



A PERFECT ENVIRONMENT

Residential Recreational Responsible

Chair
 Ron Troy
Supervisors
 Edward Kranick
 Christie Dionisopoulos
 Steve Michels
 Joe Woelfle
Clerk/Treasurer
 Dan Green

**TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
 TUESDAY, SEPTEMBER 14, 2021
 IMMEDIATELY FOLLOWING THE 5:00 PM BUDGET WORKSHOP MEETING
 DELAFIELD TOWN HALL – W302 N1254 MAPLE AVENUE, DELAFIELD, WI**

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Citizen Comments: Public comments from citizens regarding items on, or not on the Agenda. The Board may not engage in a discussion with the citizen making the comments. Individual presentations are limited to three minutes and citizens shall follow the rules set forth in Section 2.04(1)(d) of the Town Code.
5. Approval of Minutes:
 - A. August 24, 2021, Town Board Minutes
6. Action on vouchers submitted for payment:
 - A. Report on budget sub-accounts and action to amend 2021 budget
 - B. 1) Accounts payable; 2) Payroll
7. Communications (for discussion and possible action)
 - A. Waste Hauler Services – Waukesha County RFP process (Discussion only)
 - B. Redistricting Update
 - C. Pewaukee Lake Access Closure – September 20, 2021 – December, 2021
8. Unfinished Business - None
9. New Business
 - A. Discussion and possible action on the Plan Commission's recommendation to approve a Developer's Agreement for Jon Spheeris, developer, The Retreat subdivision.
 - B. Discussion and possible action on the Plan Commission's recommendation to approve a legal nonconforming conditional use permit to allow for sales, service, outside display of new and preowned motor vehicles and watercraft and a body shop for Cassandra Castro and Thomas Beaudry, Cassandra's Motorsports, LLC, applicant, KKN Lynndale, LLC, owner.
 - C. Discussion and possible action on the Police Citation Administrative Support Services Contract for 2022-2024
 - D. Discussion and possible action on Trick or Treat hours.
10. Announcements and Planning items
 - A. Budget Workshop – Tuesday, September 28, 2021 @ 5:00 PM
 - B. Town Board – Tuesday, September 28, 2021 @ Immediately following the Budget Workshop
 - C. Plan Commission – Tuesday, October 5, 2021 @ 6:30 PM

11. Adjournment



Dan Green
Town of Delafield Clerk/Treasurer

PLEASE NOTE:

- ✓ It is possible that action will be taken on any of the items on the agenda and that the agenda may be discussed in any order. It is also possible that a quorum of other governmental bodies of the municipality may be in attendance at the above-stated meeting to gather information; no action will be taken by any governmental body at the above-stated meeting other than the governmental body specifically referred to above in this notice.
- ✓ Also, upon reasonable notice, efforts will be made to accommodate the needs of disabled individuals through appropriate aids and services. For additional information or to request this service, contact Town Clerk Dan Green (262) 646-2398.

**TOWN OF DELAFIELD BOARD OF SUPERVISORS MEETING
AUGUST 24, 2021 @ 6:30 PM**

Video Link:

First order of business: Call to Order
Chairman Troy called the meeting to order at 6:30 p.m.

Second order of business: Pledge of Allegiance

Third order of business: Roll Call
Present: Chairman Troy, Supervisor Dionisopoulos, Supervisor Kranick, Supervisor Woelfle and Supervisor Michels. Also, present was Administrator Dan Green.

Fourth order of business: Citizen Comments:

Fifth order of business:

- A. Approval of August 10, 2021, Town Board Minutes

Motion by Supervisor Kranick to approve the minutes from August 10, 2021. Seconded by Supervisor Dionisopoulos. Motion passed 5-0.

Sixth order of Business: Action on vouchers submitted for payment:

- A. Report on budget sub-accounts and action to amend 2021 budget
B. 1) Accounts payable; 2) Payroll

Motion by Supervisor Kranick to approve payment of Checks #64943-#64944 and checks #64947-#64970 in the amount of \$3,022,338.18 and payrolls dated August 20, 2021, in the amount of \$14,231.87. Seconded by Supervisor Michels. Motion passed 5-0.

Seventh order of Business: Communications (*for discussion and possible action*) - None

- A. Waste Hauler Services – Waukesha County RFP process (Discussion only)
Administrator Green stated the RFPs would be submitted 8/24 or 8/25. Once responses have been submitted, we will begin scoring each response and bring back the results to the board. This will take place in mid-October.
- B. Redistricting Update – No update
- C. Safebuilt Quarterly Report
Administrator Green stated that he meets with Safebuilt on a quarterly basis to discuss the goals of the Town and review any potential projects that may impact permitting. The presentation from Safebuilt is in the Town Board packet.
- D. Upcoming Plan Commission Item: Car dealership near HWY 16 on Lyndale Road (Discussion Only)
Chairman Troy explained that the Plan Commission will be holding a joint public hearing with the Town Board, to review a request for a conditional use permit for a car dealership near HWY 16, off Lyndale Road. This will require a quorum of Town Board members for the meeting.
- E. Lake Country Fire and Rescue Budget (Discussion Only)
Administrator Green explained that the proposed increase from the Lake Country Fire and Rescue Board would result in a \$.02 per thousand-dollar evaluation for Town residents.

Supervisor Michels explained that the Lake Country Fire and Rescue Board had their second meeting last Thursday, where the Fire Chief proposed adding 3 full time employees in July, for an impact to the

budget of 1.5 full time employees. Supervisor Michels suggested to the Fire Chief to add 1 full time employee in January, and another in July. Lake Country Fire is going through a transition from paid on call to full time staff. The Fire Chief estimated they would need to add 1 full time person a year for 10 years. He also explained the additional staff for 2022 would not increase minimum staffing, but would give flexibility for staff who are on vacation or sick.

Supervisor Kranick stated that there is no way the Town could provide the service that we are getting today on our own. He agreed that the industry is moving away from paid on call, to full time positions. He stated that paid on call employees tend to have a short service, as they move on to full time jobs in other communities. Chairman Troy stated that a lot of competition is wage driven, and would imagine that the union contract will have an impact on the budget as well.

Supervisor Michels stated he thought he was on an island during the budget meetings, as he was arguing for budget reductions. Many of the LCFR board members believe the department should take the CPI plus 2% every year. The board will vote on Thursday, and the recommendation will come back to the Town Board. There is a 3.5% increase to the budget that was explained to be the minimum amount to "keep the lights on". Supervisor Michels stated he does not see a scenario of a budget being under a 4% increase.

Supervisor Michels also expressed concern that the CPI, although high for next year, may not be as high the following year. If LCFR decides to increase their budget beyond the 2% plus CPI, the Town would not be able to increase their levy to cover the increase. He also explained that there is a 5.27% increase for capital expenditures which is the replacement ladder truck. He explained that money can be saved by paying a portion of the truck up front, which LCFR will try to do. The LCFR contract does not allow for them to borrow money for capital expenditures. He stated that Thursday the Board will take a vote and that recommendation will come back to the Town Board.

Eighth order of Business: Unfinished Business: NONE

Ninth order of Business: New Business:

- A. Discussion and possible action on the adoption of Ordinance 2021-09, an ordinance to repeal and re-create portion of Chapter 8 of the Town Code.

Engineer Barbeau reviewed a summary of the changes to Chapter 8 of the Town Code. He also presented a list of corrections that a resident of the Town proposed which the engineer also included in his recommendation. These changes included references to the building inspector being changed to the Highway Superintendent, updating paving requirements for driveways, prohibiting metal tracks on Town roads and other updates. Engineer Barbeau explained that Exhibits A-D will need to be redrafted, and his firm will work on getting those updated.

Chairman Troy asked that the waiver from the Highway Superintendent for the use of slurry be in writing. Supervisor Dionisopoulos also asked that any reference to Chairman be changed to Chair.

Motion by Supervisor Kranick to adopt Ordinance 2021-09, an ordinance to repeal and re-create portions of Chapter 8 of the Town Code, subject to comments from Engineer Barbeau's memo dated August 23, 2021, and with references to "Chairman" be changed to "Chair". Seconded by Supervisor Dionisopoulos. Motion passed 5-0.

- B. Discussion and possible action on a 3-year contract with Shawn's Deer Pick Up for deer removal services.

Administrator Green explained this contract is for our current deer removal service. The Town has not been operating with a contract in place. This contract would lock in the dollar amount for the service he

provides. The contract is a standard service agreement, and so long as the Town did not piggyback on a county contract, staff's recommendation is to approve. Chairman Troy asked that language be added to the contract, to specify this is only for deer the Town calls in, and on Town roadways.

Motion by Supervisor Kranick to approve a 3-year contract with Shawn's Deer Pickup for deer removal services, subject to confirmation of not piggybacking on county contract and adding language that the contract only applies to deer called in by town staff, on town roads that are logged. Seconded by Dionisopoulos. Passed 5-0.

Tenth order of Business: Announcements and Planning items

- A. Plan Commission – Tuesday, September 7, 2021 @ 6:30 PM
- B. Budget Workshop – Tuesday, September 14, 2021 @ 5:00 PM
- C. Town Board – Tuesday, September 14, 2021 – Immediately following the Budget Workshop

Eleventh order of Business: Adjournment

Motion by Supervisor Dionisopoulos to adjourn the August 24, 2021, Town Board meeting at 7:22 p.m. Seconded by Supervisor Kranick. Motion carried 5-0.

