

**RESOLUTION NO. 2018-129**

**RESOLUTION AUTHORIZING THE VILLAGE OF CALEDONIA TO EXECUTE A DEPOSIT AGREEMENT WITH THE ROBERT P. & PHYLLIS M. PETERSON JOINT REVOCABLE TRUST FOR CALEDONIA STORAGE**

**WHEREAS**, the Caledonia Utility District has conditionally approved a Storm Water Management Plan and a Site Grading & Drainage Plan for Caledonia Storage for the construction of 3 Storage Buildings and 1 Multi-tenant building located on the North side of Storage Drive. The Storm Water Management Plan and the Site Grading & Drainage Plan for the development requires the installation Drainage Facilities on the property. To guarantee the completion and construction of the Drainage Facilities, in conformity with the approved Plans and Specifications, the Owner is required to enter into the Deposit Agreement prior to the construction of the Drainage Facilities. The Deposit Agreement is to be entered into by the Owner, the Caledonia Utility District and the Village of Caledonia; and

**WHEREAS**, the Owner, the Robert P. & Phyllis M. Peterson Joint Revocable Trust, has executed said Deposit Agreement and made the required deposit with the Village of Caledonia; and

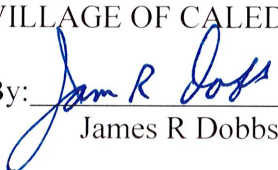
**WHEREAS**, the President and Secretary of the Caledonia Utility District and the President and Clerk of the Village need to execute the Deposit Agreement in order to allow it to be recorded.

**NOW, THEREFORE, BE IT RESOLVED** by the Caledonia Village Board that the execution of the Deposit Agreement as set forth in Exhibit A, which is attached hereto and incorporated herein by reference, is authorized and approved and that the Village President and Village Clerk are authorized to execute said Agreement.

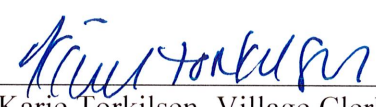
Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 19<sup>th</sup> day of November, 2018.

VILLAGE OF CALEDONIA

By: \_\_\_\_\_

  
James R Dobbs, Village President

Attest: \_\_\_\_\_

  
Karie Forkilsen, Village Clerk

DEPOSIT AGREEMENT

This Deposit Agreement (referred to as the "Agreement") is made the 2<sup>ND</sup> day of NOVEMBER, 2018, by and between the **Robert P. and Phyllis M. Peterson Joint Revocable Trust**, with Robert P. Peterson and Phyllis M. Peterson being Co-Trustees of the said trust, residing at 17225 Holly Lane, Brookfield, Wisconsin 53045, hereafter referred to in this Agreement as "Owner", and the **VILLAGE OF CALEDONIA**, Racine County, Wisconsin, and **VILLAGE OF CALEDONIA STORM WATER UTILITY DISTRICT**, a utility district of the Village of Caledonia, Racine County, Wisconsin. The Village of Caledonia and Village of Caledonia Storm Water Utility District are collectively referred to in this Agreement as "Caledonia".

RECITALS

A. Owner is the fee simple holder of certain real property in the Village of Caledonia, Wisconsin, described in attached Exhibit A. Said real property is referred to in this Agreement as the "Property".

B. As a part of the approval by Caledonia of Owner's desired development of the Property, Caledonia has required Owner to construct storm water drainage facilities on the Property. Said storm water drainage facilities are referred to in this Agreement as the "Drainage Facilities".

C. Owner has provided Caledonia with a Storm Water Management Plan and Site Grading & Drainage Plans, Professional Engineer Stamped September 26, 2018, prepared by Via Rail Engineering, Inc., located at 14727 Maribel Road, Maribel, Wisconsin 54227, for the Drainage Facilities to be constructed on the Property (referred to in this Agreement as the "Plan"). The areas of the Owner's Property affected by the Drainage Facilities are described in attached Exhibit B, and include a Stormwater Retention Pond. Caledonia has approved the Plan (in accordance with recommendations of Utility Director Anthony A. Bunkelman P.E.).

