

**RESOLUTION NO. 2018-10**

**RESOLUTION OF THE VILLAGE BOARD OF THE VILLAGE OF CALEDONIA  
APPROVING THE PREDEVELOPMENT AGREEMENT FOR THE AUDUBON  
ARBORETUM SUBDIVISION FOR PROPERTY LOCATED AT THE SOUTHWEST  
CORNER OF 5 ½ MILE ROAD AND CHARLES STREET.**

The Village Board of the Village of Caledonia, Racine County, Wisconsin do resolve as follows:

**WHEREAS**, the Village of Caledonia requires by Ordinance that a property owner seeking development related reviews and approvals from the Village enter into a standard form of predevelopment agreement to address the reimbursement of costs the Village will incur during the review and approval process.

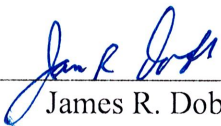
**WHEREAS**, Audubon Park Racine, LLC, owner of the property has submitted/will submit an application for approval of a Concept Plan, Preliminary Plat, Final Plat, Storm Water Management Plan, and a Site Grading & Drainage Plan for property located at the southwest corner of 5 ½ Mile Road and Charles Street.


**NOW, THEREFORE, BE IT RESOLVED THAT** the Predevelopment Agreement attached hereto as **Exhibit A** is hereby approved and the President and Clerk are authorized and directed to execute the agreement on behalf of the Village.

**BE IT FURTHER RESOLVED THAT** all Village officials, officers, and employees are authorized and directed to take such steps as are lawful and necessary in furtherance of the Predevelopment Agreement.

Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 5th day of February, 2018.

**VILLAGE OF CALEDONIA**

By:   
James R. Dobbs  
Village President

Attest:   
Karie Torkilsen  
Village Clerk

**PRE-DEVELOPMENT AGREEMENT  
FOR Audubon Arboretum SUBDIVISION**

THIS AGREEMENT is entered into between the VILLAGE OF CALEDONIA, a municipal corporation located in Racine County, Wisconsin (“the Village”), and Audubon Park Racine, a Wisconsin Limited Liability company (“Subdivider”), with regard to development to be known as Audubon Arboretum Subdivision located at the southwest corner of 5 ½ Mile Road and Charles Street (“the Subdivision”):

**RECITALS**

1. The Subdivider wishes to subdivide and/or commence development of the above lands within the Village and to obtain Village approval of this division in accordance with applicable State laws, and Village and County Ordinances.

2. The Village agrees to review conceptual, preliminary and final plans associated with the Subdivision, and review, revise and/or draft any agreements, easements, deed restrictions or other documents associated with the Subdivision if the same can be done without unreasonable expense to the Village’s taxpayers.

**NOW, THEREFORE**, in consideration of the following covenants, the parties agree as follows:

**PART A**

**REIMBURSEMENT OF ENGINEERING, PLANNING, LEGAL  
AND ADMINISTRATIVE COSTS**

1. The Subdivider agrees to pay to the Village all reasonable costs for engineering, planning, legal and administrative expenses incurred by the Village in:

(1) processing, reviewing, revising, and approving any conceptual, preliminary or final development plans, including certified survey maps, preliminary and final plats, and condominium plats; and

(2) processing, reviewing, revising, drafting and approving any agreements, easements, deed restrictions or other documents associated with the proposed subdivision or development.

Such costs shall include the costs of its own engineers, attorneys, inspectors, agents, sub-contractors and employees. The cost for Village employees' time shall be based upon the classification of the employee and the rates established by the Village Board, from time to time, for each such classification.

2. The Subdivider understands that the legal and/or engineering consultants retained by the Village are acting exclusively on behalf of the Village and not the Subdivider.

## PART B

### **GUARANTEE OF PAYMENT**

1. At the time of the submission or review of a conceptual plan, certified survey map, preliminary plat, or condominium plat, the Subdivider shall deposit with the Village Treasurer the sum of three thousand dollars (\$3,000.00) in the form of cash. The Village shall apply such funds toward payment of the above costs.

