

INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

This Agreement is entered into this _____ day of _____, by and between the Village of Caledonia and the City of Racine, both municipal corporations duly organized and existing under the laws of the State of Wisconsin.

WHEREAS, the Village of Caledonia contemplates a continuing sewer relining project between _____ in the City of Racine, more particularly described in Attachment(s) _____, which are appended hereto and incorporated herein; and

WHEREAS, the City of Racine will not be participating in said project; and

WHEREAS, residents of the City of Racine could be adversely affected by potential overflows or backups of sewage caused by inclement weather or defective or negligent work on the part of the contractor employed by the Village of Caledonia during the course of project work; and

WHEREAS, the Village of Caledonia recognizes that the only option available to it is to utilize the Racine Wastewater Utility interceptor sewer during this relining project and therefore assumes the liabilities and risks associated with that use during times in which Caledonia sewage is diverted to the Racine Interceptor; and

WHEREAS, the City of Racine has requested that the Village of Caledonia indemnify and hold the City of Racine, its Wastewater Utility and Wastewater Commission, harmless for any foreseen or unforeseen property damage, in addition to being named as additional insured parties on a \$2,000,000 liability insurance policy procured by the Village of Caledonia,

NOW THEREFORE, the parties hereto expressly agree to the following:

- a. The Village of Caledonia agrees that it will indemnify, defend and hold harmless the City of Racine and its utilities, commissions, officers, partners, managers, agents, attorneys, employees, successors, assigns and representatives (hereinafter collectively referred to as the "indemnified parties") against and from, and to reimburse the

indemnified parties with respect to, any and all damages, claims, liabilities, losses, costs, expenses, penalties or liabilities (including, without limitation, all attorneys' fees and expenses, court costs, compliance costs, administrative costs and costs of appeals) arising or occurring: (1) from the negligent or intentional acts or omissions of the Village of Caledonia, its sewer utility, contractor(s) and subcontractors employed by the Village of Caledonia, or its officers, agents, employees or invitees; (2) from any Village of Caledonia contractor's breach or default or the Village of Caledonia's breach or default in the performance of any covenant, obligation, agreement, requirement or provision of the agreement between the Village of Caledonia and its contractor(s) for the sewer relining work; (3) from violations of any laws or ordinances by the Village of Caledonia's contractor(s) or any officers, agents, employees, customers or invitees of the Village of Caledonia and/or its wastewater utility; and (4) from any claims, damages, fees, charges, penalties, fines, costs or liabilities arising from or related to this Agreement and the sewer lining project, or alleged to arise from, or in any way relating to, the design, installation, operation, relining, malfunction, stoppage, leakage, breakage, maintenance, relocation, replacement, removal, curing of a liner or overflow caused by weather or negligence during the sewer relining project and from and against any and all claims for damages, penalties, fines, fees, costs and claims relating to environmental pollution or unlawful discharges of sewage resulting from or relating to the operation, malfunction, leakage, breakage, overflow or backup during the course of the project work.

- (b) The Village of Caledonia shall be liable to the City of Racine for all costs, fines, charges, fees, and expenses associated with, arising out of, or related to the City's response to any calls to the Department requesting the City to contain, remove, sanitize or clean-up any effluent discharged from leaks or overflow and shall be liable to the City for any and all reasonable repairs made to any City of Racine property in conjunction with said project and shall indemnify the City, its departments, employees, representatives and officials from and against any and all claims based on any theory of liability, including, but not limited to, property damage, personal injury, or death, reasonable attorney's fees, costs and expenses. Notwithstanding the foregoing provisions of this present subparagraph (b), however, the Village of Caledonia shall not be liable as described above in this subparagraph (b) for any negligent acts of omission and/or commission on the part of the City of Racine, its departments, employees, representatives, officials, and agents.
- (c) Term. The obligations of indemnity set forth in this Agreement shall survive completion of the development/project referenced herein.
- (d) Integration. This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement.
- (e) Miscellaneous. The person or persons executing this Agreement on behalf of the parties warrant and represent that they have the authority to execute this Agreement and represent that they have the authority to bind the parties to the performance of their obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year first above written.

CITY OF RACINE

By: _____
Cory Mason, Mayor

Approved as to form:

Scott R. Letteney
City Attorney

By: _____
Tara McMenammin, City Clerk

VILLAGE OF CALEDONIA

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____