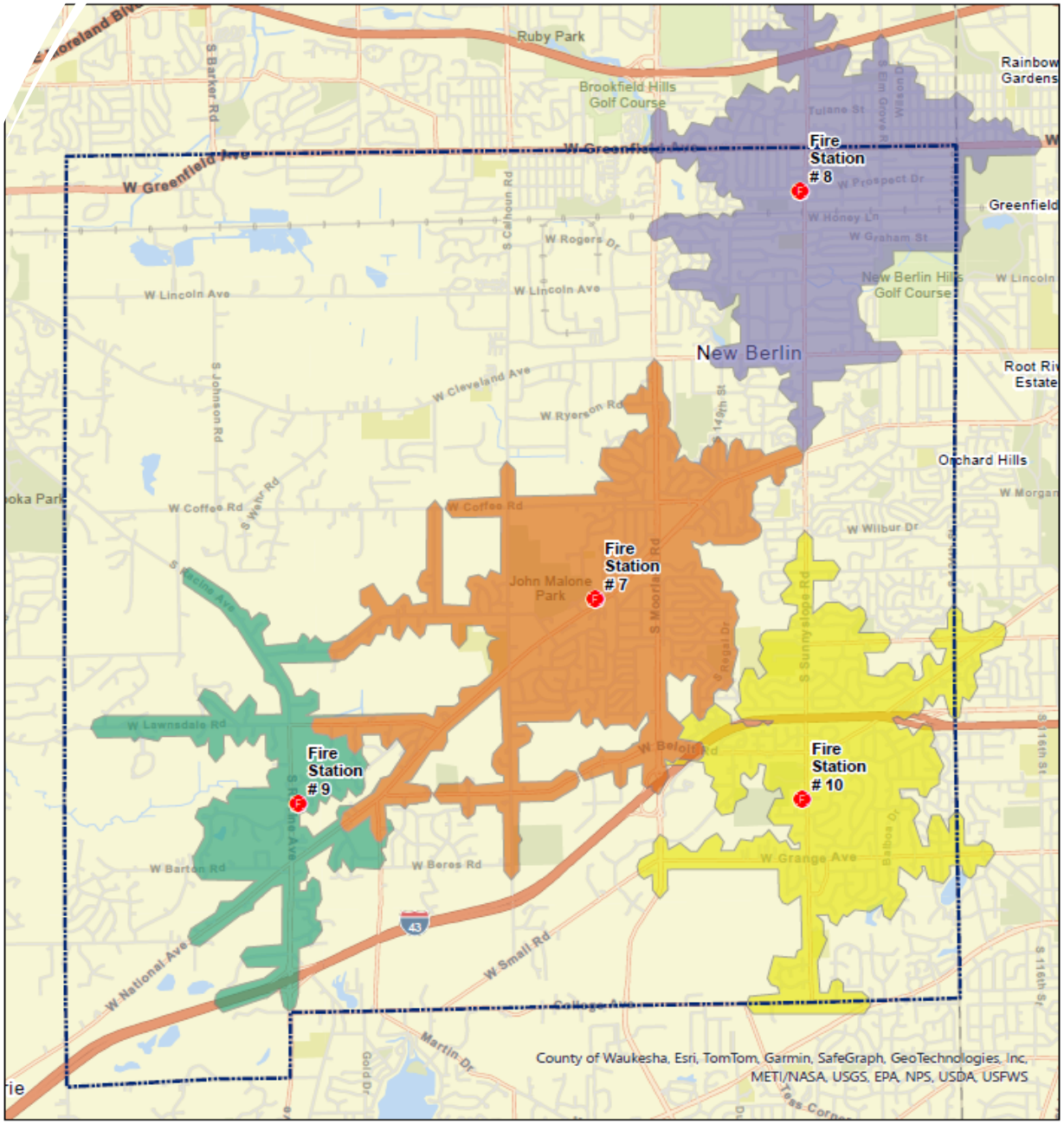
- (RMS code 321) EMS - **3,168** calls

- (RMS code 322) Vehicle accidents with injuries - **117** calls

- (RMS code 323) Motor vehicle vs pedestrian – **6** calls

- (RMS code 554) Lift Assists - **557** calls

Service Area



Industry Best Practices and Guidance

The Commission on Fire Accreditation International® (CFAI) Accredited agencies are often described as being community-oriented, data-driven, and outcome-focused. They exemplify organizations that are strategic-minded and well-organized, are properly equipped, staffed, and trained.

