

(Draft: 10/26/10)

SANITARY SEWER
EASEMENT AGREEMENT

Village of Caledonia East Sewer Utility District

This Agreement ("Agreement") is made and entered into this ____ day of _____, 2010 by and between the following parties:

- a) The CITY OF RACINE (hereinafter referred to as "Owner"), being a Wisconsin municipal corporation with its offices located at the City of Racine City Hall, 730 Washington Avenue, Racine, Wisconsin 53403; and
- b) The RACINE ZOOLOGICAL SOCIETY, INC. (hereinafter referred to as the "Zoo"), being a Wisconsin not-for-profit corporation with offices located at 200 Goold Street, Racine, Wisconsin 53402; and
- c) The VILLAGE OF CALEDONIA EAST SEWER UTILITY DISTRICT, (hereinafter referred to as the "District"), being a utility district organized under the Wisconsin Statutes, with its offices located at 333 4½ Mile Road, Racine, Wisconsin 53402; and
- d) The VILLAGE OF CALEDONIA (hereinafter referred to as the "Village"), being a village in the State of Wisconsin, with its offices located at the Village of Caledonia Village Hall, 6922 Nicholson Road, Caledonia, Wisconsin 53108.

This Agreement is being entered into for the purpose of conveying to the District and the Village certain easement rights required to allow the District to construct, install, maintain, repair and replace a sanitary sewer main (and related components and parts) on, over, and under the surface of a portion of Owner's hereinafter-described real property located in the City of Racine,

Racine County, Wisconsin, and which is occupied (in large part) and used by the Zoo for the purpose of operating a zoo facility for the local communities. The easement being granted herein replaces and relocates (at least in part) a presently-existing sanitary sewer easement previously given to the Village and District by the Owner, all as hereinafter further described.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND PROMISES CONTAINED HEREIN, THE ABOVE-NAMED PARTIES, THROUGH THEIR DULY AUTHORIZED UNDERSIGNED OFFICERS OR AGENTS, HEREBY AGREE AS FOLLOWS:

1. Owner is the sole owner of fee simple title to that portion of a parcel of real property which is described and depicted in attached Exhibit A (hereinafter collectively referred to as the "Easement Area"). Owner hereby grants, conveys and gives to the Village and the District, and their successors and assigns, (i) a permanent easement (hereinafter referred to as the "Permanent Easement" over, under, on and upon that portion of the Easement Area depicted and described as a "Permanent Easement" in Exhibit A, and (ii) a temporary construction easement (hereinafter referred to as the "Temporary Construction Easement") over, on and upon that portion of the Easement Area depicted and described as a "Temporary Construction Easement" in Exhibit A.

2. The above-described Permanent Easement is granted for the purpose of allowing the District and Village to construct, install, inspect, operate, maintain, repair and/or replace a

sanitary sewer main (and any other related components and parts) over, under, on, and upon the Permanent Easement area. With respect to that part of the easement rights which are being granted hereunder which constitute the Temporary Construction Easement, such Temporary Construction Easement is granted only for the purpose of allowing the District/Village (and the District/Village's contractors and agents) to go upon and use such temporary easement area for construction purposes during the course of installing the said sanitary sewer main and facilities (and/or repairing or replacing the same in the future) in the Permanent Easement area. Any such Temporary Construction Easement shall otherwise not be used by the District or the Village under this Agreement.

3. The District and Village, and/or their agents, are hereby given the permanent right to go upon and enter the Easement Area, at such times as the District or Village see fit, for the purpose of exercising the easement rights granted herein.

4. The Owner, and its successors and assigns, shall not construct any type of structure and/or place any type of object or materials over, under, on or upon the Permanent Easement, and shall not in any manner impede or obstruct the exercise of the easement rights granted hereunder. (Notwithstanding the foregoing, the Owner may in the future construct and install sidewalks, pedestrian pathways, and/or roadways over the Permanent Easement, provided that such construction and use does not damage the District's municipal sanitary sewer system.)

