

RESOLUTION NO. 2019-62

RESOLUTION AUTHORIZING THE VILLAGE OF CALEDONIA TO EXECUTE A DRIVEWAY ENCROACHMENT AGREEMENT WITH TOM MIKLASZEWSKI & DAVE MIKLASZEWSKI FOR 3606 COUNTY TRUNK HIGHWAY H

WHEREAS, the Caledonia Storm Water Utility District conditionally approved an Asphalt Driveway Encroachment for the construction of a 6 family apartment building located on the West side of County Trunk Highway H. The proposed 6 family apartment building has an address of 3606 County Trunk Highway H. The proposed asphalt driveway for the 6 family apartment building will encroach up to 20.4 feet on the 37.5 foot Drainage Easement along the South side of the property.

WHEREAS, the Driveway Encroachment was conditioned upon the owners executing a Driveway Encroachment Agreement with the following

- The Driveway shall be constructed with asphalt. No concrete shall be used in the construction of the Driveway.
- In the event the Village and/or District desire to repair or replace any storm sewer pipe or storm sewer improvement in the area of the Encroachment, the Owners agree, upon receiving a written request from the Village and/or District, to immediately remove the portion of the Driveway that encroaches on the Easement Area at the Owners' expense. Furthermore, the Owners agree that if the portion of the Driveway that encroaches on the Easement Area is removed as set forth in the previous sentence, the Owners will replace the portion of the Driveway that is removed with asphalt, at the Owners' expense, after the Village and/or District has repaired or replaced the storm sewer pipe or storm sewer improvement in the area of the Encroachment.
- A Storm Sewer system shall be installed to enclose the existing drainage ditch contained within the Easement Area. The owners shall provide acceptable to the Utility District, Storm Sewer plans that have designed and stamped by a Wisconsin registered Professional Engineer. The plans, materials, installation, labor and inspection of the Storm Sewer shall be at the Owners' expense. Any and all expenses associated with the review and inspection of the Storm Sewer that are incurred by the Village and Utility will be invoiced to the Owners. The Owners shall have 30 days from the date of the invoice to pay any and all expenses incurred by the Village and Utility.

WHEREAS, the Owners, Tom Miklaszewski and Dave Miklaszewski have executed said Driveway Encroachment Agreement.

WHEREAS, the Caledonia Utility District has authorized the President & Secretary of the Caledonia Utility District to execute the Driveway Encroachment Agreement at their June 12, 2019 meeting.

WHEREAS, the President and Clerk of the Village need to execute the Driveway Encroachment Agreement in order to allow it to be recorded.

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



AGREEMENT

THIS AGREEMENT is made as of the ____ day of _____, 2019 by and between Tom Miklaszewski and Dave Miklaszewski (collectively hereinafter referred to as the "Owners"), the Village of Caledonia, Wisconsin (hereinafter referred to as the "Village") and the Caledonia Utility District (hereinafter referred to as the "District"), a utility district created by the Village of Caledonia, Wisconsin pursuant to Wisconsin Statutes §66.0827.

Return To:
Mr. Anthony A. Bunkelman P.E.
Utility Director
Village of Caledonia
5043 Chester Lane
Racine, Wisconsin 53402

51-104-04-22-32-010-014
Parcel Identification Number (PIN)

RECITALS

WHEREAS, the Owners own the property legally described as Parcel 4 of Certified Survey Map No. 1795 located in part of the Southeast ¼ of the Northeast ¼ of Section 32, Town 4 North, Range 22 East in the Village of Caledonia, Racine County, Wisconsin (hereinafter referred to as the "Property");

WHEREAS, Certified Survey Map No. 1795 was recorded with the Racine County Register of Deeds on October 12, 1995 as Document No. 1515778 (hereinafter referred to as the "CSM");

WHEREAS, the CSM contained a drainage easement that runs north for a distance of 37.5 feet from the southern boundary line of the Property (said easement is hereinafter referred to as the "Easement" and the area of said Easement is hereinafter referred to as the "Easement Area");

WHEREAS, the Easement is for the benefit of the Village and District;

WHEREAS, an asphalt driveway (hereinafter referred to as the "Driveway") is proposed to encroach on the Easement as shown on the drawing attached hereto as Exhibit "A" (hereinafter referred to as the "Encroachment"); and

WHEREAS, the Village and District are willing to allow the Encroachment upon the terms and conditions set forth below.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

Section 1. Recitals. The Recitals set forth above form an integral part of this Agreement and are incorporated herein by reference.

Section 2. Encroachment. The Village and District hereby consent to the Encroachment, subject to the limitations set forth in this Agreement.

Section 3. Asphalt Driveway. The Driveway shall be constructed with asphalt. No concrete shall be used in the construction of the Driveway.