Known as the trusted source of safety knowledge, the National Fire Protection Association (NFPA) has been helping to solve some of the planet's toughest safety problems for more than 125 years. To remain relevant for over a century as a knowledge and information organization, we've continually evolved our scope of expertise—from fire prevention, wildfire preparedness, and electrical safety to hazardous materials, community risk reduction, and public safety.

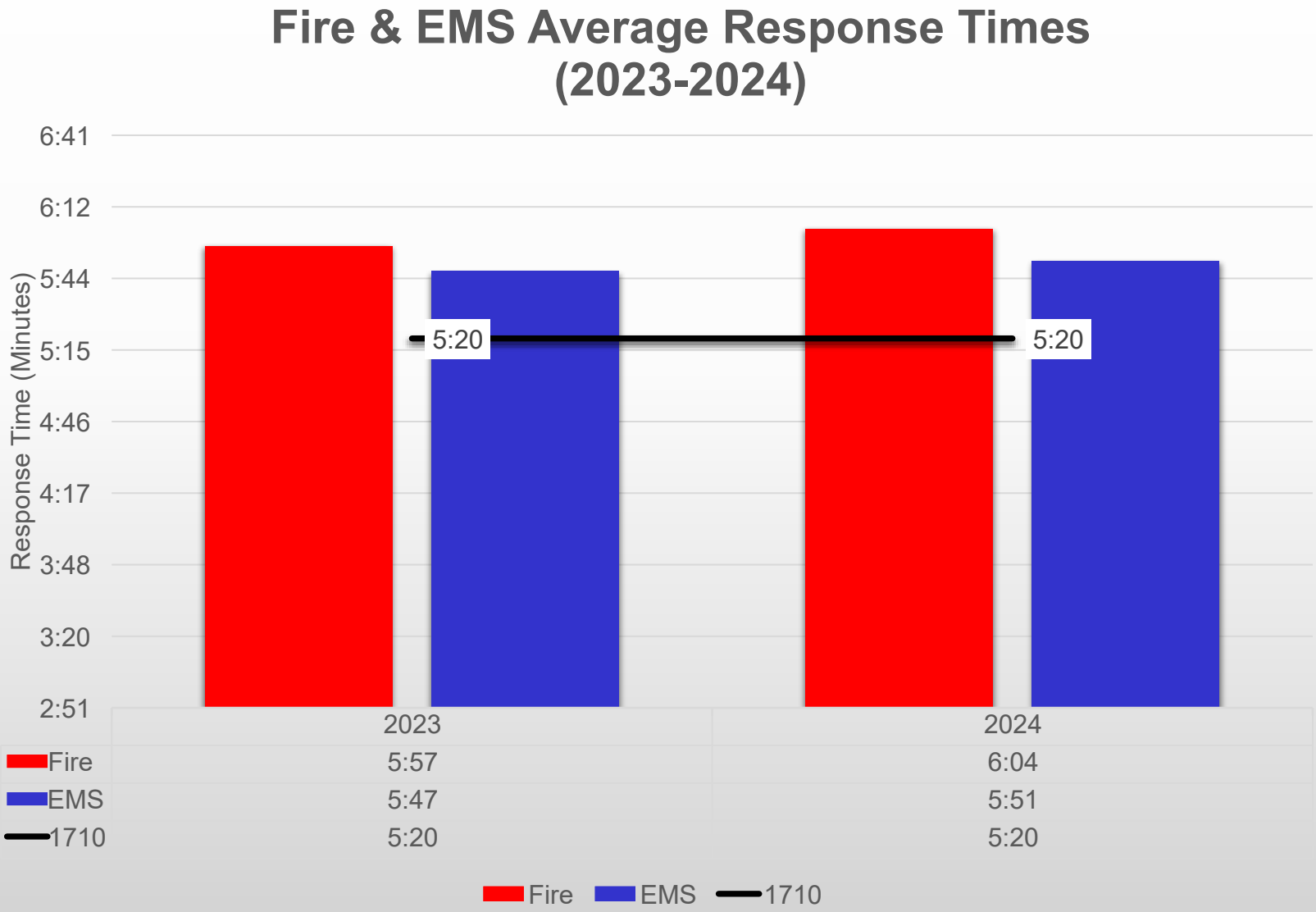
Insurance Services Office (ISO) Rating 3/10