Respectfully submitted:

Dan Green, CMC/WCMC
Administrator - Town Clerk/Treasurer

MODEL DEVELOPER'S AGREEMENT
FOR
THE RETREAT
MUNICIPALITY OF TOWN OF DELAFIELD, WAUKESHA COUNTY, WISCONSIN

THIS AGREEMENT made this _____ day of _____, _____, between Retreat Development, LLC, a Limited Liability Company, 111 E. Wisconsin Ave., Suite 1800, Milwaukee, Wisconsin, 53202 _____, hereinafter called "DEVELOPER", and the MUNICIPALITY of Town of Delafield in the County of Waukesha and the State of Wisconsin, hereinafter called the "MUNICIPALITY".

WITNESSETH:

WHEREAS, the DEVELOPER is the owner of land in the MUNICIPALITY, said land being described on **EXHIBIT A** attached hereto and incorporated herein, hereinafter called "SUBJECT LANDS"; and

WHEREAS, the DEVELOPER desires to divide and develop SUBJECT LANDS for residential purposes by use of the standard regulations as set forth in Chapter 236 of the Wisconsin Statutes and the municipal ordinance regulating land division and development; and

WHEREAS, Section 236.13 of the Wisconsin Statutes provides that as a condition of approval, the governing body of a municipality within which the SUBJECT LANDS lie may require that the DEVELOPER make and install any public improvements reasonably necessary and/or that the DEVELOPER provide financial security to ensure that the DEVELOPER will make these improvements within a reasonable time; and

WHEREAS, said SUBJECT LANDS are presently zoned A-2 Rural Home District, which allows the above-described development; and

WHEREAS, the DEVELOPER may be required to grant additional easements over a part of the SUBJECT LANDS for storm sewer; and

WHEREAS, the DEVELOPER and MUNICIPALITY desire to enter into this agreement in order to ensure that the DEVELOPER will make and install all public improvements which are reasonably necessary and further that the DEVELOPER shall dedicate the public improvements to the MUNICIPALITY, provided that said public improvements are constructed to municipal specifications, all applicable government regulations, this agreement and as required by the MUNICIPALITY Engineer, without cost to the MUNICIPALITY; and

WHEREAS, this agreement is necessary to implement the MUNICIPALITY zoning and land division ordinances; and

WHEREAS, the DEVELOPER agrees to develop SUBJECT LANDS as herein described in accordance with this agreement, conditions approved by the MUNICIPALITY Plan Commission and MUNICIPALITY Board, conditions of certain

agencies and individuals in the County, all MUNICIPALITY ordinances and all laws and regulations governing said development; and

WHEREAS, the Plan Commission of the MUNICIPALITY has given conditional Preliminary Plat approval to the development, as shown on the document marked "Preliminary Plat" on file in the MUNICIPALITY Clerk's office, conditioned in part upon the DEVELOPER and the MUNICIPALITY entering into a DEVELOPER's Agreement, as well as other conditions as approved by the MUNICIPALITY Board; and

WHEREAS, the DEVELOPER is now seeking from the Plan Commission and MUNICIPALITY Board of the MUNICIPALITY final plat approval for the development; and

WHEREAS, the DEVELOPER has offered to provide a financial guarantee in the form of a Letter of Credit to induce the MUNICIPALITY to allow the final plat to be recorded prior to completion of the improvements, which the Municipality has accepted, and this consideration forms an integral part of this agreement.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the DEVELOPER does hereby agree to develop SUBJECT LANDS as follows and as otherwise regulated by MUNICIPALITY ordinances and all laws and regulations governing said development, the parties hereto agree as follows:

DEVELOPER'S COVENANTS

SECTION I. IMPROVEMENTS

A. **PUBLIC STREETS**: The DEVELOPER hereby agrees that:

1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the MUNICIPALITY written certification from the DEVELOPER'S Engineer or Surveyor that all public street plans are in conformance with all federal, state, county and MUNICIPALITY specifications, regulations and ordinances, and written proof from the MUNICIPALITY Engineer evidencing review and approval of said plans.
2. The DEVELOPER shall grade and install all planned public streets in accordance with the preliminary plat, approved development plan of said development or subdivision, or final plat as the case may be and the plans and specifications on file in the MUNICIPALITY Clerk's office.
3. Construction of the public streets providing access to and fronting a specific lot will be completed, presented, and accepted by the MUNICIPALITY Board through the first lifts of asphalt before any building permits are issued for said lot.
4. The first lifts of the public streets will be completed and presented to the MUNICIPALITY Board no later than November 20, 2021, or as extended by the MUNICIPALITY Board. The "first lifts" include the "binder course" as defined in Wisconsin Statutes Section 236.13(2)(ad)1.

5. The final lift of asphalt shall be placed on all public streets after at least one winter season, but not later than twelve (12) months after completion of the first lifts of asphalt, unless extended by the MUNICIPALITY Board and the DEVELOPER and the Post-substantial Security is extended by the same period of time.
 6. The DEVELOPER shall maintain public streets, including snowplowing, unless otherwise approved by the MUNICIPALITY Administrator, until accepted by resolution by the MUNICIPALITY Board.
 7. The DEVELOPER shall furnish "as built" plans showing changes from the construction plans, pursuant to specifications approved by the MUNICIPALITY Engineer. Said "as built" shall be on reproducible mylar and digital file, and shall include field locations and hydrant valves and curb stops, if any.
 8. Contractors working on the development or on individual lots are required to clean up all mud, dirt, stone, or debris on the streets no later than the end of each working day. In addition, the DEVELOPER shall have ultimate responsibility for cleaning up any and all mud, dirt, stone, or debris on the streets until such time as the final lift of asphalt has been installed by the DEVELOPER and accepted by the MUNICIPALITY Board. The MUNICIPALITY shall make a reasonable effort to require the contractor, who is responsible for placing the mud, dirt, stone, or debris on the street, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the streets within twenty-four (24) hours after receiving a notice from the MUNICIPALITY. If said mud, dirt, stone, or debris are not cleaned up after notification, the MUNICIPALITY will do so at the DEVELOPER's and/or subject property owner's expense, at the option of the MUNICIPALITY.
- B. SANITARY SEWER: There is no sanitary sewer service to this development.
- C. WATER: There is no public water service to this development.
- D. SURFACE AND STORM WATER DRAINAGE: The DEVELOPER hereby agrees that:
1. Prior to the start of construction of improvements, the DEVELOPER shall provide to the MUNICIPALITY written certification from the DEVELOPER'S Engineer or Surveyor that all surface and storm water drainage facilities and erosion control plans are in conformance with all federal, state, county and MUNICIPALITY regulations, guidelines, specifications, laws and ordinances, and written proof that the MUNICIPALITY Engineer and the Waukesha County Department of Park and Land Use, Land Resources Division, if applicable, have reviewed and approved said plans.
 2. The DEVELOPER shall construct, install, furnish and provide adequate facilities for surface and storm water drainage throughout the development with adequate capacity to transmit the anticipated flow from the development and adjacent property, in accordance with all plans and specifications on file in the

MUNICIPALITY Clerk's office, and all applicable federal, state, county and MUNICIPALITY regulations, guidelines, specifications, laws and ordinances, and as reviewed and approved by the MUNICIPALITY Engineer and the Waukesha County Department of Park and Land Use, Land Resources Division, if applicable, including where necessary as determined by the MUNICIPALITY Engineer, curb, gutter, storm sewers, catch basins and infiltration/retention/detention basins.

3. The DEVELOPER agrees that the site grading and construction of surface and storm water drainage facilities shall be completed and accepted by the MUNICIPALITY Board before any building permits are issued.
4. To maintain roads free from mud and dirt from construction of the development.
5. The MUNICIPALITY Board will not accept the surface and storm water drainage system until the entire system is installed and landscaped in accordance with plans and specifications to the satisfaction of the MUNICIPALITY Engineer.
6. The DEVELOPER shall clean all storm sewers, if any, prior to issuance of building permits and acceptance of improvements by the MUNICIPALITY Board.
7. The MUNICIPALITY retains the right to require DEVELOPER to install additional surface and storm water drainage measures if it is determined by the MUNICIPALITY Engineer that the original surface and storm water drainage plan as designed and/or constructed does not provide reasonable stormwater drainage within the development and surrounding area.
8. To furnish "as built" plans of the entire drainage system, pursuant to specifications approved by the MUNICIPALITY Engineer prior to the issuance of building permits, if required by the MUNICIPALITY Engineer.

E. GRADING, EROSION AND SILT CONTROL: The DEVELOPER hereby agrees that:

1. Prior to commencing site grading and excavation, the DEVELOPER shall provide to the MUNICIPALITY written certification from the DEVELOPER'S Engineer or Surveyor that said plan, once implemented, shall meet all federal, state, county and local regulations, guidelines, specifications, laws and ordinances, including proof of notification of land disturbances to the State of Wisconsin Department of Natural Resources, if applicable, and written proof that the MUNICIPALITY Engineer and the Waukesha County Department of Park and Land Use, Land Resources Division, and the Army Corps of Engineers, if applicable, have approved said plans.
2. The DEVELOPER shall cause all grading, excavation, open cuts, side slopes and other land surface disturbances to be so seeded and mulched, sodded or otherwise protected that erosion, siltation, sedimentation, and washing are prevented in accordance with the plans and specifications reviewed and approved by the MUNICIPALITY Engineer, the Waukesha County Department of Park and Land Use, Land Resources Division, and Army Corps of Engineers, if applicable.

3. All disturbed areas shall be restored to the satisfaction of the MUNICIPALITY Engineer within seven (7) days of disturbance. Any cash or letter of credit posted with the MUNICIPALITY will not be released until the MUNICIPALITY Engineer is satisfied that no further erosion measures are required.