D. Because Caledonia has made a determination that it is important that the Plan and Drainage Facilities be constructed at the Property in a timely manner in order to lessen the impact of the Owner's desired development of the Property on other property owners in the Village of Caledonia, the approval by Caledonia of the Owner's desired development of the Property was conditioned upon:

(1) Owner completing construction of the Plan and Drainage Facilities, in conformity with the Plan, prior to September 1, 2019, subject to an extension in the event of force majeure as defined below (the "Completion Date"); and

(2) Owner entering into an agreement with Caledonia requiring Owner to deposit the sum of \$10,000.00 with Caledonia in order to guarantee the completion of construction by Owner of the Plan and Drainage Facilities, in conformity with the Plan, prior to the Completion Date. Owner is required to enter into said agreement prior to commencement of construction of the Plan and Drainage Facilities.

E. Owner has indicated that it agrees to all of Caledonia's conditions of approval for the Owner's desired development of the Property.

### **AGREEMENT**

For \$1.00 and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. The recitals set forth above are hereby incorporated herein as part of the agreement of the parties.

2. Owner shall deposit the sum of \$10,000.00 (referred to in this Agreement as the "Deposit") with Caledonia on or before November 30, 2018. Caledonia is not required to set up a separate account for the Deposit and may commingle the Deposit with its other funds.

3. Owner agrees that prior to the Completion Date, it will:

(a) Complete the construction of the Plan and Drainage Facilities in conformity with the Plan;

(b) Provide Caledonia with as-built drawings of the Plan and Drainage Facilities that are stamped by a registered engineer and indicate that the Drainage Facilities were constructed in conformity with the Plan. Caledonia shall review the as-built drawings to confirm conformity with the Plan; and

(c) Pay for any direct damage caused to Village of Caledonia roads and rights-of-way and any other property of Caledonia on the Property as a result of said construction.

The Owner's agreement to complete construction of the Plan and Drainage Facilities as described above in Section 3(a), provide as-built drawings as described above in Section 3(b) and pay for any damage as described above in Section 3(c) are collectively referred to as the "Owner's Obligations".

4. The Completion Date shall be extended if an event of force majeure occurs. As used herein, the term "force majeure" shall mean an event that causes Owner to be delayed in completing construction of the Detention Pond and Drainage Facilities by reason of the inability to procure materials, failure of power, riots, insurrection, war or other reason of a like nature not the fault of the Owner. If an event of force majeure occurs, then the Completion Date shall be extended for the period of the delay. Owner shall give Caledonia written notice as soon as possible of its claim of right to such extension and the reasons therefor.

5. Owner shall provide Caledonia with a written notice of completion after Owner believes that it has completed Owner's Obligations. Caledonia shall make a determination as to whether Owner has completed Owner's Obligations within thirty (30) days after Caledonia's receipt of said notice.

(a) If Caledonia determines that Owner has completed Owner's Obligations, Caledonia shall return the Deposit to Owner within thirty (30) days after the making of said determination.

(b) If Caledonia determines that Owner has not completed the Owner's Obligations, Caledonia shall provide a written notice to Owner specifying which of Owner's Obligations have not been completed.

Owner shall thereafter have a cure period of forty-five (45) days from the date of said notice to complete Owner's Obligations and provide Caledonia with a notice of such completion. Caledonia shall make another determination as to whether Owner has completed Owner's obligations within thirty (30) days after Caledonia's receipt of said notice.

(a) If Caledonia determines that Owner has completed Owner's Obligations, Caledonia shall return the Deposit to Owner within thirty (30) days after the making of said determination.

(b) If Caledonia determines that Owner has not completed Owner's Obligations, Caledonia shall provide written notice of said determination to Owner, and the Deposit shall be retained by Caledonia and paid to and kept by Caledonia as compensation for Owner's failure to complete Owner's Obligations as required herein, and as reimbursement for any expense incurred by Caledonia because of Owner's failure to complete Owner's Obligations as required herein. Accordingly, Owner shall not have any right to the Deposit if it fails to complete Owner's Obligations as required herein. Caledonia's retention of the Deposit shall not: (i) release Owner of its obligations to complete Owner's Obligations, or (ii) be in lieu of, or foreclose, any other rights or remedies that Caledonia may have in law or equity regarding Owner's failure to complete Owner's Obligations as required herein, it being the intent of the parties that Caledonia shall continue to possess all such rights and remedies in addition to retaining the Deposit.