ISO collects and evaluates information from communities on their structure fire suppression capabilities. A community's investment in fire mitigation is a proven and reliable predictor of future fire losses. ISO evaluates communities according to a uniform set of criteria, incorporating nationally recognized standards developed by the National Fire Protection Association and the American Water Works Association.

Fire Suppression Rating Schedule

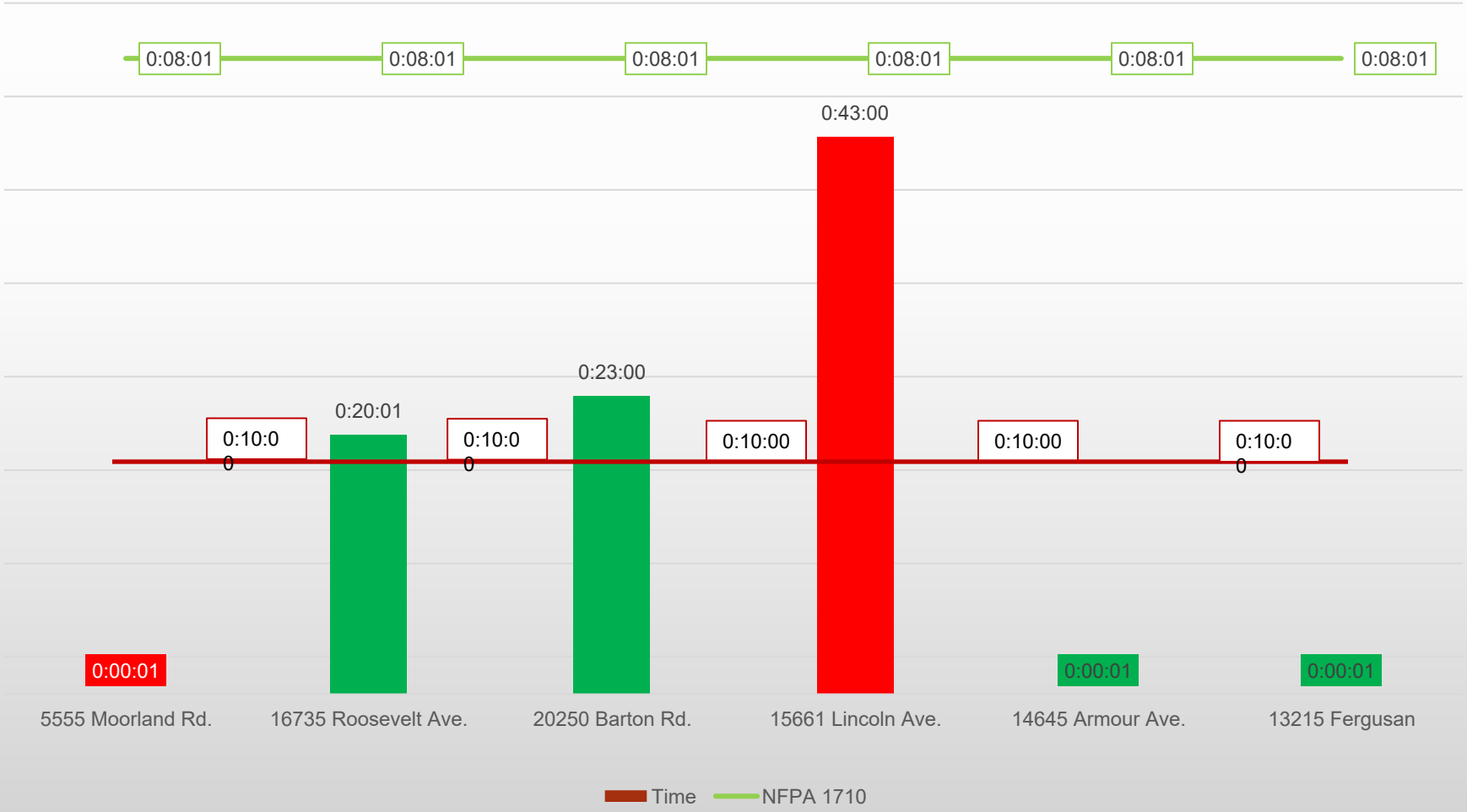
- **Emergency Communications** 10/10
- **Fire Department** 29.73/50
  - Ladder Service 0.97/4
  - Deployment Analysis 4.26/10
  - Company Personnel 6.53/15
  - Training 6.76/9
  - Community Risk Reduction 4.34/5.50
- **Water Supply** 36.16/40

