

February 1, 2017

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www.nhprimex.org

Jim Wheeler, City Manager
City of Berlin
City Hall, 168 Main Street
Berlin, NH 03570

**RE: Contribution Assurance Program (CAP) for FY 2019 – FY 2021 for the
Property & Liability Program**

Dear Jim:

Primex³ is pleased to offer the City of Berlin the option of participating in the **Contribution Assurance Program (CAP)** for the next three coverage period years. **For members who have demonstrated commitment to the Primex³ pool, CAP provides stability by creating a limit on your Property & Liability contributions for future renewals.**

The following years qualify for the **Property & Liability Contribution Assurance Program (CAP)**:

FY 2019 July 1, 2018 through June 30, 2019

(maximum 7% increase over July 1, 2017 through June 30, 2018 contribution)

FY 2020 July 1, 2019 through June 30, 2020

(maximum 7% increase over July 1, 2018 through June 30, 2019 contribution)

FY 2021 July 1, 2020 through June 30, 2021

(maximum 7% increase over July 1, 2019 through June 30, 2020 contribution)

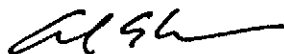
Based on your performance, we are pleased to offer you a **CAP Agreement** that provides you the opportunity to participate in **CAP through June 30, 2021**. (See enclosed **CAP Agreement and Resolution**.) **Please return your executed CAP Agreement and Resolution on or before February 24, 2017** to ensure budgetary peace of mind for the next three renewals.

The percentage listed is a maximum. Actual increases will not exceed that percentage, but could actually be lower, based on each member's and the pool's risk management performance and exposure changes. Performance still impacts contribution amounts, so it remains important for both Primex³ and our members to leverage our partnership to effectively manage risks and any claims that occur.

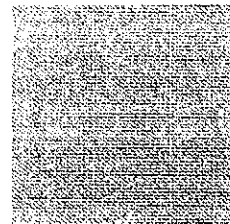
Our goal has always been to provide members with the best programs at the best value. Now, add the best long-term contribution assurance and you have a commitment like no other. **CAP** provides predictable contributions in the Property & Liability Program that you and your taxpayers can count on for budgetary stability.

Please contact me or your Member Services Consultant with questions at 800-698-2364.

Sincerely,



Carl Weber
Director of Member Services



Property & Liability Program
Contribution Assurance Program (CAP) Agreement
THIS AGREEMENT AMENDS AND EXTENDS YOUR MEMBERSHIP AGREEMENT
PLEASE READ CAREFULLY

Primex³ is offering members in our **Property & Liability Program** an opportunity to stabilize their annual contributions through participation in our Contribution Assurance Program (**CAP**). **CAP** is offered to members who qualify, providing them predictability by limiting the annual contribution increase during a defined period of years (**CAP Period**). By signing this Agreement, you agree to extend your Membership Agreement for **three (3) years** and Primex³ agrees to guarantee that your annual contribution increase will not exceed seven percent (7%) of the prior year's contribution. Because performance matters with Primex³, you may realize an annual increase that is less than the **CAP** through sound risk management and stable underwriting exposures. The annual member contribution will be based upon your exposure base, members' loss experience, and the rates established each year by the Primex³ Board of Trustees.

We are offering this opportunity so that our members can extend their commitment to pooling through the Primex³ programs. Participation in **CAP** for each year of the **CAP Period** is conditioned upon a three-year commitment to participation in the Primex³ Property & Liability Program.

The following **CAP Period** years qualify for the Contribution Assurance Program (**CAP**):

FY 2019 July 1, 2018 through June 30, 2019
(maximum 7% increase over July 1, 2017 through June 30, 2018 contribution)

FY 2020 July 1, 2019 through June 30, 2020
(maximum 7% increase over July 1, 2018 through June 30, 2019 contribution)

FY 2021 July 1, 2020 through June 30, 2021
(maximum 7% increase over July 1, 2019 through June 30, 2020 contribution)

By signing this Agreement, the **City of Berlin** agrees to extend its risk pool membership and participation in the Primex³ **Property & Liability Program** for three coverage period years, through **June 30, 2021**. The **City of Berlin** agrees and understands it remains bound by and subject to the terms and conditions of the Membership Agreement, Public Entity Coverage Documents and Trust Agreement, and all Trust by-laws, policies and procedures.

The **City of Berlin** agrees that the seven percent (7%) maximum increase currently available for this **CAP Period** does not apply to any other year or period of years, and upon expiration of the **CAP Period** in this Agreement, any subsequent participation in a Primex³ **CAP** will be subject to underwriting review, membership criteria, **CAP** criteria, determination of contribution and the maximum increase in place for the subsequent **CAP Period**.

The **City of Berlin** further acknowledges that by extending its Membership Agreement for three (3) coverage period years, the Public Entity Coverage Documents, General Conditions Section (L) ("Terminating Participation in Our Program(s)") is suspended during year one (1) and year two (2) of the three (3) year term, as there is no right to cancel or terminate during year one (1) and year (2) but shall be reinstated for the end of year three (3).

The **City of Berlin** agrees that failure to provide notice in strict accordance with the Public Entity Coverage Documents, General Conditions Section (L) shall result in automatic renewal of risk management pool membership and continuation in the Primex³ Property & Liability Program, but not continuation of **CAP** which must be separately offered and accepted.

Primex³ acknowledges that the **City of Berlin** is a NH public entity which receives budgetary authorization for appropriations from an annual meeting of its legislative body and pertains to a fiscal year which commences on the following January 1 or July 1, of any given year. The **City of Berlin** also acknowledges that it is legally required to carry insurance coverage. As such, if the legislative body, at such annual meeting for any years that are within the anticipated term of the contract, fails to approve such appropriation, and there are no other lawful means of funding the coverage, this contract may be terminated by the **City of Berlin** by notice to Primex³ made within 30 days of the legislative action at which such funding initiative was defeated and such cancellation shall be effective as of the commencement on the following fiscal year or on the anniversary of the policy, whichever first occurs.

The **City of Berlin**, however, agrees that it shall seek the requisite appropriations in good faith and that the availability of lower cost or otherwise preferable coverage alternatives during the term of this Agreement shall not constitute a good faith and permissible basis on which to fail to pursue the appropriations or assert that appropriations are unavailable. In the event of an early termination, the **City of Berlin** agrees to return the difference between the **CAP** increase and the uncapped contribution.

By affixing my signature below, I am attesting, representing and warranting that I am a duly authorized representative of the governing body of the **City of Berlin** with legal authority to contractually bind the **City of Berlin** to the terms of this Agreement, and that I understand the commitment being made to membership in the Primex³ risk management pool and participation in the Property & Liability Program.

Authorized Representative
of the Governing Body

Title

Date

Print Name

RESOLUTION TO ENTER PRIMEX³
Property & Liability Contribution Assurance Program (CAP)

RESOLVED: To hereby accept the offer of the New Hampshire Public Risk Management Exchange (Primex³) to enter into its **Property & Liability Contribution Assurance Program (CAP)** as of the date of the adoption of this resolution, and to be contractually bound to all of the terms and conditions of Primex³ risk management pool membership during the term of the **Property & Liability Contribution Assurance Program (CAP)**. The coverage provided by Primex³ in each year of membership shall be as then set forth in the Coverage Documents of Primex³.

I attest that the foregoing is a true copy of the Resolution of the Governing Board of the **City of Berlin** adopted on _____.

Board: _____

Title of Board

Signature: _____

Name: _____

Title: _____ duly authorized

Date: _____