5. To the extent the District and/or Village, in its sole discretion, deems it necessary for the exercise of its easement rights granted hereunder, the District and/or Village may remove from the Permanent Easement any structure, object, material or any other obstructions, and/or any plants, shrubs, bushes, trees or other vegetation, and the District and/or Village shall not be required to restore or replace such items, except, however, the District and/or Village shall (i) restore any disturbed portion of such Permanent Easement by seeding the same with grass seed, and (ii) repair and restore any sidewalks, pedestrian pathways, and/or roadways (to its previously existing condition) located in the Permanent Easement that may be damaged during the course of the exercise of these present easement rights by the Village or District.

6. With respect to the District and/or Village exercising its Temporary Construction Easement rights being granted under this Agreement, the above provisions of paragraph number 5 shall also apply to such use by the District and/or Village of such Temporary Construction Easement rights, except that the District/Village shall make reasonable efforts to minimize and/or avoid any damage to (i) the vegetation and/or (ii) any existing sidewalks, pedestrian pathways, or roadways located in the temporary easement area. Any such damage that may still occur, despite such reasonable efforts, shall be repaired and restored by the District/Village in the manner described in above paragraph number 5.

7. The Permanent Easement being granted to the Village and District in this Agreement replaces and relocates (at least in part) a presently-existing sanitary sewer easement previously given to the Village and District by the Owner. A photocopy of such presently-

existing sanitary sewer easement (the "Prior Easement") is attached as Exhibit B, and is a document that was recorded in the Office of the Register of Deeds for Racine County, Wisconsin, on the date of June 12, 1987, as Document No. 1232199. The Village and District hereby release, cancel, and nullify the sanitary sewer easement rights that it may presently have under the Prior Easement that exists on Owner's real property. Certain sanitary sewer mains (the "Unused Mains") do presently exist in the Prior Easement area, but are not used as part of the District's municipal sanitary sewer system. The Village and District hereby abandon the Unused Mains in place, in an "AS-IS" and "WHERE-IS" condition, and any future removal of the Unused Mains (if such removal is ever desired by Owner) shall be the responsibility of Owner.

11. The Zoo is a party to this Agreement by virtue of its occupation and use of the real property on which the Easement Area described above is located. The Zoo hereby agrees to, and shall comply with, the terms and provisions of this Agreement. This shall include, but not be limited to, the Zoo complying with the restrictions imposed on the use of the Easement Area as described in above Paragraph Number 4 of this Agreement.

12. This Easement Agreement shall forever run with the land and shall be binding upon and shall inure to the benefit of the parties hereto, and their successors or assigns. (This shall expressly include, but not be limited to, the proposed "Caledonia Sewer Utility District" which is proposed to be the successor entity to the Village of Caledonia East Sewer Utility District that is a present party to this Agreement.)

IN WITNESS WHEREOF, the above-named parties, either personally or through their duly authorized undersigned officers/agents, have executed this Agreement as of the date indicated above.

VILLAGE:
Village of Caledonia

DISTRICT:
Village of Caledonia East
Sewer Utility District

By: _____
Ron Coutts, Village President

By: _____
Ronald Keland, President

Attest: _____
Karie Torkilsen, Village Clerk

Attest: _____
J. Felix McCauley, Secretary

OWNER:
City of Racine, Wisconsin

ZOO:
Racine Zoological Society, Inc.