Average Response Times



Fire Incident Statistics

NFPA 1710:
8 Minutes for Maximum On Scene Staffing Low Risk (17 Personnel)
8 Minutes for Maximum On Scene Staffing Moderate Risk (28 Personnel)
10 minutes for Maximum On Scene Staffing High Risk (43 Personnel)



Fire Incident Statistics

2024							
Alarm Date	**Type**	**Address**	**Incident Number**	**Property Value**	**Property Loss**	**Property Saved**	**Fire Investigated by FI**
1/5/2024	Commercial	5555 S Moorland Rd	63	$ 3,799,200.00	$ 150,000.00	$ 3,649,200.00	Yes
1/13/2024	Residential	16735 W Roosevelt Ave	345	$ 194,500.00	$ 75,000.00	$ 119,500.00	No
5/8/2024	Residential	20250 W Barton Rd	1941	$ 413,100.00	$ 50,000.00	$ 363,100.00	No
7/22/2024	Commercial	15601 W Lincoln Ave	2986	$ 1,481,900.00	$ 150,000.00	$ 1,331,900.00	Yes
8/1/2024	Residential	14645 W Armour Ave	3158	$ 325,000.00	$ 120,000.00	$ 205,000.00	Yes
12/24/2024	Residential	13215 W Ferguson Rd	5089	$ 335,600.00	$ 30,000.00	$ 305,600.00	Yes
			Totals	**$ 6,549,300.00**	**$ 575,000.00**	**$ 5,974,300.00**	

Community Risk Reduction

Core Principles of CRR

- **Education**-Empowering the community with knowledge and skills to prevent emergencies and take preventative actions.
- **Engineering**- Implementing physical or structural modifications to reduce potential incidents and hazards.
- **Enforcement**- Establishing and upholding codes, ordinances, and regulations to ensure safety standards are met.
- **Emergency Response**- Ensuring a well-trained and equipped emergency response system is in place to effectively manage incidents when they occur. Ensuring the community is prepared and equipped to respond effectively when emergencies occur.
- **Economic Incentive**- Building partnerships and fostering collaboration between emergency services, residents, businesses, and community organizations.

CRR Programs in New Berlin

- Hands-Only CPR Training
- Fire Extinguisher Training
- Senior Outreach Programs
- Smoke Alarm Program
- Meet and Greets
- Fire Prevention Education
- Fire Inspections
- Fire Investigation
- Public Education Campaigns
- Public Relations
- Training for Emergency Responders

Our mission is to provide exceptional services while committed to building a safer community

REQUESTED ACTION STATEMENT

MEMO TO: Mayor David Ament
Common Council

CC: Plan Commission (via email)

MEMO FROM: Gregory W. Kessler, AICP - Director

DATE: April 10, 2025

ISSUE: Nicholas Wimmer on behalf of The Conservancy, LLC (Wimmer Communities) has filed a petition to rescind PUD Overlay Ordinance # 2679 – Mandel Neighborhood Development Plan PUD (also amended by Ordinance 2688) and adoption of Planned Unit Development Ordinance # 2701 that approves the rezoning of the properties from B-1/PUD (Shopping Center District), Rm-1/PUD (Multiple-Family Residential District:), I-1/PUD (Institutional District) / C-2/PUD (Shoreland-Wetland Holding District) to Rm-1/PUD and C-2/PUD as The Conservancy Neighborhood Development PUD Ordinance for the parcels located at 1640 S. Moorland Road (includes Tax Keys #'s: 1158.989.001, 1158.989.002 & 1158.989.003).