F. **ELECTRIC SERVICE FACILITIES:** There is no MUNICIPALITY electric service to this development.

G. **LANDSCAPING AND SITE WORK:** The DEVELOPER hereby agrees that:

1. The DEVELOPER shall preserve to the maximum extent possible existing trees, shrubbery, vines, and grasses not actually lying on the public streets, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths, and trails by use of sound conservation practices.
2. The DEVELOPER, as required by the MUNICIPALITY, shall remove, and lawfully dispose of buildings, destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish.
3. Landscaping and removal of unwanted items, including buildings, will be completed, and certified as complete by the MUNICIPALITY Engineer prior to the issuance of any building permits.
4. The DEVELOPER shall delineate all wetlands that are on or adjacent to private lots by means of cedar posts, as approved by the MUNICIPALITY staff prior to the issuance of building permits.
5. The MUNICIPALITY has the right to trim and remove any features which would interfere with safe operation and maintenance of the MUNICIPALITY rights-of-way and drainageways.

H. **STREET SIGNS AND TRAFFIC CONTROL SIGNS:** The DEVELOPER hereby agrees that:

1. Street signs, traffic control signs, culverts, posts, and guard rails as required by the MUNICIPALITY shall be obtained and placed by the MUNICIPALITY, or by the DEVELOPER with approval of the MUNICIPALITY, and the cost thereof shall be paid by the DEVELOPER.
2. All traffic control signs and street signs, as required by the MUNICIPALITY will be installed within five (5) working days of the placement of the first lifts of asphalt.

I. **STREETLIGHTS:** No streetlights are required for this development.

J. **ADDITIONAL IMPROVEMENTS:** The DEVELOPER hereby agrees that if, at any time after plan approval and during construction, the MUNICIPALITY Engineer determines that modifications to the plans including additional improvements such as additional drainage ways, erosion control measures, and surface and storm water management measures are necessary in the interest of public safety, are necessary in order to comply with current laws or are necessary for implementation of the original intent of the improvement plans, the MUNICIPALITY is authorized to order

DEVELOPER, at DEVELOPER'S expense, to implement the same. If DEVELOPER fails to construct the additional improvement within a reasonable time under the circumstances, the MUNICIPALITY may cause such work to be carried out and shall charge against the financial guarantee held by the MUNICIPALITY pursuant to this agreement.

SECTION II. TIME OF COMPLETION OF IMPROVEMENTS: The improvements set forth in Section I above shall be completed by the DEVELOPER in total within twelve (12) months of the date of this agreement being signed except as otherwise provided for in this agreement. In every case, regardless of circumstances, all work contemplated by this agreement must be completed no later than October 15, 2022, unless this ultimate deadline is extended in writing by the MUNICIPALITY Board.

SECTION III. FINAL ACCEPTANCE. Throughout this agreement, various stages of the development will require approval by the MUNICIPALITY. "Final Acceptance" as used herein, however, shall be the ultimate acceptance of all the improvements in the completed development as a whole, and shall be granted specifically by separate resolution of the MUNICIPALITY Board. The two-year Guarantee Period provided for in this agreement shall not commence to run until Final Acceptance. The issuance of building permits and approval of various items of development shall not commence the two-year Guarantee Period.

SECTION IV. DEDICATION OF IMPROVEMENTS: Subject to all of the other provisions of this agreement, the DEVELOPER shall, without charge to the MUNICIPALITY, upon completion of the above described improvements, unconditionally give, grant, convey and fully dedicate the public improvements to the MUNICIPALITY, its successors and assigns, forever, free and clear of all encumbrances whatever, together with and including, without limitation because of enumeration, any and all land, buildings, structures, mains, conduits, pipes, lines, plant machinery, equipment, appurtenances and hereditaments which may in any way be a part of or pertain to such improvements and together with any and all necessary easements for access thereto. After such dedication, the MUNICIPALITY shall have the right to connect or integrate other improvements as the MUNICIPALITY decides, with no payment or award to, or consent required of, the DEVELOPER.

Dedication shall not constitute acceptance of any improvement by the MUNICIPALITY Board. All improvements will be accepted by the MUNICIPALITY Board by separate resolution at such time as such improvements are in acceptable form and according to the MUNICIPALITY specifications. Said resolution shall be recorded, if needed, with the Waukesha County Register of Deeds. DEVELOPER will furnish proof to the MUNICIPALITY, prior to the dedication required, that the public land and improvements proposed for dedication are free of all liens, claims and encumbrances, including mortgages.

SECTION V. ACCEPTANCE OF WORK AND DEDICATION: When the DEVELOPER shall have completed the improvements herein required and shall have dedicated the same to the MUNICIPALITY as set forth herein, the same shall be accepted by the MUNICIPALITY Board if said improvements have been completed as required by this agreement and as required by all federal, state, county or

MUNICIPALITY guidelines, specifications, regulations, laws and ordinances and approved by the MUNICIPALITY Engineer.

SECTION VI. APPROVAL BY MUNICIPALITY NOT TO BE DEEMED A WAIVER.

The ultimate responsibility for the proper design and installation of streets, water facilities, drainage facilities, ditches, landscaping, and all other improvements are upon the DEVELOPER. The fact that the MUNICIPALITY or its engineer, or its attorney, or its staff may approve a specific project shall not constitute a waiver, or relieve the DEVELOPER from the ultimate responsibility for the design, performance and function of the development and related infrastructure.

SECTION VII. GUARANTEES OF IMPROVEMENTS:

- A. Guarantees. The DEVELOPER shall guarantee after Final Acceptance, the public improvements and all other improvements described in Section I hereof, against defects due to faulty materials or workmanship, provided that such defects appear within a period of two years from the date of Final Acceptance (such two-year period referred to herein as the "Guarantee Period"). The DEVELOPER shall pay for any damages to MUNICIPALITY property and/or improvements resulting from such faulty materials or workmanship or other defective conditions arising during the Guarantee Period. This guarantee shall not be a bar to any action the MUNICIPALITY might have for negligent workmanship or materials. Wisconsin law on negligence shall govern such situations.

Once the improvements are substantially complete, as defined in Wisconsin Statutes Section 236.13(2)(am)2., the DEVELOPER shall provide financial security in a form permitted by Wisconsin Statutes Section 236.13(2)(am)1m, and as acceptable to the MUNICIPALITY Administrator, in an amount equal to the total cost to complete any uncompleted public improvements plus ten percent (10%) of the total cost of the completed public improvements. Such security shall remain in effect, as financial security for the guarantee, for 14 months after the date of substantial completion, unless extended (such 14-month period, as extended if applicable, referred to herein as the "Post-substantial Security Period"; and the security provided by this Section is referred to herein as the "Post-substantial Security"). If the DEVELOPER fails to pay for any damages or defects to MUNICIPALITY property and/or improvements, and the MUNICIPALITY is required to draw against the Post-substantial Security on file with the MUNICIPALITY, the DEVELOPER is required to replenish said monies up to the aggregate amount of the total cost to complete any uncompleted public improvements plus ten percent (10%) of the total cost of the completed public improvements.

Expiration of the Post-substantial Security Period shall not reduce or impact upon the Guarantee Period hereby provided. Following the expiration of the Post-substantial Security, the DEVELOPER and the DEVELOPER's successors and assigns shall be solely responsible to correct all defective conditions, whether they were known or unknown during the Post-substantial Security Period. The term of the Post-substantial Security Period may be extended by the DEVELOPER. In the event the Post-substantial Security, by its terms, remains in effect beyond what would otherwise be the end of the Post-substantial Security Period, the Post-

substantial Security Period is automatically extended to include all such time the Post-substantial Security remains in effect.

The DEVELOPER shall give written notice to the MUNICIPALITY no fewer than eleven (11) and no more than twelve (12) months after the date of substantial completion, indicating the date that the Post-substantial Security Period shall expire. Upon receipt of such notice, in addition to such other remedies as the MUNICIPALITY may have with or without such notice, the MUNICIPALITY may draw any remaining funds from the Post-substantial Security as the MUNICIPALITY deems necessary to complete or to correct any work that is not satisfactorily completed at that time. Failure of the DEVELOPER to provide the notice required by this paragraph shall constitute the DEVELOPER's agreement to extend the term of the Post-substantial Security Period indefinitely, to a date that is two (2) months beyond the date that the DEVELOPER eventually provides such written notice.

- B. Obligation to Repair. The DEVELOPER shall make or cause to be made, at its own expense, any and all repairs which may become necessary under and by virtue of the DEVELOPER'S guarantee and shall leave the improvements in good and sound condition, satisfactory to the MUNICIPALITY Board at the expiration of the Guarantee Period.
- C. Notice of Repair. If during said Guarantee Period, the improvements shall, in the reasonable opinion of the MUNICIPALITY Staff, require any repair or replacement which, in their judgment, is necessitated by reason of settlement of foundation, structure of backfill, or other defective materials or workmanship, the DEVELOPER shall, upon notification by the MUNICIPALITY of the necessity for such repair or replacement, make such repair or replacement, at its own cost and expense. Should the DEVELOPER fail to make such repair or replacement within the time specified by the MUNICIPALITY in the aforementioned notification, after notice has been sent as provided herein, the MUNICIPALITY Board may cause such work to be done, but has no obligation to do so, either by contract or otherwise. The MUNICIPALITY Board may draw upon the Post-substantial Security to pay any costs or expenses incurred in connection with such repairs or replacements if it is available. Should the costs or expenses incurred by the MUNICIPALITY Board in repairing or replacing any portion of the improvements covered by this guarantee exceed the amount of the Post-substantial Security, or should the Post-substantial Security not be available for any reason, then the DEVELOPER shall immediately pay to the MUNICIPALITY all cost or expense incurred in the correction process. Any such charge not paid by DEVELOPER within thirty (30) days of being invoiced may be imposed against the development land as a special charge pursuant to §66.0627, Wis. Stats. or assessed. Any such charges or assessments may be imposed on the SUBJECT LANDS, or any portion thereof then owned by the DEVELOPER, or then owned by any successor or assign of the DEVELOPER including Lot owners.
- D. Maintenance Prior to Acceptance.
1. All improvements shall be maintained by the DEVELOPER, so they conform to the approved plans and specifications at the time of their Final Acceptance by the MUNICIPALITY Board. This maintenance shall include routine maintenance,

such as crack filling, roadway patching and the like. In cases where emergency maintenance is required, the MUNICIPALITY Board retains the right to complete the required emergency maintenance in a timely fashion and bill the DEVELOPER for all such associated costs. Said bill shall be paid immediately by the DEVELOPER. The DEVELOPER'S obligation to maintain all improvements shall expire at the expiration of the Guarantee Period.