By: _____
John Dickert, Mayor

By: _____
Jay Christie, President

Attest: _____
Janice Johnson-Martin, City Clerk

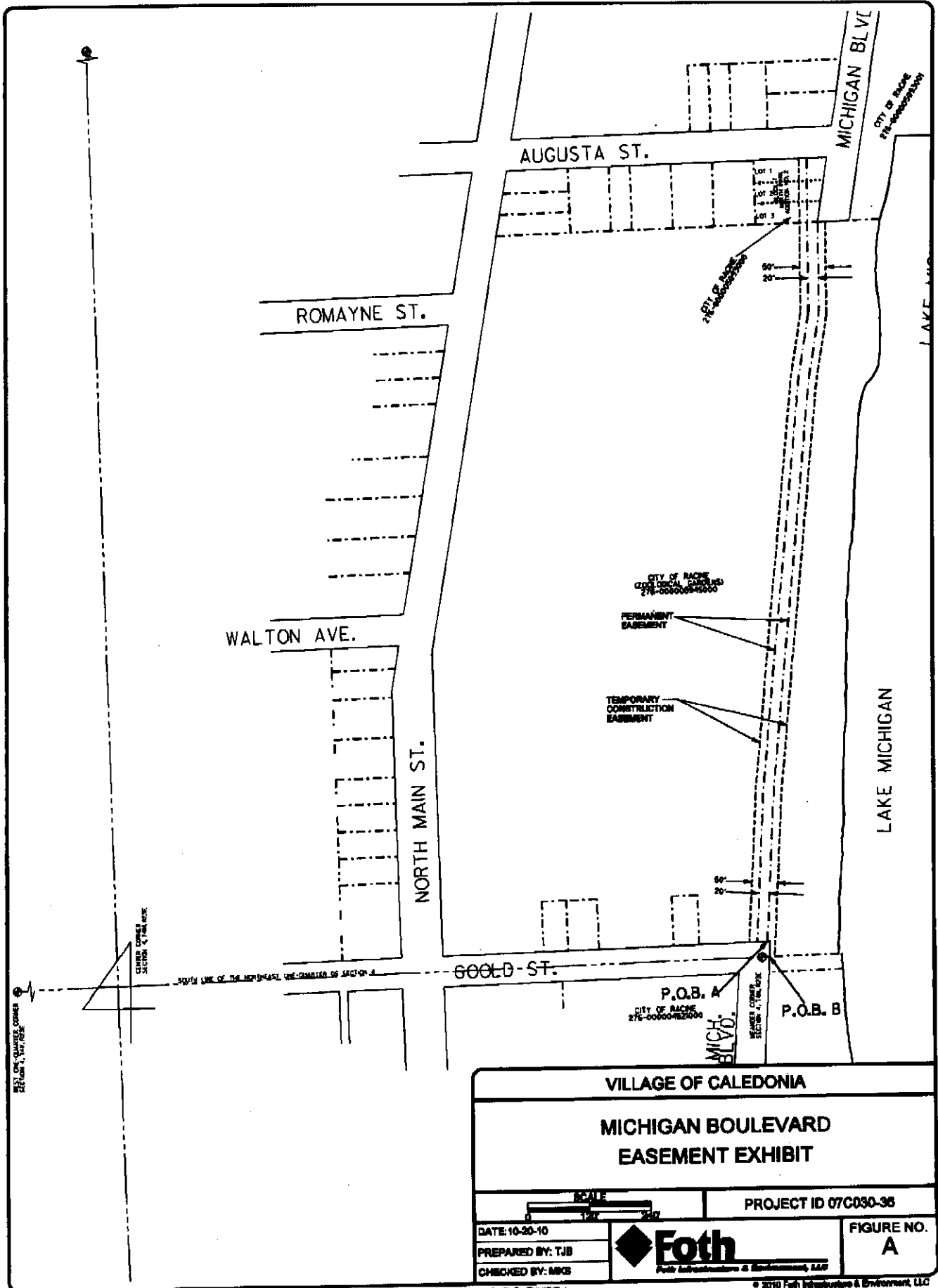
Authentication

Signatures of John Dickert, Janice Johnson-Martin, Jay Christie, Ron Coutts, Karie
Torkilsen, Ronald Keland, and J. Felix McCauley authenticated this ____ day of _____,
2010.