6. All notices, demands and requests which may be given or which are required to be given by either party to the other shall be in writing and shall be deemed effective either: (a) on the date personally delivered to the address indicated below, or (b) three (3) business days after mailed via certified mail, return receipt requested, addressed to such party at the address set forth below (unless changed by similar notice in writing given by the party whose address is to be changed).

Robert P. and Phyllis M. Peterson  
Joint Revocable Trust  
17225 Holly Lane  
Brookfield, Wisconsin 53045

Village of Caledonia, Wisconsin  
Village of Caledonia Storm Water Utility District  
5043 Chester Lane  
Racine, Wisconsin 53402

7. This Agreement may not be altered, changed or amended except by an instrument in writing signed by the parties.

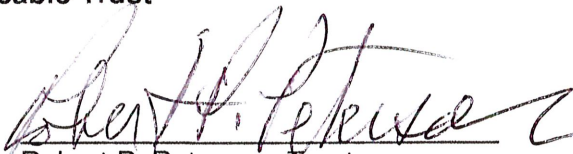
8. The time of the performance of all the terms, conditions and covenants of this Agreement is of the essence.

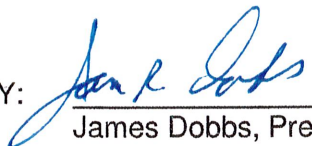
9. This Agreement shall be governed, controlled, and construed by and under the laws of the State of Wisconsin. Venue for any legal action arising under and/or pertaining to this Agreement shall solely and exclusively be Racine County Circuit Court in Racine County, Wisconsin.

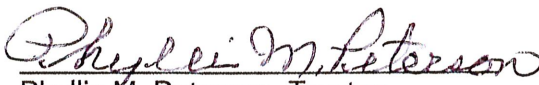
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

**OWNER:**  
Robert P. and Phyllis M. Peterson Joint  
Revocable Trust

**CALEDONIA:**  
Village of Caledonia

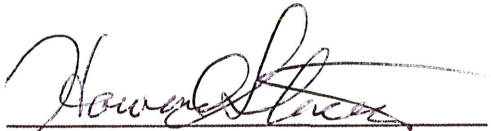
BY:   
Robert P. Peterson, Trustee

BY:   
James Dobbs, President

BY:   
Phyllis M. Peterson, Trustee

Attest:   
Karie Torkilsen, Village Clerk

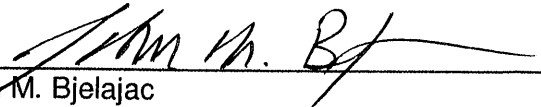
**Village of Caledonia Storm Water  
Utility District**

BY:   
Howard Stacey, President

Attest:   
Harry Garnette, Secretary

**AUTHENTICATION**

Signatures of Robert P. Peterson and Phyllis M. Peterson, Trustees of the Robert P. and Phyllis M. Peterson Joint Revocable Trust; James Dobbs, Village President, and Karie Torkilsen, Village Clerk, of the Village of Caledonia; and Howard Stacey, President, and Harry Garnette, Secretary, of the Village of Caledonia Storm Water Utility District, authenticated this 18<sup>th</sup> day of December, 2018.

  
\_\_\_\_\_  
John M. Bjelajac  
Member: State Bar of Wisconsin  
State Bar No. 1015325



# LANDMARK TITLE OF RACINE, INC.

Title Insurance Abstracts Escrows Closing Service

719 Washington Ave. PO Box 726 Racine, WI 53401 262-632-6262 FAX 262-632-6243

LML-65886

October 3, 2018

## LETTER REPORT SCHEDULE A

We have examined the records relative to the premises described in Schedule B below and find that as of the date of this report the recorded title to said premises subject to the encumbrances and other matters set forth in Schedule B below appears in: Robert P. and Phyllis M. Peterson Joint Revocable Trust

## SCHEDULE B

Description of Property situated in the County of Racine, State of Wisconsin:

Lot 1, Certified Survey Map No. 2745, recorded in the office of the Register of Deeds for Racine County, Wisconsin on October 28, 2005 in Volume 8 of Certified Survey Maps, Page 744, as Document No. 2056502, located in the Southeast 1/4 of the Southwest 1/4 of Section 27, Town 4 North, Range 22 East. Said land being in the Village of Caledonia, County of Racine, and State of Wisconsin.