Section 4. Removal and Nonreplacement. In the event the Village and/or District desire to repair or replace any storm sewer pipe or storm sewer improvement in the area of the Encroachment, the Owners agree, upon receiving a written request from the Village and/or District, to immediately remove the portion of the Driveway that encroaches on the Easement Area at the Owners' expense. Furthermore, the Owners agree that if the portion of the Driveway that encroaches on the Easement Area is removed as set forth in the previous sentence, the Owners will replace the portion of the Driveway that is removed with asphalt, at the Owners' expense, after the Village and/or District has repaired or replaced the storm sewer pipe or storm sewer improvement in the area of the Encroachment.

Section 5. Storm Sewer. A Storm Sewer system shall be installed to enclose the existing drainage ditch contained within the Easement Area. The owners shall provide acceptable to the Utility District, Storm Sewer plans that have designed and stamped by a Wisconsin registered Professional Engineer. The plans, materials, installation, labor and inspection of the Storm Sewer shall be at the Owners' expense. Any and all expenses associated with the review and inspection of the Storm Sewer that are incurred by the Village and Utility will be invoiced to the Owners. The Owners shall have 30 days from the date of the invoice to pay any and all expenses incurred by the Village and Utility.

Section 6. Covenants Run with the Land. This Agreement shall run with the land that is the Property and shall be binding upon the Owners and their successors and assigns, including, without limitation, the successors in title of the Owners, and shall inure to the benefit of and be enforceable by the Village and District.

Section 7. Non-Use. Non-use or limited use of the rights granted to the Village and District in this Agreement shall not prevent the Village and District from the later use of said rights to the fullest extent authorized in this Agreement.

Section 8. Warranty. The Owners do hereby warrant and covenant that they own the Property in fee simple and are lawfully seized and possessed of the Property.


Section 9. Entire Agreement. This Agreement sets forth the entire understanding of the parties and may not be changed except by a written document executed and acknowledged by all parties to this Agreement and duly recorded in the office of the Register of Deeds of Racine County, Wisconsin.

Section 10. Notices. All notices to a party to this Agreement shall be delivered in person or sent by certified mail, postage prepaid, return receipt requested, to the party's last known address. A party may change its address for notice by providing written notice to the other parties.

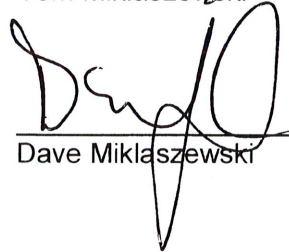
Section 11. Invalidity. If any term or condition of this Agreement, or the application of this Agreement to any person or circumstance, shall be deemed invalid or unenforceable, the remainder of this Agreement, or the application of the term or condition to persons or circumstances other than those to which

it is held invalid or unenforceable, shall not be affected thereby, and each term and condition shall be valid and enforceable to the fullest extent permitted by law.

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




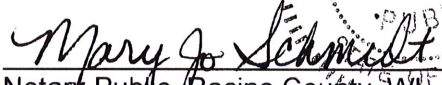
Tom Miklaszewski



Dave Miklaszewski

STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this 31 day of May, 2019 the above named Tom Miklaszewski and Dave Miklaszewski to me known to be the persons who executed the foregoing agreement and acknowledged the same.

Notary Public, Racine County, WI
My Commission: 2/16/2022

Village of Caledonia, Wisconsin

BY: 


James R. Dobbs, President

ATTEST: 

Karie Pope, Clerk

STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this 26th day of June, 2019, the above-named James R. Dobbs, President, and Karie Pope, Clerk, of the Village of Caledonia, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of said Village.



Notary Public, Racine County, WI
My Commission: 3-27-2020

Caledonia Utility District, By the Caledonia Utility District Commission

BY: Howard Stacey
Howard Stacey, President

ATTEST: Michael Pirk
Michael Pirk, Secretary

STATE OF WISCONSIN)
) SS
COUNTY OF RACINE)

Personally came before me this 12th day of JUNE 2019, the above-named Howard Stacey, President and Michael Pirk, Secretary, of the Caledonia Utility District Commission, to me known to be the persons who executed the foregoing instrument and acknowledged the same on behalf of said Commission.

Richard W. Hebert
Notary Public, Racine County, WI
My Commission: 9-15-2021

This Instrument Was Drafted By: Anthony A. Bunkelman P.E.

EXHIBIT "A"

Drawing Showing Location of Encroachment

Parcel 4 of Certified Survey Map o. 1795 Located in part of the
 Southeast ¼ of the Northeast ¼ of Section 32, Town 4 North,
 Range 22 East, Village of Caledonia, Racine County Wisconsin