Atty. John M. Bjelajac
Member of the State Bar
of the State of Wisconsin

This Easement Agreement drafted by
Attorney John M. Bjelajac
601 Lake Avenue
Post Office Box 38
Racine, Wisconsin 53401-0038
(262)633-9800
(Attorney for Village of Caledonia
East Sewer Utility District)

Return to:
Attorney John M. Bjelajac
601 Lake Avenue
Post Office Box 38
Racine, Wisconsin 53401-0038



Legal Description for Permanent Easement:

A variable width Permanent Easement located in the Southwest One-quarter of the Northeast One-quarter of Section 4, T3N, R23E, Village of Caledonia, Racine County, Wisconsin and being further described as follows:

Commencing at the West One-quarter corner of said Section 4; thence N88°05'16"E 2635.20 feet, along the south line of the Northwest One-quarter of Section 4 to the Center corner of said Section 4; thence N88°04'38"E 1250.61 feet, along the south line of the Northeast One-quarter of Section 4 to a meander corner of said Section 4; thence N88°04'38"E 14.42 feet, to the east right-of-way line of Michigan Boulevard; thence N02°34'50"E 30.09 feet, along said line; thence S88°04'38"W 5.26 feet, along the north right-of-way line of Goold Street to the Point of beginning "A"; thence continue S88°04'38"W 20.07 feet, along said line; thence N02°44'34"E 293.08 feet; thence N05°10'09"E 787.13 feet; thence N08°54'17"E 128.73 feet; thence N00°36'32"W 296.46 feet, to the south right-of-way line of Augusta Street; thence N88°04'38"E 38.76 feet, along said line to the west right-of-way line of Michigan Boulevard; thence S07°57'36"W 125.86 feet, along said line to the southeast corner of Lot 3 Block 7 North Park Addition No. 2; thence S00°36'32"E 174.56 feet; thence S08°54'17"W 129.75 feet; thence S05°10'09"W 786.05 feet; thence S02°44'34"W 291.02 feet, to Point of Beginning "A".

Legal Description for Temporary Construction Easement:

A variable width Temporary Construction Easement located in the Southwest One-quarter of the Northeast One-quarter of Section 4, T3N, R23E, Village of Caledonia, Racine County, Wisconsin and being further described as follows:

Commencing at the West One-quarter corner of said Section 4; thence N88°05'16"E 2635.20 feet, along the south line of the Northwest One-quarter of Section 4 to the Center corner of said Section 4; thence N88°04'38"E 1250.61 feet, along the south line of the Northeast One-quarter of Section 4 to a meander corner of said Section 4; thence N88°04'38"E 14.42 feet, to the east right-of-way line of Michigan Boulevard and the Point of beginning "B"; thence N02°34'50"E 30.09 feet, along said line; thence S88°04'38"W 40.38 feet, along the north right-of-way line of Goold Street; thence N02°44'34"E 294.62 feet; thence N05°10'09"E 787.94 feet; thence N08°54'17"E 127.98 feet; thence N00°36'32"W 294.86 feet, to the south right-of-way line of Augusta Street; thence N88°04'38"E 53.77 feet, along said line to the west right-of-way line of Michigan Boulevard; thence S07°57'36"W 125.86 feet, along said line to the southeast corner of Lot 3 Block 7 North Park Addition No. 2; thence N88°04'36"E 15.00 feet, along the southern terminus line of the Michigan Boulevard right-of-way; thence S00°36'32"E 176.15 feet; thence S08°54'17"W 130.51 feet; thence S05°10'09"W 785.25 feet; thence S02°44'34"W 319.58 feet; thence S88°04'38"W 9.70 feet, to Point of Beginning "B".