2. Street sweeping and dust suppression shall be done by the DEVELOPER upon a regular basis as needed to ensure a reasonably clean and safe roadway until Final Acceptance by the MUNICIPALITY Board. Should the DEVELOPER fail to meet this requirement, the MUNICIPALITY Board will cause the work to be done and will bill the DEVELOPER on a time and material basis. Said bill shall be paid immediately by the DEVELOPER.
3. In the event drainage problems arise within the SUBJECT LANDS or related activities on the SUBJECT LANDS, the DEVELOPER shall correct such problems to the satisfaction of the MUNICIPALITY Staff. Such correction measures shall include, without limitation because of enumeration, cleaning of soil, loose aggregate and construction debris from culverts, drainage ditches and streets; dredging and reshaping of siltation or retention ponds; replacing of siltation fences; sodding and seeding; construction of diversion ditches, ponds and siltation traps; and restoration of all disturbed areas. This responsibility shall continue until such time as the roads, ditches, and other disturbed areas have become adequately vegetated and the MUNICIPALITY Board is satisfied that the DEVELOPER has restored all areas which were disturbed because of this development.

SECTION VIII. MUNICIPALITY RESPONSIBILITY FOR IMPROVEMENTS: The MUNICIPALITY shall not be responsible to perform repair, maintenance, or snow plowing, unless otherwise approved by the MUNICIPALITY Administrator, on any improvements until accepted by the MUNICIPALITY Board.

SECTION IX. RISK OF PROCEEDING WITH IMPROVEMENTS PRIOR TO APPROVALS OF FINAL PLAT: If a DEVELOPER proceeds with the installation of public improvements or other work on the site prior to approval of the final plat, it proceeds at its own risk as to whether or not the final plat will receive all necessary approvals. The DEVELOPER, prior to commencement of the installation of public improvements or other work on site, shall notify the MUNICIPALITY of the DEVELOPER'S intention to proceed with the installation of public improvements or other work on site, prior to approval of the final plat. Additionally, DEVELOPER shall make arrangements to have any public improvements and/or other work on site inspected by the MUNICIPALITY Engineer.

SECTION X. FINANCIAL GUARANTEE¹: Prior to the execution of this agreement by the MUNICIPALITY Board, the DEVELOPER shall file with the MUNICIPALITY cash or a letter of credit setting forth terms and conditions in a form approved by the MUNICIPALITY Attorney in the amount as approved by the MUNICIPALITY Engineer

¹ Note: If the DEVELOPER chooses to provide a bond, all of the work in the development must be completed before the Final Plat is recorded, and the bond must be in the form that is approved by the MUNICIPALITY Attorney.

as a guarantee that the DEVELOPER will perform all terms of this agreement no later than one year from the signing of this agreement except as otherwise set forth in this agreement (hereinafter referred to as the "Substantial Security"). If at any time:

- A. The DEVELOPER is in default of any aspect of this agreement, or
- B. The DEVELOPER does not complete the installation of the improvements within one (1) year from the signing of this agreement unless otherwise extended by this agreement or by action of the MUNICIPALITY Board, or
- C. The letter of credit on file with the MUNICIPALITY is dated to expire sixty (60) days prior to the expiration of the same if the same has not been extended, renewed, or replaced, or
- D. The DEVELOPER fails to maintain a cash deposit or letter of credit in an amount approved by MUNICIPALITY Engineer, and in a form approved by the MUNICIPALITY Attorney, to pay the costs of improvements in the development,

the DEVELOPER shall be deemed in violation of this agreement and the MUNICIPALITY Board shall have the authority to draw upon the letter of credit.

The amount of the letter of credit may be reduced from time to time as and to the extent that the portion of work required under this Agreement is completed and paid for, provided that the remaining letter of credit is sufficient to secure payment for any remaining improvements and also provided that no reduction shall occur until it is approved in writing by the MUNICIPALITY Administrator.

The Substantial Security may be replaced with the Post-substantial Security described in Section VII upon substantial completion of the improvements as and to the extent required by Wisconsin Statutes Section 236.13(2)(am)2., upon the written request of the DEVELOPER and written approval of the MUNICIPALITY Administrator. The Substantial Security is not reduced or terminated by the fact of substantial completion alone, but may be reduced or terminated upon request and approval as described above.

The lending institution providing the irrevocable letter of credit shall pay to the MUNICIPALITY Board all sums available for payment under the irrevocable letter of credit upon demand, subject to the terms and conditions of the irrevocable letter of credit, and upon its failure to do so, in whole or in part, the MUNICIPALITY shall be empowered in addition to its other remedies, without notice or hearing, to impose a special charge for the amount of said completion costs, upon each and every lot in the development payable with the next succeeding tax roll.

SECTION XI. BUILDING AND OCCUPANCY PERMITS: It is expressly understood and agreed that no building or occupancy permits shall be issued for any homes, including model homes, until the MUNICIPALITY Engineer has determined that the following requirements which are deemed to be related to public safety, are met:

- A. The installation of the first lifts of asphalt of the public street(s) providing access to and fronting a specific lot for which a building permit is requested has been completed and accepted by the MUNICIPALITY Board.

- B. The site grading and construction of surface and storm water drainage facilities required to serve such homes are completed, are connected with an operating system as required herein, are cleaned as needed, and are accepted by the MUNICIPALITY Board.
- C. All landscaping and removal of unwanted items, including buildings, has been certified as complete by the MUNICIPALITY Engineer.
- D. All required grading plans have been submitted to, reviewed by, and approved by the MUNICIPALITY Engineer.
- E. The DEVELOPER has paid in full all permit fees and reimbursement of administrative costs as required by this agreement.
- F. The DEVELOPER has prepared appropriate deed restrictions which are approved by the MUNICIPALITY, filed with the MUNICIPALITY Clerk, and recorded with the Register of Deeds.
- G. All destroyed trees, brush, tree trunks, shrubs and other natural growth and all rubbish are removed from the development and disposed of lawfully.
- H. All required "as built" plans for the SUBJECT LANDS have been submitted and approved by the MUNICIPALITY Engineer.
- I. All public and private utilities have been installed in the SUBJECT LANDS, including street lighting fixtures (unless waived by the MUNICIPALITY Administrator), the sanitary sewer system, and the water system.
- J. The DEVELOPER is not in default of any aspect of this agreement.
- K. There is no default of any aspect of this agreement as determined by the MUNICIPALITY Administrator.
- L. The DEVELOPER has delineated the wetlands that are on or adjacent to private lots by means of cedar posts, as approved by the MUNICIPALITY Staff prior to the issuance of building permits.

SECTION XII. RESERVATION OF RIGHTS AS TO ISSUANCE OF BUILDING

PERMITS: This agreement is necessary to ensure public safety. No permit to commence construction of a foundation or any other noncombustible structure shall be granted before substantial completion of all public improvements, unless the MUNICIPALITY Administrator determines that all public improvements related to public safety are complete. Any violation by the DEVELOPER of the terms of this agreement concerning completion of public improvements, or timing of completion, or lack of completion regardless of violation, exposes the municipality to safety risks associated with construction sites, and therefore is related to public safety. The MUNICIPALITY reserves the right to withhold issuance of any and all building permits if DEVELOPER is in violation of this agreement, to the full extent permitted by law. In the event the MUNICIPALITY issues a permit pursuant for a foundation or other noncombustible structure, per Wisconsin Statute Section 236.13(2)(am)3.c., the DEVELOPER assumes

the risk that no further construction, nor future building permit to complete such structure, will be permitted.

SECTION XIII. VACANT LOT MAINTENANCE EASEMENT: Developer hereby grants a vacant lot maintenance easement to the MUNICIPALITY. The easement grants the MUNICIPALITY the right (but not the obligation) to enter upon any vacant Lot in the SUBJECT LANDS in order to inspect, repair, or restore the property so that it is in compliance with all applicable provisions of the MUNICIPALITY's Municipal Code. A vacant lot shall include any lot that does not have an occupied principal structure that is used for single family purposes at the time of inspection, repair or restoration. All costs incurred by the MUNICIPALITY in exercising its right to inspect, repair or restore the Lot shall be borne by the owner of the Lot necessitating such inspection, repair or restoration and if not paid for by such Lot owner within forty-five (45) days of receipt of any invoice, therefore, may be placed against the tax roll for the Lot and collected as a special charge by the MUNICIPALITY.

SECTION XIV. RESTRICTION AGAINST UNFINISHED OR UNOCCUPIED HOMES: The parties intend that all homes in the Subject Land shall be owned, occupied and used for single family purposes. The parties also intend that homes on the lots will not be left unfinished or unoccupied for extended period of time. Therefore, no more than 4 Lots owned by the Developer and/or by any person or entity for the benefit of the Developer, shall be subject to a current building permit at any one time, unless a larger number of lots is specifically approved by action of the MUNICIPALITY Board. Following the sale and residential occupancy of one such Lot, the Developer is entitled to receive one additional building permit for an additional Lot, and so forth, provided that at no time shall the number of unfinished or unoccupied homes on Lots owned, or beneficially owned, by the Developer exceed said number.