REQUESTED: Recommend to the Common Council that a public hearing be set for June 2, 2025 at 6:00 p.m. to be held before the Plan Commission to rescind PUD Overlay Ordinance # 2679 – Mandel Neighborhood Development Plan PUD (also amended by Ordinance # 2688) and adoption of Planned Unit Development Ordinance # 2701 that approves the rezoning of the properties from B-1/PUD (Shopping Center District), Rm-1/PUD (Multiple-Family Residential District:), I-1/PUD (Institutional District) / C-2/PUD (Shoreland-Wetland Holding District) to Rm-1/PUD and C-2/PUD as The Conservancy Neighborhood Development PUD Ordinance for the parcels located at 1640 S. Moorland Road (includes Tax Keys #'s 1158.989.001, 1158.989.002 & 1158.989.003).

RATIONALE: Per Chapter 275-22 of the City's Zoning Code, this applicant has filed a completed application and petitioned the City to rezone these properties. In addition, per State Statute 62.23(7), the Common Council may refer to the Plan Commission all petitions to rezone a property and require that a public hearing be held to obtain public input and that the Plan Commission formulate a recommendation. These recommendations shall be forwarded to the Common Council for final action.

Per Zoning Code Section 275-20I, Mr. Wimmer has simultaneously filed the following applications: a Land Division, Comprehensive Plan Amendment & Use Approval.

Note:
Initial Public Hearing was held on 3/3/2025. The applicant is requesting an amendment to their proposed PUD.

REQUESTED ACTION STATEMENT

MEMO TO: Mayor David Ament
Common Council

CC: Plan Commission (via email)

MEMO FROM: Gregory W. Kessler, AICP - Director

DATE: April 22, 2025

ISSUE: Colin Carr on behalf of Hawthorne Hill Farm LLC has filed a petition to rezone from B-2 and R-3 to B-2/PUD and to amend the Future Land Use Map within the City's Comprehensive Plan (Chapter 10 – Land Use and Chapter 19 – "Neighborhood I" National Avenue West) from Residential Estate to Suburban Commercial with a PUD Overlay the properties located at 16370 W. Small Road (Tax Key #: 1285.994.003) and 16380 W. Small Road (Tax Key #: 1285.994.002)

REQUESTED: Recommend to Common Council that a joint public hearing be set for June 2, 2025 at 6:01 p.m. to be held before the Plan Commission to amend the Future Land Use Map within the City's Comprehensive Plan Chapter 10 – Land Use and Chapter 19 – "Neighborhood I" National Avenue West) from Residential Estate to Suburban Commercial with a PUD Overlay the properties located at 16370 W. Small Road (Tax Key #: 1285.994.003) and 16380 W. Small Road (Tax Key #: 1285.994.002).

AND

Recommend to Common Council that a joint public hearing be set for June 2, 2025 at 6:01 p.m. to be held before the Plan Commission to rezone approximately 1.36 acres for the parcels located at 16370 W. Small Road (Tax Key #: 1285.994.003) and 16380 W. Small Road (Tax Key #: 1285.994.002) B-2 and R-3 <u>to</u> B-2/PUD.

RATIONALE: Per Chapter 275-21.1 of the City's Zoning Code, this applicant has filed a completed application and petitioned the City to amend the Comprehensive Plan / Future Land Use Map for this property. Per this section, the applicant submits the application to the Common Council for initial review. DCD staff prepares a requested action statement to refer the request to the Plan Commission to hold a public hearing and take action via a resolution. A report shall be forwarded to the Common Council for final action.

Per Chapter 275-22 of the City's Zoning Code, this applicant has filed a completed application and petitioned the City to rezone these properties. In addition, per State Statute 62.23(7), the Common Council may refer to the Plan Commission all petitions to rezone a property and require that a public hearing be held to obtain public input and that the Plan Commission formulate a recommendation. These recommendations shall be forwarded to the Common Council for final action.

Note: Staff is continuing to prepare the 2030 Comprehensive Plan Updates as time permits. Please note this request will include other basic changes to these chapters. This will represent a public hearing for the 2030 Comprehensive Plan updates. Additional public hearings will be set up to handle the remaining chapters at a future date.