C. S. S.

1232199

Register's Office
Racine County, Wis.
Received for Record
A.S. 20 17/07
of *Records* on page *106-9*

GRANT OF EASEMENT

John W. Johnston 968
Recorder of Deeds

This Indenture made this 10th day of June, 1987, by and between the City of Racine, a municipal corporation, hereinafter referred to as the CITY, and the North Park Sanitary District, hereinafter referred to as the DISTRICT;

WITNESSETH:

Pursuant to the provisions and conditions of a Wastewater Service Agreement dated June 9th, 1987, the CITY hereby grants and conveys to the DISTRICT a permanent easement and right-of-way, including the perpetual right to enter upon the real estate hereinafter described at such times as may be necessary, to construct, improve, alter, maintain and repair a sanitary sewer force main and all appurtenances thereto for the purpose of conveying and transporting sanitary sewage across, under and through such lands hereinafter described, together with the right of access to such with all necessary and proper men, equipment and materials with respect thereto, and the right to remove such trees, bushes, undergrowth and other obstructions which may interfere with the location, construction, improvement, alteration maintenance and repairs of such sanitary sewer force main and appurtenances.

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11

The lands affected by this grant of easement and right-of-way are located within the Racine Zoological Gardens in the City of Racine, Racine County, Wisconsin, and are more particularly described as follows:

400
1

T.S. # 5 5944, 5945, 5946

via 1860 map 866
J. Felix

Book

That part of the Northeast $\frac{1}{4}$ of Section 4, Town 3 North, Range 23 East, City of Racine, Racine County, Wisconsin; described as: Commencing at the center of said Section 4; thence east along the south line of the northeast $\frac{1}{4}$ of Section 4, 1250.63 feet to the east meander corner of said Section 4; thence $N3^{\circ}56'20''E$, 30.07 feet to the north right-of-way line of Gould Street and the point of beginning and the centerline of a 16 foot wide sanitary force main easement; thence continue $N3^{\circ}56'20''E$, 285.93 feet; thence $N7^{\circ}51'40''E$, 787.00 feet; thence $N11^{\circ}43'20''E$, 130.00 feet; thence $N3^{\circ}43'20''E$, 135.00 feet; thence $N49^{\circ}41'11''W$, 73.62 feet; thence $N39^{\circ}40'20''E$, 160.3 feet more or less to a point on the south right-of-way line of Augusta Street, said point being 17.15 feet east of the northeast corner of Lot 1, Block 7 of North Park Addition No. 1, and the point of ending of said easement.

Also, a 50 foot temporary construction easement centered on the above described permanent easement.

The CITY hereby covenants that it is lawfully seized and possessed of the above indicated real estate and that it has a lawful right to convey the easement.

This easement is granted by the CITY upon the following express terms and conditions which are accepted by the DISTRICT upon the recording of this document, to-wit:

1. That the DISTRICT will indemnify and reimburse the CITY for any damage to real estate and personal property, including so on animals, which may result from the construction or subsequent maintenance of the indicated sanitary sewer force main.
2. That the DISTRICT will restore and/or replace any streets or public walkways which may be disturbed during construction or subsequent maintenance of the indicated sanitary sewer force main.

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3. That any trees which are damaged to the point of beyond repair as determined by the City of Racine Forester shall be replaced with 2 1/2" to 3" B & B trees of appropriate species for the areas designated by the City of Racine Forester.

4. That all disturbed grass areas shall be replaced with sod as soon as possible after construction or subsequent maintenance.

IN WITNESS WHEREOF CITY has executed this agreement as of the date herein indicated.

CITY OF RACINE

By N. Owen Davis
Mayor

ATTEST:

Anthony J. Schlauffer
City Clerk

STATE OF WISCONSIN)
COUNTY OF RACINE) ss.

Personally came before me this 10th day of June, 1987, the above named N. Owen Davis, Mayor, and Anthony J. Schlauffer, City Clerk, of the City of Racine, Wisconsin, to me known to be the persons who executed the foregoing instrument and acknowledge the same.

James J. Schuch

Notary Public, Racine County, Wis.
My Commission expires 1-31-88

This document was drafted by
James J. Fatak, Attorney.

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