SECTION XV. MISCELLANEOUS REQUIREMENTS: The DEVELOPER shall:

A. EASEMENTS:

Provide any easements including vision easements on SUBJECT LANDS deemed necessary by the MUNICIPALITY Engineer before the final plat is signed or on the final plat and such easements shall be along lot lines if at all possible.

B. TREE PLANTING:

Not required in the Town of Delafield.

C. MANNER OF PERFORMANCE:

Cause all construction called for by this agreement to be carried out and performed in a good and workerlike manner.

D. SURVEY MONUMENTS:

Properly place and install any lot, block or other monuments required by State Statute, MUNICIPALITY Ordinance or the MUNICIPALITY Engineer.

E. DEED RESTRICTIONS:

Execute and record deed restrictions in a form that is subject to the approval of the MUNICIPALITY Board and MUNICIPALITY Attorney, and provide proof of recording prior to sale of lots for the SUBJECT LANDS. The Deed Restrictions shall contain language to require the lot owners and/or homeowner's association within the subdivision to maintain all stormwater management facilities in accordance with the specifications on file with the MUNICIPALITY including such amendments as may be made thereto from time to time by the MUNICIPALITY Engineer. The deed restrictions shall also contain the following language:

"No owner of any lot shall or will at any time alter the grade of any lot from that which is occurring on that lot at the time the site development improvements have been completed by the DEVELOPER unless and until the lot owner shall first obtain the written approval of the MUNICIPALITY Engineer for such grade alteration. In order to obtain this approval, it shall first be necessary for the lot owner, at the lot owner's expense, to have prepared a grading plan which shows in detail the area to be re-graded, the existing and proposed topography, analyzes the effects on site drainage, states that the effects on site drainage will not be in violation of law as to alteration of natural drainage courses, and is a plan which does not unreasonably affect an adjacent property owner as regards drainage or their viewing of unreasonable slope treatment. The MUNICIPALITY Engineer's approval, if granted, shall not relieve the lot owner from the ultimate responsibility for the design, performance, and function of the grade alteration and/or drainage condition, and the lot owner by requesting the alteration, and/or by altering the grade, thereby agrees to indemnify and hold harmless the MUNICIPALITY and its agents, employees and independent contractors regarding the same. The DEVELOPER and/or the MUNICIPALITY and/or their agents, employees or independent contractors shall have the right to enter upon any lot, at any time, for the purpose of inspection, maintenance, correction of any drainage condition, and the property owner is responsible for cost of the same."

F. GRADES:

Prior to the issuance of a building permit for a specific lot, the DEVELOPER and/or lot owner and/or their agent shall furnish to the Building Inspector of the MUNICIPALITY a copy of the stake out survey showing the street grade in front of the lot, the finished yard grade, the grade of all four corners of the lot, and the lot corner grades of the buildings on adjoining lots where applicable, as existing and as proposed.

G. RESERVE CAPACITY ASSESSMENTS - SANITARY SEWER: Not Applicable

H. RESERVE CAPACITY ASSESSMENTS - WATER: Not applicable.

I. UNDERGROUND UTILITIES:

Install all electrical, telephone, cable, and gas utilities underground. Coordination of installation and all costs shall be the responsibility of the DEVELOPER.

J. PERMITS:

Provide and submit to the MUNICIPALITY requesting the same, valid copies of any and all governmental agency permits.

K. REMOVAL OF TOPSOIL:

The DEVELOPER agrees that no topsoil shall be removed from the SUBJECT LANDS without approval from the MUNICIPALITY Engineer.

L. PARK AND PUBLIC SITE DEDICATION IMPACT FEES:

The deed restrictions shall contain the following language: "According to MUNICIPALITY's Ordinances and Wisconsin Statutes Section 66.0617, a fee per lot developed=to pay for the capital costs that are necessary to accommodate land development with regard to park, playground and athletic fields in the Town of Delafield shall be paid in full at the time a building permit is issued for development on the lot.

M. PREVAILING WAGE RATES AND HOURS OF LABOR:

If any aspect of the development involves a project of public works that is regulated by Wisconsin Statutes Section 66.0903, then: (1) The Developer shall pay wage rates not less than the prevailing hourly wage rate as described and regulated pursuant to such statutes and related laws; and (2) The Developer shall comply with the prevailing hours of labor as described and regulated pursuant to such statutes and related laws; and (3) The Developer shall fully comply with the reporting obligations, and all other requirements of such laws; and (4) The Developer shall ensure that the Developer's subcontractors also fully comply with such laws. The Developer's General Indemnity obligation of this Agreement shall apply to any claim that alleges that work contemplated by this Agreement is being done, or has been done, in violation of prevailing wage rates, prevailing hours of labor, or Wisconsin Statutes Section 66.0903, for any work arising out of this agreement.

N. NOISE:

Make every effort to minimize noise, dust, and similar disturbances, recognizing that the SUBJECT LANDS are located near existing residences. Construction of improvements shall not begin before 7:00 a.m. during weekdays and Saturdays, and 9:00 a.m. on Sundays. Construction of improvements shall not continue beyond 7:00 p.m. during weekdays and Saturdays, and 5:00 p.m. on Sundays.

O. DEBRIS:

Have ultimate responsibility for cleaning up debris that has blown from buildings under construction within the SUBJECT LANDS until such time as all improvements have been installed and accepted by the MUNICIPALITY Board. The MUNICIPALITY shall make a reasonable effort to require the contractor, who is responsible for the debris, to clean up the same or to hold the subject property owner who hired the contractor responsible. The DEVELOPER and/or subject property owner shall clean up the debris within forty-eight (48) hours after receiving

a notice from the MUNICIPALITY Engineer. If said debris is not cleaned up after notification, the MUNICIPALITY will do so at the DEVELOPER'S and/or subject property owner's expense.

P. DUTY TO CLEAN ROADWAYS:

The DEVELOPER shall be responsible for cleaning up the mud and dirt on the roadways until such time as the final lift of asphalt has been installed. The DEVELOPER shall clean the roadways within forty-eight (48) hours after receiving a notice from the MUNICIPALITY Engineer. If said mud, dirt and stone is not cleaned up after notification, the MUNICIPALITY will do so at the DEVELOPER's expense. The MUNICIPALITY will do its best to enforce existing ordinances that require builders to clean up their mud from construction.

Q. PUBLIC CONSTRUCTION PROJECTS:

If any aspect of the development involves a public construction project subject to the State law, all requirements of the State Public Construction Bidding Law must be satisfied, including but not limited to, providing a performance bond.

R. ZONING CODE:

The DEVELOPER acknowledges that the lands to be developed are subject to the MUNICIPALITY's Zoning Code.

S. DIGGERS HOTLINE:

The DEVELOPER shall become a member of Diggers Hotline and provide evidence such membership to the Municipality Clerk before commencing any land disturbing activities on the Subject Lands. The DEVELOPER shall maintain said membership until all subsurface improvements required under Section I have received final acceptance from the Municipality as provided in Section III.

T. The DEVELOPER shall be responsible for any damage to Norms Road by construction vehicles. The road shall be televised prior to construction commencing and the video provided to the MUNICIPALITY. Required repairs to any damage may include, but is not limited to, undercutting damaged areas, and replacing with stone and asphalt binder and surface material, removing damaged pavement and replacing with asphalt binder and surface material; milling and or pulverizing sections of or the entire roadway or patching damaged sections. Extent of repairs and type of repair shall be approved by the Town Engineer and Highway Superintendent.

SECTION XVI. PAYMENT OF COSTS, INSPECTION & ADMINISTRATIVE FEES:

The DEVELOPER shall pay and reimburse the MUNICIPALITY promptly upon billing for all fees, expenses, costs, and disbursements which shall be incurred by the MUNICIPALITY in connection with this development or relative to the construction, installation, dedication, and acceptance of the development improvements covered by this agreement, including without limitation by reason of enumeration, design, engineering, review, supervision, inspection and legal, administrative and fiscal work.

MUNICIPALITY employee costs shall be based on regular MUNICIPALITY pay rates (or Engineering and administrative overtime, if applicable) plus 40% on the hourly rate for overhead and fringe benefits for any time actually spent on the project. Any costs for outside consultants shall be charged at the rate the consultant charges the MUNICIPALITY. Any such charge not paid by DEVELOPER within thirty (30) days of being invoiced may be charged against the financial guarantee held by the MUNICIPALITY pursuant to this agreement, or assessed against the development land as a special charge pursuant to §66.0627, Wis. Stats. Any such charges or assessments may be imposed on the SUBJECT LANDS, or any portion thereof then owned by the DEVELOPER, or then owned by any successor or assign of the DEVELOPER including Lot owners.

SECTION XVII. GENERAL INDEMNITY: In addition to, and not to the exclusion or prejudice of, any provisions of this agreement or documents incorporated herein by reference, the DEVELOPER shall indemnify and save harmless and agrees to accept tender of defense and to defend and pay any and all legal, accounting, consulting, engineering and other expenses relating to the defense of any claim asserted or imposed upon the MUNICIPALITY, its officers, agents, employees and independent contractors growing out of this agreement by any party or parties. The DEVELOPER shall also name as additional insureds on its general liability insurance the MUNICIPALITY, its officers, agents, employees, and any independent contractors hired by the MUNICIPALITY to perform services as to this development and give the MUNICIPALITY evidence of the same upon request by the MUNICIPALITY.

SECTION XVIII. MUNICIPALITY RESPONSIBILITY: Not applicable.

SECTION XIX. INSURANCE: The DEVELOPER, its contractors, suppliers, and any other individual working on the SUBJECT LANDS in the performance of this agreement shall maintain at all times until the expiration of the guarantee period, insurance coverage in the forms and in the amounts as required by the MUNICIPALITY.

