

RESOLUTION NO. 2019-61

**RESOLUTION OF THE VILLAGE BOARD OF THE VILLAGE OF CALEDONIA
APPROVING THE INDEMNIFICATION, RELEASE AND HOLD HARMLESS
AGREEMENT (PORTLAND CONCRETE DRIVEWAY), 6940 WESTLAKE DRIVE,
RACINE, WI 53402, PARCEL ID NO. 104-04-23-18-005-410**

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

WHEREAS, the Owner of property located at 6940 Westlake Drive, Parcel Id No. 104-04-23-18-005-410 desires to install a private driveway with portland concrete instead of bituminous asphalt in accordance with Sec. 18-1-5(c)(1)(b) of the Village's Code of Ordinances and the Village will allow such installation in accordance with the ordinance and the execution of this indemnification, release and hold harmless agreement in the Village's favor.

NOW, THEREFORE, BE IT RESOLVED THAT the Indemnification, Release and Hold Harmless 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 Agreement.

Adopted by the Village Board of the Village of Caledonia, Racine County, Wisconsin, this 17th day of June, 2019.

VILLAGE OF CALEDONIA

By: James R. Dobbs
James R. Dobbs
Village President

Attest: Karie Pope
Karie Pope
Village Clerk

**INDEMNIFICATION, RELEASE AND
HOLD HARMLESS AGREEMENT
(Portland Concrete Driveway)**

This Indemnification, Release, and Hold Harmless Agreement (“Agreement”) is entered into by the **Village of Caledonia**, Wisconsin, (the “Village”) and by **Joseph J. Bontempo & Amy M. Bontempo** (the “Owner”) and by **Johnson Bank** (the “Mortgagee”) upon the following terms and conditions:

RECITALS

WHEREAS, the Owner is the owner of the following-described land located at **6940 Westlake Drive, Racine, WI 53402** in the Village of Caledonia, Racine County, Wisconsin: Parcel Id # **51-104-04-23-18-005-410**, and legally described on the attached **Exhibit A** hereto and incorporated herein.

WHEREAS, the Owner desires to install a private driveway with portland concrete instead of bituminous asphalt in accordance with Sec. 18-1-5(c)(1)(b) of the Village’s Code of Ordinances; and

WHEREAS, the Village desires to allow the requested portland concrete driveway but only in accordance with the requirements of applicable Village ordinance and the execution of an indemnification, release and hold harmless agreement in the Village’s favor;

AGREEMENT

NOW, THEREFORE, in consideration of the recitals, the terms and conditions contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree:

1. **Recitals.** That the above recitals, which are incorporated herein by reference, are true and correct.
2. **Indemnification.** That in further consideration for the Village’s granting a permit to the Owner to install and pave a driveway with portland concrete on private property and to within five (5) feet of the paved road (which would encroach into the Village Right-of-Way), the owner agrees to release from liability, indemnify, and hold the Village, its agents, commissioners, officials, officers, and employees harmless from and against any and all expenses (including reasonable attorney’s fees), damages, liabilities, and costs whatsoever, whether known or unknown arising out of, connected with or resulting from the granting of said permit and/or access or use of the driveway, or from the use of the paved road by the traveling public, including any costs associated with the removal and/or replacement of portland concrete, or any damage caused by the Village when the Village performs work in the Village Right-of-Way and/or work on culverts.
3. **Costs.** If the property owner fails to maintain the portland concrete driveway

within the Village Right-of-Way, the Village may require the property owner to remove the portland concrete driveway within the Village Right-of-Way and if the owner fails to do so, the Village may remove it and charge back its costs to the property owner as a special charge under Sec. 66.0627. The Village's allowance of portland concrete within the Village's Right-of-Way shall be treated as a privilege in a street under Sec. 66.0425, Wis. Stat., and the Village retains all rights thereunder to require its removal if deemed necessary by the Village.