The following is for informational purposes only:

Address: Storage Drive

Tax Key No. 104-04-22-27-018-030

1. Mortgages, Liens, Agreements, Stipulations: NONE
2. Construction Liens (for past two years only): NONE
3. Land Contracts, Leases, or Notices of Lis Pendens: NONE
4. Unpaid real estate taxes up to and including those for the year 2017: NONE (Special Assessments - Not Examined)  
NOTE: Taxes for the year 2017 in the amount of \$3,273.46, have been paid in full.
5. No Money Judgments, State Income Tax Liens, State Sales and Use Tax Warrants or Federal Tax Liens - Docketed in Racine County, against the following parties only: Robert P. Peterson Phyllis M. Peterson Trust

Dated: October 2, 2018 at 08:00 AM

LANDMARK TITLE OF RACINE, INC.

Michael P. Staech

This report does not represent a detailed examination of, or an opinion as to the title to the above described premises. It is a report based on a search of the records of the Register's Office for Racine County. Liability is limited to the amount charged for this search.

EXHIBIT A

N 89°54'17" E  
377.63'

10' TYPICAL  
TYPICAL  
EASEMENT

25' DRAINAGE  
EASEMENT AND  
UTILITY EASEMENT

25' DRAINAGE  
EASEMENT AND  
UTILITY EASEMENT

25' DRAINAGE  
EASEMENT AND  
UTILITY EASEMENT

PROPERTY  
BOUNDARY

LOT 1  
CSM 2745

576.00'  
N 01°12'54" W

576.02'  
S 01°15'15" E

10' UTILITY  
EASEMENT

STORMWATER  
MANAGEMENT  
EASEMENT

S 89°54'22" W 300.00'

S 01°15'15" E  
85.00'

50' VISION  
CORNER  
EASEMENT

85.00'  
N 01°15'15" W

N 89°54'22" E 300.00'  
S 89°54'22" W 378.02'

STORAGE DR



SCALE IN FEET



14727 Maribel Road - PO Box 137  
Maribel, Wisconsin 54227  
corporate phone: 920.367.2000  
web: viarailengineering.com

DESIGNED BY:  
EPN  
DRAWN BY:  
EPN  
APPROVED BY:  
DATE ISSUED:  
9/26/18

PROPERTY EXHIBIT  
PETERSON STORAGE UNITS  
CALEDONIA, WISCONSIN

SHEET #  
**EX-1**  
SHEET  
1 OF  
1



### Stormwater Management Easement

An easement for the conveyance of stormwater located in that part of Lot 1 Certified Survey Maps 2745, as recorded in Volume 8, at Pages 744 thru 747 as document number 2056520 records of Racine County, Wisconsin being described as the Southerly 85 feet of the Easterly 300 feet of said Lot 1, being more particularly described as follows;

Commencing at the Southeast corner of said Lot 1, said point also being the POINT OF BEGINNING.

Thence North 01° 15'15" West along the East Line of said Lot 1, a distance of 85.00';

Thence South 89°54'22" West, a distance of 300.00';

Thence South 01°15'15" East, a distance of 85.00' to a point on the South Line of said Lot 1;

Thence North 89°54'22" East, along the said South Line of Lot 1, a distance of 300.00' to the POINT OF BEGINNING.

Said stormwater management easement contains 25,495 square feet and is subject to any other recorded easements, roadways, or other matters of public record.

VILLAGE OF CALEDONIA

5043 CHESTER LANE  
RACINE, WI 53402

# Receipt

Date	Receipt No.
11/6/2018	30817

Received From
PETERSON, ROBERT 17225 HOLLY LANE BROOKFIELD, WI 53045

Check No.	Payment Method	Receipt By
1006	CHECK	JLJ

Description	Amount
CREDIT G/L #2083 - STORM WATER DEPOSIT	10,000.00
Thank you for your payment.	<b>Total</b> \$10,000.00