SECTION XX. EXCULPATION OF MUNICIPALITY CORPORATE AUTHORITIES: The parties mutually agree that the MUNICIPALITY President of the MUNICIPALITY Board, and/or the MUNICIPALITY Clerk, entered into and are signatory to this agreement solely in their official capacity and not individually, and shall have no personal liability or responsibility hereunder; and personal liability as may otherwise exist, being expressly released and/or waived.

SECTION XXI. GENERAL CONDITIONS AND REGULATIONS: All provisions of the MUNICIPALITY Ordinances are incorporated herein by reference, and all such provisions shall bind the parties hereto and be a part of this agreement as fully as if set forth at length herein. This agreement and all work and improvements required hereunder shall be performed and carried out in strict accordance with and subject to the provisions of said Ordinances.

SECTION XXII. ZONING: The MUNICIPALITY does not guarantee or warrant that the SUBJECT LANDS will not at some later date be rezoned, nor does the MUNICIPALITY herewith agree to rezone the lands into a different zoning district. It is further understood that any rezoning that may take place shall not void this agreement.

SECTION XXIII. COMPLIANCE WITH CODES AND STATUTES: The DEVELOPER shall comply with all current and future applicable codes of the MUNICIPALITY, County, State, and federal government and, further, DEVELOPER shall follow all current and future lawful orders of any and all duly authorized employees and/or representatives of the MUNICIPALITY, County, State or federal government.

SECTION XXIV. PRELIMINARY PLAT AND FINAL PLAT CONDITIONS: The DEVELOPER acknowledges that the SUBJECT LANDS are subject to a conditional preliminary plat approval and a conditional final plat approval by the MUNICIPALITY. The DEVELOPER further agrees that it is bound by these conditions. A copy of the conditional preliminary plat approval for the SUBJECT LANDS is attached hereto and incorporated herein as **EXHIBIT B**, and the conditional final plat approval for the SUBJECT LANDS is incorporated herein as **EXHIBIT C**. If there is a conflict between the conditions as forth in said conditional approvals and the Developer's Agreement, the more restrictive shall apply.

SECTION XXV. AGREEMENT FOR BENEFIT OF PURCHASERS: The DEVELOPER agrees that in addition to the MUNICIPALITY'S rights herein, the provisions of this agreement shall be for the benefit of the purchaser of any lot or any interest in any lot or parcel of land in the SUBJECT LANDS.

SECTION XXVI. ASSIGNMENT: The DEVELOPER shall not assign this agreement without the written consent of the MUNICIPALITY. If required by the MUNICIPALITY, the assignee must agree to all terms and conditions of this document in writing.

SECTION XXVII. PARTIES BOUND: The DEVELOPER or its assignees shall be bound by the terms of this agreement.

SECTION XXVIII. HEIRS & ASSIGNS: This agreement is binding upon the DEVELOPER, owners, their successors, and assigns, and any and all future owners of the SUBJECT LANDS (the "successors"). This Section allows for MUNICIPALITY enforcement of the terms and conditions of this agreement against all such successors, as though such successors were the DEVELOPER. This Section does not, however, grant rights to such successors absent MUNICIPALITY written consent, as described in Section XXVI.

SECTION XXIX. SALES OF LOTS: No lots in the SUBJECT LANDS may be sold until Final Acceptance has been granted by the MUNICIPALITY, unless otherwise expressly approved in writing by the MUNICIPALITY Board.

SECTION XXX. MORTGAGEE CONSENT: The undersigned mortgagee of the property identified in Exhibit A, consents to this Developer's Agreement, and agrees that its lien of mortgage shall be subordinate to the rights of the MUNICIPALITY granted by this Developer's Agreement.

SECTION XXXI: RECORDING: This agreement shall be recorded against the SUBJECT LANDS, and shall run with the land.

SECTION XXXII. STORMWATER AGREEMENT: Prior to the sale of any lot in the subdivision, the property owner and DEVELOPER shall enter a Stormwater Agreement in a form approved by the MUNICIPALITY Attorney and the MUNICIPALITY Engineer

and/or Waukesha County Land Resources Department to ensure the proper maintenance of all stormwater facilities within the SUBJECT LANDS, and such Stormwater Agreement shall be recorded against the SUBJECT LANDS.

SECTION XXXIII. AMENDMENTS: The MUNICIPALITY and the DEVELOPER, by mutual consent, may amend this Developer's Agreement at any meeting of the MUNICIPALITY Board. The MUNICIPALITY shall not, however, consent to an amendment until after first having received a recommendation from the MUNICIPALITY'S Plan Commission.

IN WITNESS WHEREOF, the DEVELOPER and the MUNICIPALITY have caused this agreement to be signed by their appropriate officers and their corporate seals (if any) to be hereunto affixed in three original counterparts the day and year first above written.

Retreat Development, LLC

By: _____

By: _____

Authorized Signatory

STATE OF WISCONSIN)
)ss.
COUNTY OF (County))

Personally came before me this _____ day of _____, _____, the above named _____, Authorized Signatory of _____, to me known to be the person who executed the foregoing instrument and acknowledged the same.

NOTARY PUBLIC, STATE OF WI
Print Name: _____
My commission expires: _____

DELAFIELD

MUNICIPALITY OF TOWN OF
WAUKESHA COUNTY, WISCONSIN

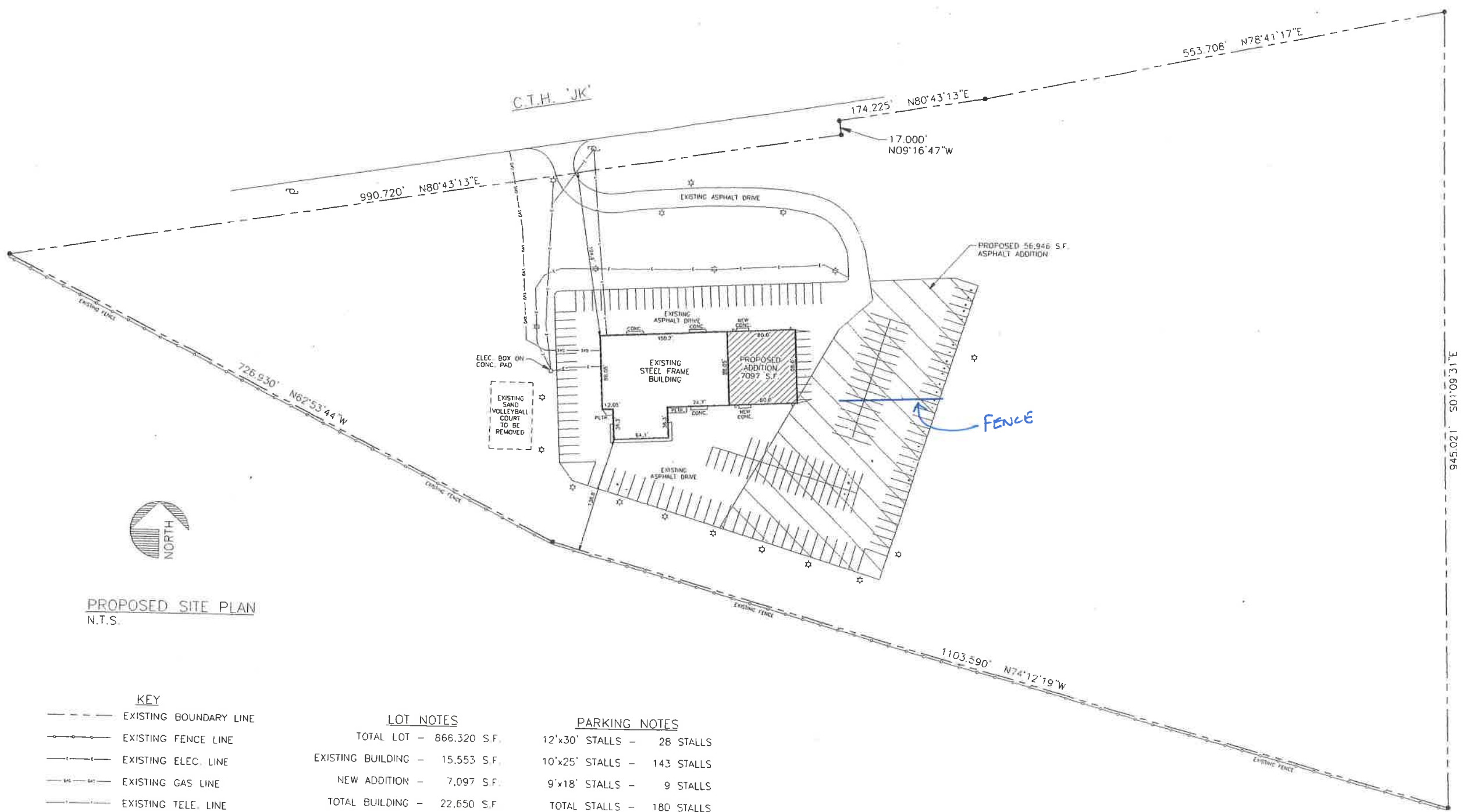
Chairman

Ronald A. Troy, MUNICIPALITY

Daniel Green, MUNICIPALITY Clerk

STATE OF WISCONSIN)
)ss.
COUNTY OF _____)

Personally came before me this _____ day of _____, _____, the above-named _____, MUNICIPALITY Chairman, and _____, MUNICIPALITY Clerk, of the above-named municipal corporation, to me known to be the persons who executed the foregoing instrument and to me known to be such MUNICIPALITY President and MUNICIPALITY Clerk of said



PROPOSED SITE PLAN
N.T.S.

