

RESOLUTION NO. 2018-143

**A RESOLUTION AUTHORIZING THE ISSUANCE OF A
TAXABLE TAX INCREMENT REVENUE BOND
(PROBIO AND CSL - TID NO. 3)**

WHEREAS, the Village of Caledonia, Wisconsin (the "Village") and Probio RE LLC, a Wisconsin limited liability company and Centro Sperimentale Del Latte USA Inc., a Wisconsin corporation (collectively, the "Developer") are negotiating a Development Agreement (the "Agreement") pursuant to which the Developer intends to undertake development of the Property located in the Village (the "Development"); and

WHEREAS, the Developer would not undertake the Development without the use of tax incremental financing to assist with the financing of the Development; and

WHEREAS, as an incentive to undertaking the Development, the Village wants to provide the Developer with financial assistance in connection with the Development by sharing tax increment generated on the Property within the Village's Tax Incremental District No. 3 (the "District"); and

WHEREAS, the development of the Property within the District constitutes a revenue-producing enterprise of the Village which is operated for a public purpose, and constitutes a "public utility" within the meaning of Section 66.0621 of the Wisconsin Statutes; and

WHEREAS, pursuant to Section 66.0621 of the Wisconsin Statutes and the terms of the Agreement, a portion of the financial assistance to be provided to the Developer will be evidenced by the issuance by the Village to the Developer of a tax increment revenue bond payable solely from certain tax increments generated from the Property located within the District which are appropriated by the Village Board;

NOW, THEREFORE, BE IT RESOLVED by the Village Board of the Village of Caledonia, Wisconsin, as follows:

Section 1. Definitions. Capitalized terms used in this Resolution and not otherwise defined herein shall have the meaning provided for in the Agreement unless the context clearly requires a different meaning. In addition to the words defined elsewhere in this Resolution, the following words shall have the following meanings unless the context or use indicates another or different meaning or intent:

"Net Available Tax Increment" means for each year that an installment of principal is payable on the Bond, an amount equal to the sum of:

(a) 50% of the Property Tax Increment generated on the Development Increment to the extent the Development Increment is in an amount up to and including \$8,250,000, plus

(b) if applicable, 75% of the Property Tax Increment generated on the amount of Development Increment in excess of \$8,250,000, minus

(c) beginning with payments due in the year 2023 and thereafter, the amount of any applicable reduction in the Development Incentive earned due to the number of jobs created and retained as provided in Section 6 of the Agreement.

"Payment Conditions" means the conditions set forth in the Agreement upon which the Village's obligation to make Development Incentive payments is contingent, including but not limited to:

(a) Guaranteed Minimum Investment (Section 5 of the Agreement),

(b) Substantial Completion of the Facility (Section 4 of the Agreement),

(c) timely payment of all property taxes for the Property (Section 5(d) of the Agreement), and

(d) any and all other material provisions of the Agreement.

"Property Tax Increment" in any year has the meaning provided in Section 1 of the Agreement, minus any costs the Village has incurred and is entitled to reimburse itself for pursuant to Section 7 of the Agreement.

Section 2. Authorization and Terms of Bond. For the purpose of providing financial assistance to the Development in the District, as provided for under the Agreement, the Village shall issue its "Taxable Tax Increment Revenue Bond (Probio and CSL - TID No. 3)" (the "Bond") to the Developer in consideration for the obligations undertaken by the Developer in the Agreement. The Bond shall be issued to the Developer upon Substantial Completion of the Development and shall be dated its date of issuance. No interest shall be payable or accrue on the Bond.

Subject to satisfaction by the Developer of the Payment Conditions, the Bond shall be payable in installments of principal on October 20 of each of the years 2021 through 2032. The amount of the installment due on the Bond in each year shall be equal to the Net Available Tax Increment and the payment of each installment on the Bond shall be subject to appropriation by the Village Board of Property Tax Increment to payment of the Bond.

The schedule of payments on the Bond is found to be such that the amount of annual debt service payments is reasonable in accordance with prudent municipal utility practices.