2. If at any time said deposit becomes insufficient to pay expenses incurred by the Village for the above costs, the Subdivider shall deposit required additional amounts within fifteen (15) days of written demand by the Village Engineer. Until the required funds are received, no additional work or review will be performed by the Village as to the development plan under

consideration. The Village may also reject any pending certified survey map, preliminary or final plat, or condominium plat for non-payment of the above costs.

### PART C

#### **TERMINATION OF GUARANTEE**

Within 60 days after final approval of the plat or certified survey map, and execution of any documents by all parties, or upon abandonment of the conceptual plan, certified survey map or plat and prior to final approval, (including abandonment due to rejection by any reviewing agency), the Village shall furnish the Subdivider with a statement of all such costs incurred by it with respect to such conceptual plan, certified survey map or plat. Any excess funds shall be remitted to Subdivider, and any costs in excess of such deposit shall be paid by the Subdivider. Any interest earned on said deposit shall remain the property of the Village to partially offset administrative expenses associated with planning and development.

### PART D

#### **ACTION BY VILLAGE BOARD**

Within ninety (90) days of submission of any certified survey map, preliminary plat, or condominium plat, the Village Board shall approve, approve conditionally or reject the certified survey map, preliminary plat, and condominium plat, and notify the Subdivider in writing of any conditions of approval or of the reasons for rejection. Failure of the Village Board to act within such period of time, unless the time is extended by agreement of the parties, shall be treated as approval of the certified survey map, preliminary plat, or condominium plat. Section 236.11, Wis. Stats. Except that Subdivider hereby waives any statutory time limits for review and approval of condominium plats.

PART E

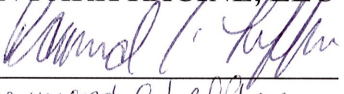
**EFFECT OF APPROVAL**

Subject to the applicable regulations of any governmental entity with jurisdiction and/or the ordinances, rules and regulations of the Village, approval of the preliminary plat shall entitle the Subdivider to final approval of such plat if the final plat substantially conforms to the approved preliminary plat and all conditions of approval have been met, and all required guaranteed deposits and applicable fees have been paid. Section 236.11, Wis. Stats. The Subdivider understands that final plat approval, if granted, is conditioned upon the Subdivider and the Village entering into a subdivision control agreement as required by the ordinances of the Village.

**IN WITNESS WHEREOF**, the parties have executed this Pre-development Agreement on the

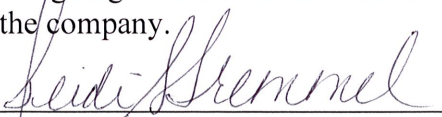
16<sup>th</sup> day of January, 2018.

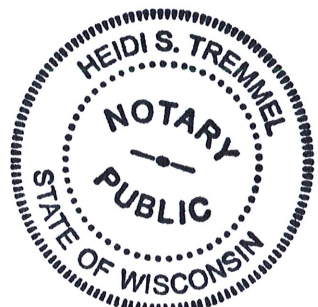
**AUDUBON PARK RACINE, LLC**

By:   
Raymond C. Heffler, Member

STATE OF WISCONSIN     )  
  ) SS:  
COUNTY OF RACINE     )

Personally came before me this 16<sup>th</sup> day of January, 2018, the above-named Raymond C. Heffler Member, of Audubon Park Racine, LLC to me known to be the person who executed the foregoing instrument on behalf of the said LLC and acknowledged the same as the act and deed of the company.

  
Notary Public, Racine County, WI  
My Commission: 2/20/18



**VILLAGE OF CALEDONIA**

By: Jim Dobbs  
Jim Dobbs, President

Attest: Karie Torkilsen  
Karie Torkilsen, Clerk

STATE OF WISCONSIN    )  
  ) SS:  
COUNTY OF RACINE    )

Personally came before me this 5<sup>th</sup> day of February, 2018  
the above-named Jim Dobbs and Karie Torkilsen, President and Clerk, respectively, of the Village  
of Caledonia, to me known to be the persons who executed the foregoing instrument on behalf of  
the said Village and acknowledged the same.

Justin Halpern  
Notary Public, Racine County, WI  
My Commission: 1/21/21

This instrument drafted by:  
Timothy J. Pruitt  
Revised by:  
Anthony A. Bunkelman P.E.

5/16/2017  
770272.100 (Title 14 – Administration)