- KEY**
- EXISTING BOUNDARY LINE
 - o-o- EXISTING FENCE LINE
 - |-|- EXISTING ELEC. LINE
 - |-|- EXISTING GAS LINE
 - |-|- EXISTING TELE. LINE
 - ⊕ EXISTING POWER POLE
 - ⊕ EXISTING LIGHT POLE

LOT NOTES

TOTAL LOT	- 866,320 S.F.
EXISTING BUILDING	- 15,553 S.F.
NEW ADDITION	- 7,097 S.F.
TOTAL BUILDING	- 22,650 S.F.
TOTAL ASPHALT	- 118,535 S.F.
TOTAL GREENSPACE	- 725,135 S.F.

PARKING NOTES

12'x30' STALLS	- 26 STALLS
10'x25' STALLS	- 143 STALLS
9'x18' STALLS	- 9 STALLS
TOTAL STALLS	- 180 STALLS

MOHNS INC.

110 N. 121ST.
WAUWATOSA, WI 53226
414 258-7977
FAX 414 258-4620

*GENERAL CONTRACTORS *SPACE PLANNING
*CONSTRUCTION MANAGERS

PROPOSED SITE PLAN
BROOKSIDE CHEVROLET
COUNTY TRUNK HIGHWAY 'JK'
DELAFIELD, WISCONSIN

date	8/19/03
revisions	
drawn by:	J. DORN
approved by	
job number	est9166
sheet	

C.2

TOWN OF DELAFIELD PLAN OF OPERATIONS FOR CASSANDRA'S MOTORSPORTS, LLC

AUGUST 5TH, 2021

1. Cassandra's Motorsports, LLC
2. Owner-Thomas Beaudry and Cassandra Castro, W248N2175 Kettle Cove Court, Pewaukee, WI 53072
3. Property Legal Description- DELT0721999: PT NE1/4 SEC 1 T7N R18E; COM NE COR; S01°09'31"E 14.00 FT; SO1°09'31"E 33.497 FT THE BGN; SO1°09'31"E 945.021 FT; N74°12'19"W 1103.590 FT; N62°53'44"W 726.930 FT; N80°43'13"E 990.720 FT; N09°16'47"W 17.000 FT; N80°43'13"E 174.225 FT; N78°41'17"E 553.708 FT TO BGN :: DOC# 4133583
4. ZONING DISTRICT M-1
5. The nature of the business will be to inventory and sell and lease a diverse selection of exotic and classic pre-owned vehicles. This may include watercraft sales as well.
6. The building shall continue to house a showroom and office space, a service repair facility, and will continue to house the existing body shop.
7. Vehicles will be stored and displayed outside in designated areas. There will be no expansion of the vehicle storage/parking area beyond what is shown on the site plan. Excess cars, parts, and dumpster will be placed within the confines of the fenced-in area.
8. It is anticipated that the business will employ 6-8 full-time employees to begin; with growth anticipated in the future.
9. Days and hours of operation to be as follows:

Sales:	Monday-Friday	9:00 AM – 6:00 PM
	Saturday	10:00 AM – 3:00 PM
	Sunday	CLOSED
Service:	Monday – Friday	7:00 AM – 4:00 PM
	Saturday	CLOSED
	Sunday	CLOSED
10. Parking will provide for 2 handicap and 8 designated customer stalls on the east side of building, and outside of the service entrance.
11. Signs (freestanding and wall signs) will remain as presently positioned on site. Sign permit application to accompany this plan will accommodate business name change.
12. Refuse Disposal, dumpster location shown on site plan within confines of fenced in area.
13. Sewage disposal system is a holding tank already in place.
14. Storm drainage facilities already in place.
15. Conditional use permit already in place for dealer sales by Watercrest Investments, LLC.

16. Chemicals and waste oil to be disposed of via pick-up by recycling service.
17. There will be no sales of petroleum products on site.

Document Number	Document Title
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**TOWN OF DELAFIELD
ORDER GRANTING CONDITIONAL USE
CASSANDRA CASTRO & THOMAS BEAUDRY
DOING BUSINESS AS:
CASSANDRA'S MOTORSPORTS, LLC
N47 W28229 LYNNDALE ROAD
WAUKESHA COUNTY, WISCONSIN**

WHEREAS, Cassandra Castro and Thomas Beaudry, doing business as Cassandra's Motorsports, LLC, property owner, have petitioned the Town of Delafield to grant a Conditional Use under Section 17.05 5 K. Legal Nonconforming Conditional Uses to allow for sales, service and outside display of vehicles and watercraft, and a body shop, at N47 W28229 Lynndale Road, and

<small>Recording Area</small>
Name and Return Address
Town of Delafield N14 W30782 Golf Road Delafield, WI 53018-2117
DELT 0721-999
Parcel Identification Number (PIN)

WHEREAS, the legal description for the subject property is:

PT NE1/4 SEC 1 T7N R18E; COM NE COR; S01°09'31"E 14.00 FT; S01°09'31"E 33.49 FT THE BGN; S01°09'31"E 945.02 FT; N74°12'19"W 1103.59 FT; N62°53'44"W 726.93 FT; N80°43'13"E 990.72 FT; N09°16'47"W 17.00 FT; N80°43'13"E 174.22 FT; N78°41'17"E 553.70 FT TO BGN DOC# 4053259

WHEREAS, the land is currently zoned M-1, Industrial District, and

WHEREAS, the M-1 district requires that all vehicles (other than employee and visitor parking), when not in use shall be stored inside except where it is demonstrated that such storage can be adequately shielded from view by a planting screen or decorative fencing, and

WHEREAS, there is no planting screen or decorative fencing that shields the vehicles stored outside from view, resulting in a legal nonconforming use, and

WHEREAS, the Town removed the "Other Uses" category from the Conditional Use section of the code in Ordinance No. 2019-06 adopted on December 10, 2019, and

WHEREAS, the applicants intend to use the property similar to the previous owner's operation and applied for Conditional Use Permit under the Legal Nonconforming Conditional Use section, and

WHEREAS, a public hearing was held on September 7, 2021, to hear all parties regarding this matter, and

WHEREAS, the Town of Delafield Plan Commission has given the matter due consideration, and the Town Board has based its determination on the effect of granting a Conditional Use permit on the health, general welfare, safety and economic prosperity of the Town and specifically of the immediate neighborhood in which said use is located, and has given due consideration as to the effect of the Conditional Use on the established character and quality of the area, the rights of the adjoining owners, the overall appearance, the landscaping, the type of construction, the movement of traffic, parking, the demand for related services, the possible hazardous, harmful, noxious, offensive or nuisance effect on the neighborhood as a result of noise, dust, smoke, odor or other similar factors, and has determined that a Conditional Use would be appropriate provided that the Conditional Use is operated pursuant to the following conditions and in strict compliance with the same.

THEREFORE, IT IS ORDERED AS FOLLOWS:

Commencing upon the date hereof, a Conditional Use permit for the subject premises is hereby granted. The Conditional Use permit herein shall apply only to use of the premises as described above and the Conditional Use permit shall continue in existence only so long as the Conditional Use is operated in compliance with this permit. This Conditional Use permit is subject to initial and continued compliance with each and every one of the following conditions, restrictions, and limitations.

- A. The property owner shall be allowed to use the site for sales, lease, service and outside display of new or pre-owned vehicles, watercraft, and a body shop, without a planting screen or fence to shield the outdoor display of vehicles, except for vehicles described in Condition E below, which are to be screened from the south by an existing fence. Leases shall be for no less than one year and no short term rentals shall be allowed. The display of vehicles and watercraft shall be orderly.
- B. Vehicles shall be defined as automobiles (Type 1 per §340.01 (4) WI Stats.), also considered passenger cars, light passenger vans and pick-up trucks. Watercraft shall be defined as personal water craft as defined in §30.50 (9d) WI Stats., pontoon boats and ski boats. Any question as to whether a vehicle or watercraft at the site meets the definition and intent of this conditional use permit shall be brought before the Plan Commission for consideration and determination..
- C. The applicant shall provide an updated site plan and landscaping plan meeting the requirements of Section 17.03 1.A.2.b., and include vehicle parking configuration and dimensions for Plan Commission review and approval within 30 calendar days of the date of property purchase (closing).
- D. The applicant shall provide an analysis by a lighting professional to show that the existing lighting on site meets the following criteria: 0 foot-candles at the property lines, cut off type lighting fixtures; light intensity at any one spot not greater than 9 foot-candles; maximum wattage; reduction of lights to safety lights after 8 pm. The applicant shall provide a lighting plan for Plan Commission review and approval within 30 days of property purchase (closing).