Section 3. Form of Bond. The Bond shall be in substantially the form set forth on Exhibit A hereto and incorporated herein by this reference.

Section 4. Security for the Bond. This Bond is a special, limited revenue obligation of the Village and is payable only from the sources, to the extent, and subject to the qualifications stated or referenced herein. No property or other asset of the Village, except Net Available Tax Increment appropriated to make payments with respect to the Bond, is or shall be a source of payment of the Village's obligations hereunder.

The Bond shall be payable only out of the Special Redemption Fund provided for in Section 5 herein, and shall be a valid claim of the registered owner only against the Special Redemption Fund and the Net Available Tax Increment pledged to such fund. The Net Available Tax Increment appropriated by the Village Board to the payment of the Bond each year is hereby pledged to such Special Redemption Fund, and shall be used for no other purpose than payment of the Bond.

This Bond shall not constitute a debt or obligation of the Village within the meaning of any state constitutional provision, statutory limitation, or charter provision or limitation thereof and shall not be a charge against its general credit or taxing powers.

As stated above, the application of Net Available Tax Increment to payment of the Bond is subject to future annual appropriation by the Village Board. However, the Village fully expects and anticipates that to the extent Net Available Tax Increment is generated and received by the Village, it will appropriate such Net Available Tax Increment to the payment of the Bond.

The Village shall have no obligation to make any payments on the Bond while the Developer is in default on any obligations under the Agreement.

Section 5. Special Redemption Fund. For the purpose of the application and proper allocation of the Net Available Tax Increment, and to secure the payment of the principal of the Bond, the Special Redemption Fund is hereby created and shall be used solely for the purpose of paying the Bond in accordance with the provisions of the Bond and this Resolution.

Uninvested money in the Special Redemption Fund shall be kept on demand deposit with such bank or banks as may be designated from time to time by the Village as public depositories under the laws of Wisconsin. Such deposits of Special Redemption Fund money shall be secured to the fullest extent required by the laws of Wisconsin and the general investment policy of the Village.

Money in the Special Redemption Fund, if invested, shall be invested in direct obligations of, or obligations guaranteed as to principal and interest by, the United States of America, or in certificates of deposit secured by such obligations and issued by a state or national bank which is a member of the Federal Deposit Insurance Corporation and is authorized to transact business in the State of Wisconsin, maturing not later than the date such money must be transferred to make payments on the Bond, or in the local government pooled-investment

fund. All income from such investments shall be deposited in the Special Redemption Fund. Such investments shall be liquidated at any time when it shall be necessary to do so to provide money for any of the purposes for the Special Redemption Fund.

All Net Available Tax Increment appropriated to the payment of the Bond shall be deposited in the Special Redemption Fund, and no other fund is created by this Resolution.

Section 6. Application of Net Available Tax Increment to Payment of the Bond. On October 20 of each year, the Village shall apply to the payment of the Bond the Net Available Tax Increment which has been appropriated by the Village Board to the payment of the Bond; provided, however, such payments shall end on October 20, 2032.

This Bond shall be deemed paid in full on October 20, 2032, the obligation of the Village to make any further payment shall terminate on that date, and the Developer shall have no right to receive any further payment. The Village makes no representation or covenant, express or implied, that Net Available Tax Increment will be generated. The Village's obligation to make payments on the Bond is limited to Net Available Tax Increment and is further subject to annual appropriation by the Village Board.

If for any reason the District terminates (other than by voluntary action of the Village) prior to the final payment date, then the remaining balance on the Bond shall be deemed paid in full, it being understood that upon such termination of the District, the obligation of the Village to make any further payments on the Bond shall also terminate. The Village shall have no obligation to pay any amount of the Bond which remains unpaid upon termination of the District, and the owner of the Bond shall have no right to receive payment of such amounts.