4. **Driveways that meet exemption.** If a portland concrete driveway within the Village Right-of-Way is removed from within 5 feet of the paved road, the Owner shall lose any right to an exemption (if qualified) and shall comply with the current Village Ordinance requirements. The Owner of said portland concrete driveway shall be responsible for any costs associated with the removal and/or replacement of the portland concrete or any damage caused by the Village when performing work in the Village Right-of-Way and/or work on culverts. The Village is not obligated to repair or repave any portion of the area covered by the driveway with portland concrete in the event the concrete has to be removed for a Village project within the entire Village Right-of-Way or in the area over the culvert.

5. **Property Owner Obligations.** Any property owner allowed a driveway under Sec. 18-1-5(c) with portland concrete of the Village's Code of Ordinances shall be responsible for the following:

- (a) Maintenance of the driveway so that it is not a hazard to the traveling public and to the Village's vehicles, including snowplows;
- (b) Restoring damaged, misaligned, or worn gravel and pavement surfaces;
- (c) Any costs associated with the maintenance, repair, and/or removal of the driveway, including whether there is gravel, bituminous asphalt or portland concrete installed; and
- (d) Any damage caused by the Village to portland concrete when performing work in the Village Right-of-Way, including for snow and ice removal from the Village Right-of-Way.

6. **Diagram.** Attached hereto as **Exhibit A** and incorporated herein by reference is a diagram depicting the driveway and any Right-of-Way encroachment permitted by the Village in accordance with the Ordinance.

5. **Covenant upon the land.** This Agreement shall be binding upon the Owner, his/her/their heirs, personal representatives, successors and assigns (including new owners upon transfer of all or a portion of the fee title interest in the land), and the covenants contained herein shall constitute covenants running with the land. This Agreement shall be recorded with the Racine County Register of Deeds and the cost of recording shall be paid by the Owner.

IN WITNESS WHEREOF, the Owner hereto has caused this agreement to be executed by them on the date set forth below.

Dated this _____ day of _____, 20____.

OWNERS

[Signature]
Joseph J. Bontempo

[Signature]
Amy M. Bontempo

STATE OF WISCONSIN)
) SS:
COUNTY OF RACINE)

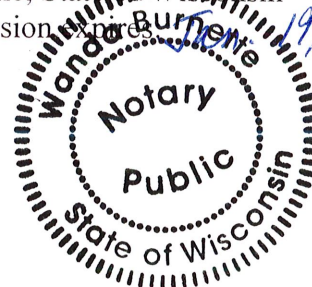
Personally came before me this 31st day of May, 2019, the above named **Joseph J. Bontempo** and **Amy M. Bontempo**, to me known to be the persons who executed the foregoing instrument and acknowledged the same of said Owner.

[Signature]

Print Name: WANDA BURNETZ

Notary Public, State of Wisconsin

My commission expires: 11/19/2020



VILLAGE OF CALEDONIA

By: [Signature]
James R. Dobbs, Village President

Attest: [Signature]
Karie Pope, Village Clerk

STATE OF WISCONSIN)
) SS:
COUNTY OF RACINE)

Personally came before me this 24th day of June, 2019, the above named James R. Dobbs, Village President, and Karie Pope, Village Clerk, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of the Village of Caledonia.

[Signature]

Print Name: JOJLYN HUEFFERT

Notary Public, State of Wisconsin

My commission expires: 11/21/21

MORTGAGEE

OFFICERS OF JOHNSON BANK

By: Wanda Burnette

Attest: [Signature]

STATE OF WISCONSIN)
) SS:
COUNTY OF RACINE)

Personally came before me this 31st day of May, 2019, the above named _____ and _____, to me known to be the persons who executed the foregoing instrument and acknowledged the same of said Mortgagee.

Wanda Burnette
Print Name: Wanda Burnette
Notary Public, State of Wisconsin
My commission expires July 19, 2020

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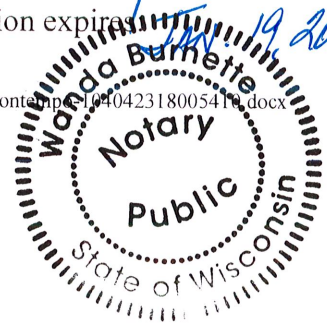


EXHIBIT "A"