- E. The existing 8-foot tall board on board fence shall be maintained on site in its current location. Vehicles waiting to be serviced or stored after service shall be parked behind the fenced area including vehicles waiting for body work as part of the body shop operation.
- F. The owner shall remove all excess debris, excess equipment and items not directly associated with the business from the site no later than June 1, 2022, and restore vegetated areas to a manicured condition no later than July 1, 2022. Enclosure doors shall be placed on the dumpster enclosure and all dumpsters shall be placed inside the enclosure. The dumpster enclosure shall be in a neat, orderly and maintained state. Vehicle parts shall be stored within the enclosure or in the building until properly disposed of. Work related to the dumpster shall be completed no later than December 1, 2021.
- G. Hours of operation for vehicle sales:
 - Monday – Friday: 9 AM- 6 PM.
 - Saturday: 10 AM – 3 PM.
 - Sunday Closed

Hours of operation for service shall be as follows:

 - Monday – Friday: 7 AM-4 PM
 - Saturday/Sunday: Closed
- H. The green space/open space east of the improved portion of the site shall not be used for operation of off-road vehicles or other motorized vehicles.
- I. There shall be no outdoor repairs of vehicles.
- J. Outside display of vehicles for sale shall be limited to areas west of the building and south of the showroom and board on board fence. Lands north of the building shall not contain vehicles or equipment.
- K. The operation of the sales and service facility shall be in accordance with the plan of operation information dated August 5, 2021, except as clarified within this Conditional Use Permit.
- L. Anticipated chemicals on site include penetrating lubes, carb cleaner, brake cleaner, soap/wax, parts washer, oil, oil dry and normal household cleaning chemicals. Waste products will be picked up by a certified waste hauler and shall be properly disposed.
- M. Each special event at the property shall require a special event permit from the Town of Delafield and shall be subject to conditions indicated on the permit application.
- N. There shall be no fuel storage (above ground or below ground) at the site.
- O. Additional Regulations, found in Section 17.04 Zoning Districts, subsection 5. Specific District, subsection M. M-1 Industrial District, subsection 6, are hereby incorporated into this conditional use permit and must be followed, except that no shielding is required for outside display of vehicles and watercraft as stated in subsection d. and f. Boats on display shall be naturally covered (no shrink wrap).
- P. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In case of a question as to the

classification of use, the question shall be submitted to the Town Plan Commission for determination.

- Q. No use is hereby authorized unless the use is conducted in a lawful, orderly and peaceful manner. Nothing in this order shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption or exception to any law, ordinance, order or rule of either the municipal governing body, the County of Waukesha, the State of Wisconsin, the United States of America or other duly constituted authority, except only to the extent that it authorizes the use of the subject property above described in any specific respects described herein. This order shall not be deemed to constitute a building permit, nor shall this order constitute any other license or permit required by Town ordinance or other law.
- R. This conditional use hereby authorized shall be confined to the subject property described, without extension or expansion other than as noted herein, and shall not vary from the purposes herein mentioned unless expressly authorized in writing by the Town Plan Commission as being in compliance with all pertinent ordinances.
- S. Should the permitted conditional use:
 - be abandoned in any manner
 - discontinued in use for twelve (12) months
 - continued other than in strict conformity with the conditions of the original approval

Should the petitioner be delinquent in payment of any monies due and owing to Town, or

Should a change:

- in the character of the surrounding area
- the use itself cause it to be no longer compatible with the surrounding area, or
- for similar cause based upon consideration of public health, safety or welfare,

The conditional use may be terminated by action of the Town Plan Commission, pursuant to the enforcement provisions of this Conditional Use Order, and all applicable ordinances.

- T. Any change, addition, modification, alteration and/or amendment of any aspect of this conditional use, including but not limited to an addition, modification, alteration, and/or amendment to the use, premises (including but not limited to any change to the boundary limits of the subject property), structures, lands or owners, other than as specifically authorized herein, shall require a new permit and all procedures in place at the time must be followed.
- U. Unless this conditional use permit expressly states otherwise, plans that are specifically required by this conditional use order may be amended upon the prior approval of the Town Plan Commission if the Town Plan Commission finds the plan amendment to be minor and consistent with the conditional use permit. Any change in any plan that the Town Plan Commission feels, in its sole discretion, to be substantial shall require a new permit, and all procedures in place at the time must be followed.

- V. Owner Agreement. As a condition precedent to the issuance of the conditional use permit, the owner of the Subject Property shall approve the issuance of this conditional use permit upon the terms and conditions described herein in writing.
- W. Professional fees. Petitioner shall, on demand, reimburse the Town for all costs and expenses of any type that the Town incurs in connection with this application, including the cost of professional services incurred by the Town (including engineering, legal, planning and other consulting fees) for the review and preparation of the necessary documents or attendance at meetings or other related professional services for this application, as well as for any actions the Town is required to take to enforce the conditions in this conditional approval due to a violation of these conditions.
- X. Payment of charges. Any unpaid bills owed to the Town by the Subject Property Owner or his or her tenants, operators or occupants, for reimbursement of professional fees (as described above); or for personal property taxes; or for real property taxes; or for licenses, permit fees or any other fees owed to the Town; shall be placed upon the tax roll for the Subject Property if not paid within thirty (30) days of billing by the Town, pursuant to section 66.0627, Wisconsin Statutes. Such unpaid bills also constitute a breach of the requirements of this conditional approval that is subject to all remedies available to the Town, including possible cause for termination of this approval.
- Y. Current Address. The Petitioner is obligated to file with the Town Clerk a current mailing address and current phone number at which the Petitioner can be reached, which must be continually updated by the Petitioner if such contact information should change, for the duration of this conditional use. If the Petitioner fails to maintain such current contact information, the Petitioner thereby automatically waives notice of any proceedings that may be commenced under this conditional approval, including proceedings to terminate this conditional use.
- Z. Conditions Shown in Minutes Incorporated. All conditions of approval imposed by duly adopted motion of the Town Board in its consideration of the Petitioner's application, as noted in the Minutes of the Town Board meeting at which approval was granted, are specifically incorporated herein by reference.
- AA. Should any paragraph or phrase of this conditional use permit be determined by a Court to be unlawful, illegal or unconstitutional, said determination as to the particular phrase or paragraph shall not void the rest of the conditional use and the remainder shall continue in full force and effect.
- BB. If any aspect of this conditional use permit or any aspect of any plan contemplated and approved under this conditional use is in conflict with any other aspect of the conditional use or any aspect of any plan of the conditional use, the more restrictive provision shall be controlling as determined by the Town Plan Commission.

Let copies of this order be filed in the permanent records of the Town Board of the Town of Delafield, let a copy of this permit be recorded at the Waukesha County Register of Deeds as a covenant on the title for the premises for which this Conditional Use is granted, and let copies be sent to the proper Town authorities and the grantee.

Approved this _____ day of _____, 2021.

TOWN OF DELAFIELD

Ronald A. Troy, Town Chair

Daniel Green, Town Clerk

APPROVAL

We hereby accept the terms of this Conditional Use in their entirety.

Dated this ____ day of _____, 2021.

Cassandra Castro, Cassandra's Motorsports, LLC

Thomas Beaudry, Cassandra's Motorsports, LLC

This document drafted by Timothy G. Barbeau, P.E., P.L.S. (9/1/21)(9/08/21)

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POLICE CITATION ADMINISTRATIVE SUPPORT SERVICES CONTRACT
VILLAGE OF SUSSEX AND TOWN OF DELAFIELD – 2022-2024

This Contract is made and entered into between the Village of Sussex, hereinafter referred to as "Provider," and the Town of Delafield, hereinafter referred to as "Purchaser,"

In consideration of the mutual promises set forth in this Contract, the Provider and Purchaser agree as follows:

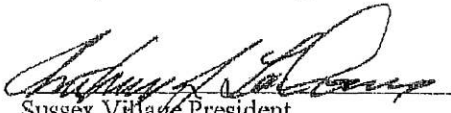
1. The provider shall enter citations into the TRACS program, which purchaser's law enforcement employees issue and make available in agreed upon form to provider.
 2. For the services provided as described in the preceding paragraph, purchaser shall pay provider a fee of \$31.43 per hour of service provided. Provider shall submit monthly billing statements to Purchaser, which will be accompanied by an itemized list of the citation administrative support services provided. Purchaser shall remit payment within 30 days of receipt of a billing statement.
 3. Purchaser and Provider understand and agree that the fee rates set forth in paragraph 2 are for 2022 services, with a 1% per year increase for 2023 and 2024.
 4. Provider is willing to supply the above mentioned services with the understanding that the TRACS software remains at the Provider's location at no additional cost to the Provider. If the technology availability and or cost changes the Provider may terminate this contract immediately. If the contract is terminated under this provision Purchaser shall pay Provider for all services provided under this contract up to and including the date the contract termination is effective.
 5. Provider is willing to provide the above mentioned services with the understanding the Purchaser will average 21 citations per month requiring approximately 15 minutes of work time per citation. If the administrative support volume changes from these expectations Provider may terminate this contract with 30 days written notice to Purchaser. If the contract is terminated under this provision Purchaser shall pay Provider for all services provided under this contract up to and including the date the contract termination is effective.
 6. This contract constitutes and contains the entire agreement of the parties, and supersedes any and all other contracts, agreements or understandings between the parties, whether oral or written.
 7. Any violation by Purchaser of any portion of this contract shall constitute a breach of this Contract by Purchaser. In the event of such breach, Provider shall have the option of declaring this contract terminated with 30 days written notice. In the same token any violation by Provider of any portion of this contract shall constitute a breach of this Contract by Provider. In the event of such breach, Purchaser shall have the option of
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declaring this contract terminated with 30 days written notice. If the contract is terminated under this provision Purchaser shall pay Provider for all services provided under this contract up to and including the date the contract termination is effective.

8. It is the intent of and is understood by the parties that the relationship of Provider and Purchaser is that of an independent contractor. The Provider is not the employee or agent of the Purchaser and the Purchaser is not the employee or agent of the Provider. Each party will therefore be responsible for its own acts or omissions and neither party will be obligated to defend or indemnify the other for any claim, loss, or liability that results from the other's acts or omissions. Nothing in this paragraph is intended to preclude or foreclose the right of either party to bring a cross claim or third party claim against the other for contribution as a joint tortfeasor.

9. The term of this Contract shall be from January 1, 2022 through December 31, 2024 regardless of the dates of the signatures set forth below.

Adopted this 27th day of July, 2021 by the Village Board of the Village of Sussex, Waukesha County, Wisconsin


Sussex Village President

ATTEST: 
Sussex Village Clerk-Treasurer

Adopted this _____ day of _____, 2021 by the Town Board of the Town of Delafield, Waukesha County, Wisconsin

Delafield Town Chairman

ATTEST: _____
Delafield Town Clerk