Section 7. Village Covenants. It is covenanted and agreed by the Village with the Developer that:

(a) If the Village's proposed annual budget does not in any year that a payment is due on the Bond provide for the appropriation of Property Tax Increment in an amount equal to the Net Available Tax Increment due in that year, the Village will notify the Developer of that fact within 10 days of the Village Board vote on the budget;

(b) The Village will take no action, other than action required under Wisconsin Statutes, to dissolve the District prior to the payment in full of the Bond; and

Section 8. Persons Treated as Owners; Transfer of Bond. The Village Treasurer shall keep books for the registration and for the transfer of the Bond. The person in whose name the Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of either principal or interest on the Bond shall be made only to the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

The Bond may be transferred or assigned by the registered owner thereof only under the circumstances provided for in the Agreement and only by surrender of the Bond at the office of

the Village Treasurer accompanied by an assignment duly executed by the registered owner or his attorney duly authorized in writing. Upon such transfer or assignment, the Village Treasurer shall record the name of the transferee or assignee in the registration book and note such transfer or assignment on the Bond and re-issue the Bond (or a new Bond or Bonds of like aggregate principal amount and maturity).

The Bond may be exchanged for a new Bond or Bonds of like aggregate principal amount and maturity; provided however, that the Village will only make payments on the Bond or Bonds to the registered owner of the Bond.

Section 9. General Authorizations. The Village President and Village Clerk and the appropriate deputies and officials of the Village in accordance with their assigned responsibilities are hereby each authorized to execute, deliver, publish, file and record such other documents, instruments, notices and records and to take such other actions as shall be necessary or desirable to accomplish the purposes of this Resolution and to comply with and perform the obligations of the Village under the Agreement and the Bond.

The Bond shall be signed by the manual or facsimile signatures of the Village President and Village Clerk of the Village (provided that, unless the Village has contracted with a fiscal agent to authenticate the Bond, at least one of such signatures shall be manual), and sealed with the corporate seal of the Village, or a facsimile thereof.

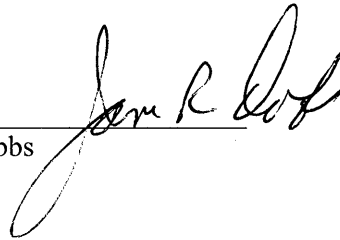
In the event that said officers shall be unable by reason of death, disability, absence or vacancy of office to perform in timely fashion any of the duties specified herein (such as the execution of the Agreement or the Bond), such duties shall be performed by the officer or official succeeding to such duties in accordance with law and the rules of the Village.

Section 10. Severability of Invalid Provisions. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any of the remaining sections, paragraphs and provisions of this Resolution.

Section 11. Effective Date. This Resolution shall be effective immediately upon its passage and approval.

Adopted, approved and recorded December 17, 2018.

James Dobbs
President



ATTEST:



Karie Torkilsen
Village Clerk

(SEAL)

EXHIBIT A

(FORM OF BOND)

REGISTERED NO. R-1

UNITED STATES OF AMERICA
STATE OF WISCONSIN
VILLAGE OF CALEDONIA, WISCONSIN

TAXABLE TAX INCREMENT REVENUE BOND
(PROBIO AND CSL - TID NO. 3)

REGISTERED OWNER: _____

FOR VALUE RECEIVED, the Village of Caledonia, Wisconsin (the "Village") hereby acknowledges itself to owe and for value received promises to pay to the registered owner stated above (the "Developer"), or registered assigns, but only in the manner, at the times, from the source of revenue and to the extent hereinafter provided.

This Bond is issued for the purpose of financing the cost of undertaking a program of development with respect to Tax Incremental District No. 3 (the "District") of the Village pursuant to Section 66.0621, Wisconsin Statutes, acts supplementary thereto, a resolution adopted by the Village on December 17, 2018 (the "Approving Resolution") and a Development Agreement dated _____ between the Village and the Developer (the "Agreement").

This Bond is payable only from Net Available Tax Increment (as defined in the Approving Resolution), subject to the availability thereof, and further subject to future annual appropriation by the Village Board of the Village. Reference is hereby made to the Approving Resolution and the Agreement for the definition of capitalized terms, a more complete statement of the limited revenues from which and the conditions under which this Bond is payable, as well as the general covenants and provisions pursuant to which this Bond has been issued.

Subject to the Developer satisfying the Payment Conditions, the Bond shall be payable in installments of principal on October 20 of each of the years 2021 through 2032. The amount of the installment due on the Bond in each year shall be equal to the Net Available Tax Increment (as defined in the Approving Resolution).

THIS BOND IS A SPECIAL, LIMITED REVENUE OBLIGATION OF THE VILLAGE AND IS PAYABLE ONLY FROM THE SOURCES, TO THE EXTENT, AND SUBJECT TO THE QUALIFICATIONS STATED OR REFERENCED HEREIN. NO PROPERTY OR OTHER ASSET OF THE VILLAGE, EXCEPT NET AVAILABLE TAX INCREMENT APPROPRIATED TO MAKE PAYMENTS WITH RESPECT TO THE BOND, IS OR SHALL BE A SOURCE OF PAYMENT OF THE VILLAGE'S OBLIGATIONS HEREUNDER.

THIS BOND SHALL NOT CONSTITUTE A DEBT OR OBLIGATION OF THE VILLAGE WITHIN THE MEANING OF ANY STATE CONSTITUTIONAL PROVISION, STATUTORY LIMITATION, OR CHARTER PROVISION OR LIMITATION THEREOF AND SHALL NOT BE A CHARGE AGAINST ITS GENERAL CREDIT OR TAXING POWERS.

THIS BOND SHALL BE DEEMED PAID IN FULL ON OCTOBER 20, 2032, THE OBLIGATION OF THE VILLAGE TO MAKE ANY FURTHER PAYMENT SHALL TERMINATE ON THAT DATE, AND THE DEVELOPER SHALL HAVE NO RIGHT TO RECEIVE ANY FURTHER PAYMENT. THE VILLAGE MAKES NO REPRESENTATION OR COVENANT, EXPRESS OR IMPLIED, THAT NET AVAILABLE TAX INCREMENT WILL BE GENERATED. THE VILLAGE'S OBLIGATION TO MAKE PAYMENTS ON THE BOND IS LIMITED TO NET AVAILABLE TAX INCREMENT AND IS FURTHER SUBJECT TO ANNUAL APPROPRIATION BY THE VILLAGE BOARD.

If for any reason the District terminates (other than by voluntary action of the Village) prior to the final payment date, then the remaining balance on the Bond shall be deemed paid in full, it being understood that upon such termination of the District, the obligation of the Village to make any further payments on the Bond shall also terminate. The Village shall have no obligation to pay any amount of the Bond which remains unpaid upon termination of the District, and the owner of the Bond shall have no right to receive payment of such amounts.

This Bond is issued by the Village pursuant to and in full conformity with the Constitution and laws of the State of Wisconsin.

This Bond may be transferred or assigned only under the circumstances provided in the Agreement. In order to transfer or assign the Bond, the transferee or assignee shall surrender the same to the Village either in exchange for a new fully registered bond or for transfer of this Bond on the registration records for the Bond maintained by the Village. Each permitted transferee or assignee shall take this Bond subject to the foregoing conditions and subject to all provisions stated or referenced herein.

It is hereby certified, recited and declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of this Bond have existed, have happened and have been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, the Village of Caledonia, Wisconsin, has caused this Bond to be signed by its duly authorized officers and its official or corporate seal, if any, to be impressed hereon, all as of the day and year first above written.

VILLAGE OF CALEDONIA, WISCONSIN

By Jan R. Dods
President

By Mark Schreiber
Village Clerk

(SEAL)

REGISTRATION PROVISIONS

This Bond shall be registered in registration records kept by the Village Clerk of the Village of Caledonia, Wisconsin, such registration to be noted in the registration blank below and upon said registration records, and this Bond may thereafter be transferred only upon presentation of this Bond together with a written instrument of transfer approved by the Village and duly executed by the Registered Owner or his attorney, such transfer to be made on such records and endorsed hereon.

| <u>Date of Registration</u> | <u>Name of Registered Owner</u> | <u>Signature of Village Clerk</u> |
|---------------------------------|-------------------------------------|---------------------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |