

**SETTLEMENT AGREEMENT**

This Settlement Agreement (“Agreement”) is entered into as of this \_\_\_\_ day of November, 2021 (“**Effective Date**”, as defined in Section 2), by and among SB 2011, LLC, an Illinois limited liability company (“**SB 2011**”), the Village of Lake Bluff, an Illinois home rule municipal corporation (“**Lake Bluff**”), and R. Drew Irvin in his official capacity as the Village Building Commissioner (“**Irvin**”) (Lake Bluff and Irvin are collectively, the “**Village**”) (SB 2011, Lake Bluff, and Irvin are, collectively, the “**Parties**”). In consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

**Section 1. Recitals.**

- A. SB 2011 owns fee simple title to a tract of real property legally described on **Exhibit A** and generally depicted on **Exhibit B** (“**Property**”). The Property consists of approximately 47 acres and is located at 136 Green Bay Road in the Village.
- B. On November 27, 2006, the Village approved Ordinance 2006-28, which, among other things, granted a Planned Residential Development (“**PRD**”), subdivision, and other approvals to permit the then owner/developer of the Property to develop a residential development on the Property (“**PRD Ordinance**”).
- C. Contemporaneous with the passage of, and as required by, the original PRD Ordinance, the Village and the original owner/developer entered into an agreement providing, among other things, for the terms and conditions of the development of the Property (“**Development Agreement**”).
- D. As required by the PRD Ordinance and the Development Agreement, a conservation easement (“**Conservation Easement**”) was recorded against the easternmost approximately 10 acres of the Property, which area of the Property is specifically defined in the Conservation Easement (“**Front 10 Acres**”).

E. In or about April 2011, SB 2011 purchased the Property and officially and formally became the successor developer thereof under the Development Agreement and the PRD Ordinance, pursuant to a Transferee Assumption Agreement and an Unconditional Agreement and Consent. In conjunction with the transfer of the Property to SB 2011 on April 25, 2011, the Village adopted Ordinance 2011-07, which amended the PRD Ordinance.

F. In 2020, various disputes arose between the Parties resulting in two lawsuits being filed:

1. On March 3, 2020, SB 2011 filed a lawsuit in the Circuit Court of Lake County styled *SB 2011, LLC v. Village of Lake Bluff and R. Drew Irvin in his official capacity as Building Commissioner of the Village of Lake Bluff*, Case No. 20 MR 173.<sup>1</sup> SB 2011 subsequently amended its complaint which, among other things, seeks to terminate the Development Agreement and PRD Ordinance, release the existing letter of credit posted with the Village, and require certain demolition permits be issued.
2. On March 11, 2020, the Village filed a Complaint in the Circuit Court of Lake County styled *Village of Lake Bluff v. SB 2011, LLC*, Case No. 20 OV 378. The Village subsequently amended its complaint which, among other things, seeks injunctive relief and fines related to SB 2011's maintenance, removal and replacement of certain fences on the Property.
3. The 20 MR 173 and 20 OV 378 cases were consolidated and will hereafter be referred to as the "***Lawsuit***."

G. The Parties desire to enter into this Agreement to:(i) avoid further cost, delay and uncertainty caused by the Lawsuit; (ii) settle and compromise the claims set forth in the Lawsuit; (iii) waive similar, related or additional claims and defenses to the extent provided in this Agreement;

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<sup>1</sup> Plaintiff named Michael Croak, in his official capacity, in the initial complaint, but subsequently replaced Mr. Croak as a defendant with Irvin in the Second Amended Complaint.

and (iv) provide for certain other rights, obligations and agreements of the Parties as set forth herein.

**Section 2. Effective Date; Dismissal Order.** The “*Effective Date*” of this Agreement is the date upon which each Party has executed this Agreement and such execution has been witnessed by, and acknowledged before, a notary public. The “*Dismissal Date*” is the date upon which the Dismissal Order (defined below) has been entered.

**Section 3. Representations and Warranties.** The Parties acknowledge and agree that the following representations and warranties are essential and material terms of this Agreement and without such representations and warranties, this Agreement would not have been made:

- A. Each Party represents and warrants that it has not assigned, nor will it assign, to any other person or legal entity any claims released or rights waived pursuant to this Agreement.
- B. Each Party represents and warrants that this Agreement is made and executed under such Party’s own free will and in accordance with such Party’s own judgment and upon advice of counsel of its own choosing. No Party has been influenced, coerced, or induced to make this compromise and settlement by improper actions of any other Party.
- C. Each Party represents and warrants that, in entering into this Agreement, it is not relying on any statements or inducements except those that are expressly set forth herein.
- D. SB 2011 represents and warrants that: (i) it has the power and authority to enter into this Agreement and to do all the acts and things and to execute and deliver all other documents as are required to be done, observed, performed, executed or delivered by it in accordance with the terms hereof and applicable law; and (ii) it has secured all necessary approvals from its members, officers, and any parent, affiliate, or any other entity or party necessary for it to effectuate this Agreement. SB 2011 further represents and warrants that its signatory below

has the power and authority to enter into this Agreement, and that it has the power and authority to do all acts and things and to execute and deliver all other documents as are required to be done, observed, performed executed or delivered by it in accordance with the terms hereof and applicable law, and that no further consent, approval, order, authorization, or otherwise, is required in connection with the execution and delivery of this Agreement.

E. The Village represents and warrants that it has the power and authority to enter into this Agreement and to do all the acts and things and to execute and deliver all other documents as are required to be done, observed, performed, executed, or delivered by it in accordance with the terms hereof and applicable law, including having obtained any necessary approvals from the Village's corporate authorities ("*Village Board*"). The Village further represents and warrants that its signatory below has the power and authority to enter into this Agreement, and that it has the power and authority to do all acts and things and to execute and deliver all other documents as are required to be done, observed, performed, executed or delivered by it in accordance with the terms hereof and applicable law, and that no further consent, approval, order, authorization, or otherwise, is required in connection with the execution and delivery of this Agreement.

F. Nothing in this Section shall be deemed to affect any other representations or warranties of either Party in this Agreement, which other representations and warranties are also acknowledged to be material to the terms of and consideration for this Agreement.

#### **Section 4. Revocation of PRD Ordinance; Termination of Development Agreement.**

A. **PRD Revocation/Zoning.** Within 30 days after the Effective Date of this Agreement, SB 2011 and Lake Bluff will jointly initiate the process for the required public hearing before the Village Plan Commission / Zoning Board of Appeals to enable the Village Board to adopt an ordinance and any other required enactments to: (i) revoke Ordinances 2006-28 and 2011-07;

(ii) provide for the zoning for future development of the Property consistent with Section 7 of this Agreement; and (iii) remove the PRD zoning from the Property, upon which the Property will be zoned in its underlying E-1 Zoning District (“***PRD Revocation/Zoning Enactments***”).

G. **Termination of Development Agreement.** At the same meeting at which the PRD Revocation/Zoning Enactments are adopted, the Village will adopt a resolution approving an agreement to terminate the Development Agreement. The Parties will then execute a Development Agreement termination agreement.

**Section 5. Resubdivision of Subject Property.** A Plat of Subdivision was recorded for the Property on January 25, 2007 as Document 6126709 (“***2007 Subdivision***”). At the same meeting at which the PRD Revocation/Zoning Enactments are adopted, the Village Board will adopt a resolution approving a new five-lot resubdivision (“***Resubdivision***”) of the Property containing the following lot consolidations of the 2007 Subdivision:

1. Lot 1 – comprised of Outlot A of the 2007 Subdivision;
2. Lot 2 – comprised of Outlot B and Outlot M of the 2007 Subdivision;
3. Lot 3 – comprised of Lot 2 of the 2007 Subdivision;
4. Lot 4 – comprised of Lot 1, Lots 33 through 59 inclusive, Outlot C, and Outlot E through J inclusive of the 2007 Subdivision; and
5. Lot 5 – comprised of Lots 3 through 32 inclusive and Outlot D, Outlot K, and Outlot L of the 2007 Subdivision.

The Village’s approval of the Resubdivision is subject to and contingent upon SB 2011’s compliance with all applicable substantive and procedural requirements of the “Lake Bluff Municipal Code,” as amended (“***Village Code***”), including, without limitation, the subdivision regulations. SB 2011 and Lake Bluff will jointly apply for the approval of the Resubdivision. SB 2011 will be

responsible for having the new subdivision plat prepared and submitted to the Village. The Parties agree that the Resubdivision will be further resubdivided in conjunction with the Village's review and approval of a new development for the Property in the future, subject to all applicable substantive and procedural requirements of the Village Code, including, without limitation, the subdivision regulations.

**Section 6. Restrictive Covenant.** Within five days after the Effective Date of this Agreement, SB 2011 will deliver to the Village a fully executed, recordable Restrictive Covenant in the form of *Exhibit C* hereto, prohibiting development of the Front 10 Acres, and requiring the owner of the Property to maintain the Front 10 Acres at its own expense, with such maintenance in accordance with maintenance requirements set forth in the Restrictive Covenant. The Village may record the Restrictive Covenant against the Property. However, the Restrictive Covenant shall be of no force or effect unless and until the Conservation Easement is terminated, extinguished, or otherwise no longer effective, whether by order of the Circuit Court or otherwise (collectively, "*Conservation Easement Termination*"), it being the intent of the Parties that there will be no gap between the Conservation Easement Termination and the effective date of the Restrictive Covenant ("*Restrictive Covenant Effective Date*").

**Section 7. Future Development of the Property.**

- A. The Parties agree that future development of the Property may be by right under the E-1 Zoning District without variations or other specific zoning relief, or a PRD in any zoning district. The Village Board shall authorize consideration of a PRD by the Plan Commission/Zoning Board of Appeals in conjunction with any proper application by any landowner/developer to rezone the Property.
- B. For a future development of the Property in the E-1 Zoning District without a PRD, the Restrictive Covenant shall be and remain in full force and effect or, if not already effective,

shall take effect upon the Conservation Easement Termination as provided in Section 6 of this Agreement.

- C. For a future development of the Property as a PRD, the landowner/developer and the Village will treat the application and proposed development as if there was no Restrictive Covenant. The landowner/developer may submit an application for a PRD, with or without a request to rezone, and plan for development of the Property without the limitations or restrictions of the Restrictive Covenant. Upon submittal of such application, the Village will process the application as submitted as provided in the Village Code through a final decision by the Village Board. Although the Village may not use the absence of the Restrictive Covenant as a basis to deny a requested PRD, it may require the same or similar protection as that afforded by the Restrictive Covenant as a condition of its approval of a new PRD for the Property. The intent of this Subsection C is to allow the landowner/developer to apply for a PRD on the Property with a clean slate, unencumbered by the Restrictive Covenant, while preserving the Village's right(s) to limit or restrict development on any areas of the Property, including, without limitation, the Front 10 Acres.
- D. If the PRD and any request for rezoning applied for therewith is denied, the Restrictive Covenant will remain in full force and effect, except as provided in Subsection F of this Section with regard to a successful judicial challenge to the Village's denial thereof.
- E. If the PRD and any request for rezoning applied for therewith is approved, the Restrictive Covenant will be released and extinguished as of the effective date of the ordinance approving the new PRD and rezoning, if any, except as the Village and applicant may otherwise agree. If the Restrictive Covenant is released and extinguished, as provided in this Subsection, the Village will sign a release in recordable form, approved by Owner.

- F. In the event the Village denies approval of a PRD and the denial is successfully challenged before a court of competent jurisdiction, including all appeals, the Restrictive Covenant will be released and extinguished pursuant to the order of the court overturning the Village denial and ordering that the proposed PRD plan be allowed for the Property. If the Restrictive Covenant is released and extinguished, as provided in this Subsection, the Village will sign a release in recordable form, approved by Owner.
- G. For a future development of the Property as a PRD, for preliminary plan review, a landowner shall submit a written application on forms supplied by the Village, the application fee and required escrow, and materials with the following information:
- a. a survey, including a legal description of the site showing floodplain, floodway, and flood fringe boundaries, if any;
  - b. a scale site plan showing the layout of the subdivision, location of buildings, rights-of-way, streets, sidewalks, lots, setbacks, building envelope, parks and/or open space, pedestrian walks, trails, bike paths, permanent open spaces and recreation facilities, preserved historic structures and landscapes, if any, topography, points of ingress and egress to the property as well as utility connection points (new and existing), and proposed easements;
  - c. concept landscape plan and existing trees to be preserved;
  - d. renderings of the proposed building types, with concept floor plans and vision images;
  - e. data regarding site conditions, land characteristics, community facilities and utilities, existing covenants and easements, and general information about land uses within one-half (1/2) mile of the site;
  - f. proposed construction sequence for buildings, parking spaces and landscaped areas, and the number of each type of building and bedroom mix in each phase;

- g. the names and addresses of all present and proposed owners of all land within the project;
- h. an outline of proposed articles of incorporation and bylaws for a property owners' and renters' association and of a proposed declaration of covenants and restrictions which may be a part of the plan;
- i. preliminary stormwater design, inclusive of pond sizing and locations based on impervious coverage calculations in the scale site plan;
- j. a traffic study;
- k. a general statement regarding the character and intent of the proposed development and how it relates to the Comprehensive Plan and development goals;
- l. a description of all zoning relief requested;
- m. a written statement on how the proposed development meets the standards of the PRD and Special Use regulations of the Village Zoning Regulations;
- n. data regarding total acreage of the proposed PRD development site, number of acres and number of dwellings anticipated for residential land uses (by use type), anticipated bedroom mix of dwellings, number of parking spaces, location and size of any commonly owned structures for the development, historic structures or landscape areas, density of proposed development, anticipated development phasing, and other related information; and
- o. the names and contact information of professional consultants working with the applicant.

H. For a future development of the Property as a PRD, the Village, upon request of the applicant, will require the applicable Board or Commission that is considering the proposed development

to vote on the matter within 30 days after the second meeting at which the matter was considered by that Board or Commission.

- I. Chapter 4 of Title 11 of the Lake Bluff Municipal Code will apply to any subdivision, resubdivision, or PRD for the Property that results in a net increase of undeveloped single-family lots or a net increase in total dwelling units with regard to multi-family structures in any new development on the Property. As set forth in Section 11-4-4 of the Village Subdivision Regulations, the Village park dedication requirement (7.3 acres/1,000 residents) and the municipal land dedication requirement (9.7 acres/1,000 residents) together may require a dedication of 17 acres/1,000 residents (“*Land Dedication Requirement*”). In the context of a specific development proposal, the Village will consider in good faith whether every acre of land set aside for public use in an approved development plan for the Property will satisfy the dedication requirement for the estimated population of the approved development based on Table 11-4-5 of the Village Subdivision Regulations. The Village will also consider in good faith for any specific development proposal on the Property the extent to which each acre of land dedicated by a developer will receive a credit against the Land Dedication Requirement. If the population of a proposed development for the Property exceeds the amount of population for which a land dedication credit is given based on the Table 11-4-5 formula, the developer may be required to pay a fee in lieu of dedication for the acreage deficiency.
- J. The provisions of this Section 7 shall terminate (i) upon the issuance of a building permit for development on the Property by right under the E-1 Zoning District without variations or other specific zoning relief, (ii) upon the effective date of the ordinance approving a PRD for the Property, or (iii) the effective date of approval pursuant to an order of the court overturning the Village denial and ordering that a proposed PRD plan be allowed for the Property.

**Section 8. Historic Structures.**

- A. **Manor House.** The Manor House (as defined in the Development Agreement) may be demolished after conclusion of the period for removal of architectural artifacts as set forth in Section 8.B of this Agreement. Prior to demolition, SB 2011 must notify the Village within five business days if it receives any offers to sell the Property that contemplate preservation of the Manor House. However, SB 2011 is not obligated to market the Property for preservation of the Manor House, or to accept such an offer.
- B. **Removal of Architectural Artifacts.** For a 90-day period after the Effective Date of this Agreement, the Village will be permitted to remove specified types of architectural artifacts from the Manor House. Unless the Parties mutually agree to the removal of additional types of artifacts, the artifacts that may be removed will be limited to (i) exterior ornaments and elements, (ii) front and interior doors, (iii) light fixtures, (iv) stain glass windows, and (v) the fireplace in the main room and the fireplace in the library. Within the first 30 days of the 90-day period, the Village shall notify SB 2011 of artifacts to be removed, and the Village will then have the remainder of the 90-day period to do so. SB 2011 will grant the Village and its agents access to the Manor House for the purpose of undertaking the activities authorized in this Subsection. The Village will be responsible for the cost of removal but will not be required to pay SB 2011 for the value of any removed artifacts. By mutual agreement of the parties, SB 2011 will have the right to remove the artifacts at its expense if it is able to do so more efficiently and/or economically than the Village. In that event, the Parties will consult prior to any such removal and agree upon when, where, and how SB 2011 will deliver to the Village the artifacts that it removes. SB 2011 will reasonably extend the 30-day artifact identification period and/or the 90-day period to the extent necessary, including for removal (for example, if removal requires special equipment not immediately available during the 90-day period). For

any artifact removal undertaken by the Village, the Village will provide SB 2011 with a standard indemnification/hold harmless agreement as well as the provision of commercially reasonable insurance policies that name SB 2011 as an additional insured.

- C. **Gatehouse**. The Gatehouse (as defined in the Development Agreement) may be demolished only after a five-month period commencing on the Effective Date, during which SB 2011 shall market the Property and the Gatehouse for redevelopment or reuse. The marketing effort shall be managed by a third-party national real estate brokerage firm, to be agreed upon between the Parties. If the Parties are unable to agree on the brokerage firm, then SB 2011 shall submit a list of three brokerage firms to the Village and the Village may eliminate one, upon which SB 2011 shall make its selection of the two remaining. The marketing effort shall identify that: the Front 10 Acres are currently restricted from development pursuant to the Conservation Easement or Restrictive Covenant that will remain in place; the Gatehouse will be considered legal non-conforming in the E-1 Zoning District; and the remainder of the Property is in the E-1 Zoning District. The selected brokerage firm must provide to the Village copies of the marketing materials used in the marketing effort and, upon request of the Village Administrator, provide periodic updates about sales efforts, purchase offers, and similar information, subject to reasonable confidentiality requirements. SB 2011 is not obligated to accept any offers it receives during the five-month marketing period.
- D. **Demolition Permit Fees**. SB 2011 shall be required to pay the Village's demolition permit fee for the demolition of the Manor House. The Village will not require any demolition permit fees for the demolition of any other structure(s) on the Property. All demolitions on the Property must comply with the other applicable provisions of the Village Code.
- E. **Redevelopment Application**. The Village will accept and process a proper application for development of the Property received during the period in which the Gatehouse development

is being marketed as required above. The Village shall have no obligation to conduct any required public hearing(s) related to any such development application until expiration of the marketing period for the Gatehouse development, unless the PRD applied for includes preservation of the Gatehouse.

### **Section 9. Maintenance.**

- A. **Replacement Fence.** Within 30 days after the Effective Date of this Agreement, SB 2011 will submit for permit approval a proposed design, specifications and location of a new six-foot-tall wooden fence, which shall be located and be substantially similar to the previously existing fence along Witchwood Lane. Within 60 days after Village approval, SB 2011 shall install the fence. The installation deadline will be extended to the extent of material or contractor delays beyond SB 2011's control.
- B. **Temporary Construction/Security Fence.** SB 2011 may install a temporary fence generally along the immediate perimeter of its construction / demolition site(s). Subject to compliance with the applicable provisions of the Village Code, this fence may be a green covered chain link fence and may remain in place until a new plan for development is approved.
- C. **Entry Bridge.** Subject to review and approval by the Village Building Commissioner, which review and approval will be undertaken expeditiously, SB 2011 may complete the entry bridge in order to better market the Property for redevelopment.
- D. **Water System.** SB 2011 or its successor will maintain and annually flush the water system serving the property, until such time as the system is dedicated to and accepted by the Village.
- E. **Letter of Credit.** The terms, conditions and amount of the existing letter of credit shall be revised, or replaced with a new letter of credit, which in either case shall be in the amount of \$135,000.00, to ensure maintenance of the Front 10 Acres, the stormwater infrastructure, and any roadways or utilities preserved for possible future dedication to and acceptance by the

Village by SB 2011 or its successor. The letter of credit required by this Subsection is attached to this Agreement as *Exhibit D*.

- F. **Front 10 Acres.** From the Effective Date of this Agreement until the Restrictive Covenant Effective Date, the Front 10 Acres will be maintained in accordance with the maintenance plan that is attached to this Agreement as *Exhibit E*, in addition to other applicable requirements set forth in the Conservation Easement.

**Section 10. Conservation Easement.** The Village will not object to the termination of the existing Conservation Easement.

**Section 11. Dismissal of Lawsuit.** As soon as reasonably practical, but in any event no later than 30 days after the Effective Date, SB 2011 shall cause an agreed order providing for the voluntary dismissal with prejudice of each of the two separate cases in the Lawsuit, in substantially the form of the order attached hereto as *Exhibit F* (“*Dismissal Order*”), to be entered by the Circuit Court of Lake County. The Dismissal Order shall provide that the Circuit Court of Lake County will retain jurisdiction for purposes of enforcing the settlement terms as set forth in this Agreement. In addition, the Parties hereby waive all of their rights of appeal in connection with the Lawsuit.

**Section 12. Mutual Release; Covenant Not to Sue.**

- A. To the greatest extent permitted by law, SB 2011, for itself and its respective owners, managers, members, officers, directors, beneficiaries, shareholders, employees, agents, attorneys, representatives, insurers, successors, predecessors, heirs, beneficiaries, and assigns (the “*SB 2011 Included Persons*”) hereby agrees to release and forever discharge the Village, including without limitation the Village’s current and former officers, officials, employees, agents, attorneys, representatives, insurers, successors, predecessors, heirs, beneficiaries, and assigns (the “*Village’s Included Persons*”) from and regarding all claims SB 2011 has or might have

as of the Effective Date, whether known or unknown, that are or may be based directly or indirectly upon SB 2011's claims and allegations contained in (or that could have been contained in) the Lawsuit, or any alleged act or omission by the Village or the Village's Included Persons relating directly or indirectly to the Lawsuit or matters alleged (or that could have been alleged) therein, accruing prior to the Effective Date. SB 2011, for itself and the SB 2011 Included Persons, hereby fully, finally, and unconditionally releases, compromises, waives, and forever discharges the Village and the Village's Included Persons from and for any and all such claims, liabilities, suits, discrimination, or other charges, personal injuries, demands, debts, liens, damages, costs, grievances, injuries, actions, or rights of action of any nature whatsoever, known or unknown, liquidated or unliquidated, absolute or contingent, in law or in equity, which were or was or could have been filed with any federal, state, local, or private court, agency, arbitrator, or any other entity prior to the Effective Date. Other than as provided herein, SB 2011, for itself and the SB 2011 Included Persons, further waives any right to any form of recovery, compensation, or other remedy or relief in law or equity in any action brought by them or on their behalf against the Village or the Village's Included Persons relating directly or indirectly to, or arising or alleged to have arisen out of, claims and allegations contained in (or that could have been contained in) the Lawsuit.

- B. To the greatest extent permitted by law, the Village, on behalf of itself and the Village's Included Persons, hereby agrees to release and forever discharge SB 2011 and the SB 2011 Included Persons from and regarding all claims the Village has or might have as of the Effective Date, whether known or unknown, that are or may be based directly or indirectly upon the claims and allegations contained in (or that could have been contained in) the Lawsuit, or any alleged act or omission by SB 2011 or SB 2011's Included Persons relating directly or indirectly to the Lawsuit or matters alleged (or that could have been alleged) therein,

accruing prior to the Effective Date. The Village, for itself and the Village's Included Persons, hereby fully, finally, and unconditionally releases, compromises, waives, and forever discharges SB 2011 and SB 2011's Included Persons from and for any and all such claims, liabilities, suits, discrimination, or other charges, personal injuries, demands, debts, liens, damages, costs, grievances, injuries, actions, or rights of action of any nature whatsoever, known or unknown, liquidated or unliquidated, absolute or contingent, in law or in equity, which were or was or could have been filed with any federal, state, local, or private court, agency, arbitrator, or any other entity prior to the Effective Date. Other than as provided herein, the Village, for itself and the Village's Included Persons, further waives any right to any form of recovery, compensation, or other remedy or relief in law or equity in any action brought by them or on their behalf against SB 2011 or the SB 2011 Included Persons relating directly or indirectly to, or arising or alleged to have arisen out of, claims and allegations contained in (or that could have been contained in) the Lawsuit.

- C. SB 2011 expressly represents and promises that it has not assigned or transferred, nor purported to assign or transfer, and will not assign or otherwise transfer any claims, portions of claims, defenses, or rights that it may have or had to assert claims against the Village or any of the Village's Included Persons relating to or arising out of the Lawsuit or any allegations set forth (or that could have been set forth) therein.
- D. The Village expressly represents and promises that it has not assigned or transferred, nor purported to assign or transfer, and will not assign or otherwise transfer any claims, portions of claims, defenses, or rights that it may have or had to assert claims against SB 2011 or any of SB 2011's Included Persons relating to or arising out of the Lawsuit or any allegations set forth (or that could have been set forth) therein.

- E. SB 2011 represents that no lawsuit, charge, claim, or other complaint filed by SB 2011 or the SB 2011 Included Persons remains pending against the Village with any local, state, or federal court and/or administrative agency other than the Lawsuit. In the event the Village receives notice that any local, state, or federal court and/or administrative agency has a lawsuit, claim, charge, or other complaint pending against the Village by SB 2011 or any of the SB 2011 Included Persons, then SB 2011 agrees to execute and submit such documentation as may be necessary to have such lawsuit, charge, claim, or other complaint dismissed with prejudice at no cost to the Village.
- F. Nothing in this Section restricts the rights of SB 2011 or the Village to enforce this Agreement and the promises set forth herein.

**Section 13. Enforcement and Binding Effect.**

A. **Enforcement.** At any time following the Effective Date, the Parties (or any of them) may, in law or in equity, by suit, action, mandamus or any other proceeding, including, without limitation, specific performance, enforce or compel the performance of this Agreement. The Dismissal Order to be entered pursuant to this Agreement provides, among other things, that the court retains jurisdiction for purposes of enforcing this Agreement.

B. **Conflict.** Should there be any conflict or inconsistency between the terms and conditions of this agreement and any term, requirement or condition of the Village's Municipal Code, ordinances or other regulations, the terms and conditions of this Agreement shall control to the extent permitted by law.

C. **Prevailing Party.** In the event of a judicial proceeding brought by one Party against another Party to enforce this Agreement, the prevailing Party in the judicial proceeding will be entitled to reimbursement from the unsuccessful Party of all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing Party in connection with the judicial proceeding.

D. **Recordation.** The Parties shall cause this Agreement to be recorded against the Property on or before the Dismissal Date.

**Section 14. General Provisions.**

A. **Notices.** All notices required or permitted to be given under this Agreement shall be given by the Parties by: (i) personal delivery; (ii) delivery by certified mail, with a return receipt requested, through the United States mail, (iii) deposit with a nationally recognized overnight delivery service, or (iv) delivered by electronic mail, addressed as stated in this Section. Notice by hand delivery or overnight courier service shall be deemed received when delivered; notice by electronic mail shall be deemed received when delivered, provided that a copy of such notice is also sent by (a) certified mail (as provided above), (b) personal delivery, or (iii) a nationally recognized overnight delivery service; and notice by mail shall be deemed received three days after it is placed in the U.S. mail. The address of any Party may be changed by written notice to the other Parties. Notice that is actually received will be deemed valid, even if received by a method or in a manner that conflicts with this Section. Notices and communications to the Parties will be addressed to, and delivered at, the following addresses:

If to SB 2011:

The Roanoke Group  
c/o Peter Kyte  
675 Lakeview Parkway, Suite 5100  
Vernon Hills, IL 60061  
Email: [pkyte@theroanokegroup.com](mailto:pkyte@theroanokegroup.com)

with copies to:

Robert T. O'Donnell  
O'Donnell Callaghan LLC  
28045 N. Ashley Circle, Suite 101  
Libertyville, IL 60048  
Email: [rodonnell@och-law.com](mailto:rodonnell@och-law.com)

If to the Village and Irvin:

Village of Lake Bluff  
c/o Village Administrator  
40 E. Center Avenue  
Lake Bluff, IL 60044  
Email: [dirvin@lakebluff.org](mailto:dirvin@lakebluff.org)

with copies to:

Peter Friedman  
Hart M. Passman  
Elrod Friedman LLP  
325 N. LaSalle Street, Suite 450  
Chicago, IL 60654  
Email: [peter.friedman@elrodfriedman.com](mailto:peter.friedman@elrodfriedman.com)  
Email: [hart.passman@elrodfriedman.com](mailto:hart.passman@elrodfriedman.com)

- B. **Entire Agreement; Interpretation.** This Agreement constitutes the entire agreement between the Parties, superseding any and all prior agreements and negotiations between the Parties, whether written or oral, relating to the subject matter of this Agreement. Any rule or construction that a document is to be construed against the drafting party is not applicable to this Agreement.
- C. **Amendments and Modifications.** No amendment or modification to this Agreement will be effective unless and until it is reduced to writing and approved and executed by all Parties to this Agreement.
- D. **Binding Effect; No Third-Party Beneficiaries.** This Agreement shall be binding upon each of the Parties and their respective successors and assigns, or future owners, lessees, or occupants of the Property, and all of their officers, officials, members, shareholders, employees, contractors, and agents (collectively, “*Related Parties*”). In addition, the provisions of this Agreement shall be binding covenants on the Property. The Parties do not intend to benefit or obligate any person or entity that is not a party to this Agreement, except

for the Related Parties. No claim as a third-party beneficiary under this Agreement by any person or entity will be made, or be valid, against the Parties.

- E. **Severability**. In the event that any of the provisions of this Agreement are found by a judicial or other tribunal to be unenforceable, the remaining provisions of this Agreement will remain enforceable.
- F. **Counterparts/Authority**. This Agreement may be executed in Counterparts, each of which shall be an original and all of which together shall constitute one and the same document. The signatories below to the Agreement expressly state and affirm that they have the actual authority to execute this Agreement on behalf of their respective Party.
- G. **Choice of Law**. The Parties agree that this Agreement shall be deemed to have been executed and delivered within the State of Illinois and shall in all respects be governed, interpreted, and enforced in accordance with the internal laws, but not the conflicts of law rules, of the State of Illinois.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have fully executed this Agreement on the date set forth below.

Dated: \_\_\_\_\_, 2021

**VILLAGE OF LAKE BLUFF**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**R. DREW IRVIN, AS BUILDING  
COMMISSIONER**

\_\_\_\_\_  
R. Drew Irvin

**SB 2011, LLC**

By: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A  
LEGAL DESCRIPTION OF PROPERTY**

THAT PART OF SECTIONS 20 AND 29, IN TOWNSHIP 44 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH LINE OF THE SOUTH 1478.4 FEET (22.40 CHAINS) OF THE SOUTHWEST QUARTER OF SAID SECTION SECTION 20, WHICH POINT IS 459.63 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTH 1478.4 FEET THE SOUTHWEST QUARTER OF SAID SECTION 20, SAID POINT ALSO BEING ON THE EASTERLY LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY AND ALSO BEING THE SOUTHWEST CORNER OF "THE TERRACE", BEING H.O. STONE AND COMPANY'S SUBDIVISION RECORDED SEPTEMBER 28, 1925, AS DOCUMENT 265877; THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID COMMONWEALTH EDISON COMPANY RIGHT OF WAY, 3754.84 FEET, MORE OR LESS, TO THE NORTHWESTERLY RIGHT OF WAY LINE OF THE CHICAGO AND NORTH WESTERN RAILWAY (MAYFAIR BRANCH); THENCE NORTHEASTERLY ALONG THE NORTHWESTERLY LINE OF SAID NORTH WESTERN RAILWAY {MAYFAIR BRANCH} TO THE WESTERLY RIGHT OF WAY LINE OF GREENBAY ROAD; THENCE NORTHWESTERLY ALONG THE WESTERLY LINE OF SAID GREENBAY ROAD TO THE SOUTHERLY LINE OF "THE TERRACE" AFORESAID, SAID SOUTHERLY LINE ALSO BEING THE SOUTHERLY LINE OF WITCHWOOD LANE AS SHOWN ON THE PLAT OF "THE TERRACE" AFORESAID; THENCE SOUTHWESTERLY ALONG THE SOUTHERLY LINE OF SAID WITCHWOOD LANE, ALSO BEING THE SOUTHERLY LINE OF "THE TERRACE" AFORESAID, 1060.69 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 20; THENCE SOUTH ALONG SAID WEST LINE 2.90 FEET TO THE NORTH LINE OF THE SOUTH 1478.4 FEET (22.40 CHAINS) OF THE SOUTHWEST QUARTER OF SECTION 20 AFORESAID, SAID LINE ALSO BEING THE SOUTH LINE OF SAID WITCHWOOD LANE, AND ALSO THE SOUTH LINE OF "THE TERRACE" AFORESAID; THENCE WEST ALONG THE LAST DESCRIBED LINE 2175.75 FEET, MORE OR LESS, TO THE PLACE OF BEGINNING, EXCEPT THEREFROM THAT PART DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT IN SAID SOUTHEAST QUARTER OF SAID SECTION 20, LOCATED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 20; THENCE NORTH ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, 766.51 FEET; THENCE EAST AT RIGHT ANGLES TO THE WEST LINE OF SAID SOUTHEAST QUARTER, 228.83 FEET TO THE PLACE OF BEGINNING; THENCE SOUTH 8 DEGREES 53 MINUTES EAST, 598.4 FEET TO THE NORTHERLY RIGHT OF WAY LINE OF THE CHICAGO AND NORTH WESTERN RAILWAY; THENCE NORTH 49 DEGREES 41 MINUTES EAST ALONG SAID NORTHERLY RIGHT OF WAY LINE, 437 FEET; THENCE 40 DEGREES 19 MINUTES WEST, 10 FEET; THENCE NORTH 49 DEGREES 41 MINUTES EAST ALONG THE NORTHERLY RIGHT OF WAY LINE OF SAID CHICAGO AND NORTH WESTERN RAILWAY, 837.25 FEET TO THE WESTERLY LINE OF GREENBAY ROAD; THENCE NORTH 15 DEGREES 56 MINUTES WEST ALONG THE WESTERLY LINE OF GREENBAY ROAD, 155.23 FEET; THENCE SOUTH 66 DEGREES 28 MINUTES WEST, 465 FEET; THENCE SOUTH 74 DEGREES 7 MINUTES WEST, 236.07 FEET; THENCE SOUTH 71 DEGREES 15 MINUTES WEST, 385.56 FEET; THENCE SOUTH 8 DEGREES 53 MINUTES EAST, 15.22 FEET TO THE PLACE OF BEGINNING; IN LAKE COUNTY, ILLINOIS. EXCEPTING THEREOF AND THEREFROM

THAT PART OF SECTIONS 20 AND 29, IN TOWNSHIP 44 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE NORTH LINE OF SOUTH 1478.4 FEET (22.40 CHAINS) OF THE

SOUTHWEST 1/4 OF SAID SECTION 20, WHICH POINT IS 459.63 FEET EAST OF THE NORTHWEST CORNER OF THE SOUTH 1478.4 FEET OF THE SOUTHWEST 1/4 OF SAID SECTION 20, SAID POINT ALSO BEING ON THE EASTERLY LINE OF THE COMMONWEALTH EDISON COMPANY RIGHT OF WAY AND ALSO BEING THE SOUTHWEST CORNER OF "THE TERRACE", BEING H.O. STONE AND COMPANY'S SUBDIVISION RECORDED SEPTEMBER 28, 1925 AS DOCUMENT 265877; THENCE SOUTHEASTERLY ALONG THE EASTERLY LINE OF SAID COMMONWEALTH EDISON COMPANY RIGHT WAY, 3754.84 FEET, MORE OR LESS, TO THE NORTHWESTERLY RIGHT OF WAY LINE OF THE CHICAGO AND NORTH WESTERN RAILWAY (MAYFAIR BRANCH); THENCE NORTHEASTERLY ALONG THE NORTHWESTERLY LINE OF SAID CHICAGO AND NORTH WESTERN RAILWAY (MAYFAIR BRANCH) TO A POINT ON THE SOUTH LINE OF SAID SECTION 20; THENCE WEST ALONG THE SOUTH LINE OF SAID SECTION 20, A DISTANCE OF 810 FEET, MORE OR LESS, TO A POINT WHICH IS 700 FEET WEST OF THE WEST LINE OF THE EAST 1/2 OF SECTION 20 TO THE SOUTHERLY LINE OF "THE TERRACE" SUBDIVISION, WHICH IS ALSO THE NORTH LINE OF SOUTH 22.40 CHAINS OF THE SOUTHWEST 1/4 OF SAID SECTION 20; THENCE WEST ALONG THE LAST DESCRIBED LINE TO THE POINT OF BEGINNING.

**EXHIBIT B  
DEPICTION OF PROPERTY**

**EXHIBIT C  
RESTRICTIVE COVENANT**

INSTRUMENT PREPARED BY

(and after recording return to):

Robert T. O'Donnell  
28045 N. Ashley Circle  
Suite 101  
Libertyville, IL 60048

**DECLARATION OF RESTRICTIVE COVENANT**

This Declaration of Restrictive Covenant (“Declaration”) is executed as of this \_\_\_\_ day of November, 2021 (the “Effective Date”), by SB 2011, LLC, an \_\_\_\_\_ limited liability corporation (“Owner”)

**RECITALS**

- A. SB 2011, LLC is the owner of that certain parcel of land, approximately 10.4 acres, located in the County of Lake, State of Illinois (the “State”), which land is more fully described on **Exhibit A** hereto (the “Protected Property”); and
- B. The Protected Property is part of a larger parcel of land, approximately 47 acres, located at 136 Green Bay Road, Lake Bluff, Illinois (the “Development Property”); and
- C. The Protected Property generally consists of wooded and open areas and a pond fronting Green Bay Road, in Lake Bluff, Illinois: and
- D. A Grant of Conservation Right and Easement and Declaration of Covenants (the “Conservation Easement”), recorded as Document No. 6126710 with the Lake County Recorder of Deeds, was entered into on January 18, 2007, with respect to the Protected Property; and
- E. In connection with the settlement of a lawsuits between Owner and the Village of Lake Bluff (“Village”), Lake County Case Nos. 20 MR 173 and 20 OV 378, the parties have entered into a Settlement Agreement, pursuant to which, among other things, the Village may record this Declaration against the Protected Property to provide, among other things, that the Owner and any subsequent owner of the Property must continue to preserve the existing conditions on the Protected Property until such time as a Planned Residential Development is approved for the Development Property by the Village or by a court of competent jurisdiction, as more specifically provided in this Declaration.

NOW THEREFORE, THE OWNER DECLARES that the Protected Property and all portions thereof are and shall be held, transferred, sold, conveyed, used, and occupied only as provided and subject to the covenants set forth in this Restrictive Covenant.

1. Restrictive Covenant.

- (a) From and after the Effective Date, development of any kind shall be prohibited on the Protected Property, such that there shall be no construction, installation, or maintenance of any buildings. Limited structures such as walkways, fences, and playground equipment may be allowed upon approval in advance by the Village.
- (b) The Owner shall maintain the Protected Property in accordance with the terms of this Restrictive Covenant at its own expense. Maintenance of the Protected Property shall be in accordance with the maintenance plan that is attached to this Declaration as Exhibit B, except as the Owner and the Village may otherwise agree.
- (c) This Restrictive Covenant shall only be released and extinguished upon: (i) mutual agreement of the Owner and the Village; (ii) the granting by the Village of approval of a Planned Residential Development (“PRD”) for the Development Property, with release and extinguishment in this circumstance to take effect as of the effective date of the ordinance approving the PRD, except as the Village and the Owner may otherwise agree; or (iii) upon order of a court of competent jurisdiction, after all appeals have been exhausted, overturning the denial by the Village of a proposed PRD for the Development Property and ordering that the proposed PRD be allowed for the Development Property, except as the Village and the Owner may otherwise agree.
- (d) This Declaration and the covenants set forth herein restricting the use and occupancy of the Protected Property (i) shall be and are covenants and restrictions running with, touching, and encumbering the Protected Property, binding upon the Owner and all successors in interest or title, transferees, vendees, lessees, mortgagees, and assigns who are owners and/or users of the Protected Property, and (ii) are not merely personal covenants of the Owner. As used herein, “Owner” shall refer to any person or entity that holds any fee or leasehold interest in the Property. If any of the privileges or rights created by this Restrictive Covenant would otherwise be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common law rules imposing time limits, then the affected privilege or right shall continue only until 21 years after the death of the last survivor of the now living lawful descendants of the current President of the United States, or for any shorter period that may be required to sustain the validity of the affected privilege or right.

2. Enforcement. The Owner recognizes and agrees that the Village has a valid interest in ensuring that the restrictions, covenants, and agreements in this Restrictive Covenant are properly performed, and therefore grants the Village the right to enforce these restrictions, covenants, and agreements, and to prevent a breach or threatened breach of this Declaration, by instituting proceedings at law or in equity to enforce the terms of this Declaration and otherwise for relief from the consequences of said breach including seeking injunctive relief to prevent a violation thereof and to require compliance with the terms of this Declaration, with such grant including the right to bring proceedings against the Owner and any person or persons violating or attempting to violate any restriction, covenant, or agreement contained in this Restrictive Covenant, either to restrain violation

or to compel affirmative action. Prior to bringing a legal proceeding to enforce this Declaration, the Village shall provide notice to the Owner, describing the alleged violation and providing the Owner with thirty (30) days in which to cure the alleged violation unless a shorter period of time is necessary to address more immediately a public health and safety issue (such as, by way of example only, a dangerous tree condition that threatens a public right-of-way or neighboring property owner or a broken water main). The Village will provide reasonable extensions to the 30-day period to account for weather and other site conditions. The Village shall be entitled to its reasonable attorney fees incurred in successfully enforcing the terms of this Declaration in any of the actions described in this Paragraph.

3. Release. Any person or entity having or acquiring fee or leasehold interest to the Protected Property or any portion thereof shall be required to comply with this Declaration only during the period such person or entity is the fee or leasehold owner of the Protected Property, and thereafter shall be released therefrom, except that such person or entity shall continue to be liable for, and shall not be released from liability for, obligations, liabilities or responsibilities that accrue or accrued during said period of ownership. Although persons or entities may be released under this Paragraph, the restrictions of this Declaration shall continue to be restrictions upon the Protected Property, running with the land, and shall inure to the benefit of, and be binding on, their successors and assigns in title or interest, consistent with the terms provided herein.

4. Notices. All notices provided for herein may be delivered in person, sent by Federal Express or other overnight courier service, mailed in the United States mail postage prepaid, or sent by electronic or facsimile transmission, and, regardless of the method of deliver used, shall be considered delivered upon the actual receipt or refusal of receipt thereof. The name, address and other information to be used in connection with such correspondence and notices to Owner shall be the then-current owner's name and address information maintained in the official real property tax records with respect to the Property.

5. Miscellaneous.

- (a) Headings. The headings in this Declaration are for convenience only and do not in any way limit or affect the terms and provisions hereof.
- (b) Unenforceability. If any provision of this Declaration is held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the remainder of such provision or any other provisions hereof.
- (c) Governing Law. This Declaration shall be construed and enforced in accordance with the internal laws, but not the conflicts of law rules, of the State of Illinois.
- (d) Amendments. This Declaration may be amended only by written instrument executed by the Village and the then-owner(s) of the Protected Property.

- (e) Entire Agreement. Except for the Settlement Agreement between the Owner and the Village dated \_\_\_\_\_, 2021, this Declaration constitutes the entire agreement of Owner with respect to the subject matter hereof and supersedes all prior negotiations or discussions, whether oral or written, with respect thereto.
- (f) Recording. Owner or the Village shall record this instrument in a timely fashion in the official records of Lake County, Illinois and shall re-record it at any time as may be required to preserve the Declaration.
- (g) No General Public. This Declaration does not convey to the public the right to enter the Protected Property for any purpose whatsoever.
- (h) No Third Parties. This Declaration is not intended to, whether expressed or implied, confer any rights or remedies under or by reason of this Declaration on any other person or entity other than the Village and the Owner or permitted assigns, nor is anything in this Declaration intended to relieve or discharge the obligation or liability of any third persons to any of the Village or the Owner, nor shall any provision give any third parties any rights of subrogation or action over or against any of the Village or the Owner. This Declaration is not intended to and does not create any third-party beneficiary rights whatsoever, except for rights provided to the Village herein.
- (i) Recordation. This Restrictive Covenant will be recorded in the Office of the Lake County Recorder, and all leases, contracts, and deeds of conveyance relating to the Protected Property, or any part thereof, shall be subject to the provisions of this Restrictive Covenant. However, this Restrictive Covenant shall be of no force or effect unless and until the Conservation Easement is terminated, extinguished, or otherwise no longer effective, whether by order of the Circuit Court or otherwise.
- (j) Non-Waiver. The Village shall be under no obligation to exercise any of the rights granted to it in this Restrictive Covenant except as it shall determine to be in its best interest from time to time. The failure of the Village to exercise at any time any such rights shall not be deemed or construed as a waiver thereof, nor shall such failure void or affect the Village's right to enforce such rights or any other rights.

[THE REMAINDER OF THIS PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Owner has caused this Declaration to be signed by its duly authorized representatives, as of the day and year first above written.

OWNER

\_\_\_\_\_

By:\_\_\_\_\_

Printed Name:\_\_\_\_\_

Title:\_\_\_\_\_

**ACKNOWLEDGMENT**

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_, 2021, by \_\_\_\_\_, the \_\_\_\_\_ of the **SB 2011, LLC**, and by \_\_\_\_\_, the \_\_\_\_\_ of said Corporation.

Given under my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

SEAL

**EXHIBIT A**

**Legal Description of Property**

OUTLOTS A AND B AND OUTLOT M OF STONEBRIDGE OF LAKE BLUFF, BEING A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 44 NORTH, RANGE 12, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN LAKE COUNTY, ILLINOIS, ACCORDING TO THE PLAT THEREOF RECORDED ON JANUARY 25, 2007, AS DOCUMENT NUMBER 6126709, IN LAKE COUNTY, ILLINOIS.

PINS

12-20-400-001 (part)

12-20-300-008 (part)

PROPERTY ADDRESS

136 Green Bay Road

Lake Bluff, IL 60044

**EXHIBIT B****Maintenance Plan**

1. Maintain grass at no greater than eight inches in height, measured as it lays from the existing grade. Mow fescue to a height between four and six inches in the Spring. Manage seeded areas in accordance with the attached plan.
2. Maintain fescue & grass areas to minimize herbicide use necessary for removal of invasive species (herbicide use currently permitted and necessary for invasive species removal).
3. Continue monthly site visits (Spring, Summer and Fall – weather dependent) by maintenance crew to mow grass and eradicate invasive species by spot chemical control/mechanical mowing/manual removal.
4. Conduct “Spring Clean-up” of pond and pond area to remove accumulated debris from water and pond border.
5. Conduct “Spring Clean-up” of wooded area to remove winter fallen debris, litter, and foreign debris throughout site.
6. Monitor over-story trees on “watch list” to determine vitality, structural integrity, nutrition requirements, hazardous conditions, long-term viability and pruning requirements.
7. Continue site visits by certified arborist, as needed, to mark hazardous or dead trees for removal; if removal is necessary provide notice to Village for review and issuance of permit prior to removal; any tree scheduled for removal shall be replaced on a one-for-one basis with a replacement tree between 2.5” and 4” in circumference during first available planting period. Replacement Trees will not be required to be planted within the canopy (critical root zone) of other trees on the Property. Replacement Trees must be species included in Group A of the Species Rating Guide, Appendix A, Section 10-11-13 of the Lake Bluff Zoning Regulations, unless otherwise agreed to by the Owner and the Village.
8. Monthly pond treatments as necessary for water health.
9. Monthly cattail and other invasive treatments as needed.



**EXHIBIT D  
LETTER OF CREDIT**

**EXHIBIT E  
MAINTENANCE PLAN**

1. Maintain grass at no greater than eight inches in height, measured as it lays from the existing grade. Mow fescue to a height between four and six inches in the Spring. Manage seeded areas in accordance with the attached plan.
2. Maintain fescue & grass areas to minimize herbicide use necessary for removal of invasive species (herbicide use currently permitted and necessary for invasive species removal).
3. Continue monthly site visits (Spring, Summer and Fall – weather dependent) by maintenance crew to mow grass and eradicate invasive species by spot chemical control/mechanical mowing/manual removal.
4. Conduct “Spring Clean-up” of pond and pond area to remove accumulated debris from water and pond border.
5. Conduct “Spring Clean-up” of wooded area to remove winter fallen debris, litter, and foreign debris throughout site.
6. Monitor over-story trees on “watch list” to determine vitality, structural integrity, nutrition requirements, hazardous conditions, long-term viability and pruning requirements.
7. Continue site visits by certified arborist, as needed, to mark hazardous or dead trees for removal; if removal is necessary provide notice to Village for review and issuance of permit prior to removal.
8. Monthly pond treatments as necessary for water health.
9. Monthly cattail and other invasive treatments as needed.

136 Green Bay Road  
Lake Bluff, IL 60044



**Seeded Areas Management Guidelines:**

The principle management objectives expected for the seeded areas shall be:

- To reduce the emergence of noxious weeds such as blackberry (Rubus spp.) and hollyhock (Alcea rosea).
- Maintain maintenance traffic under heritage tree canopy through the reduction of mowed turf on the site.

**Fescue Area Specifications:**

- 20% Hard Fescue (Festuca longicaulis)
- 20% Chewy Fescue (Festuca ovina ssp. latifolia)
- 20% Slender Fescue (Festuca ovina ssp. ovina)
- 20% Common Fescue (Festuca ovina ssp. ovina)
- 20% Creeping Red Fescue (Festuca rubra ssp. rubra)

**Notes:**

1. Mow the seeded areas at least once per week. It is not recommended that the fescue mow be mowed closer than 3.5 inches. Close mowing will eventually damage the roots and weaken the fescue. Fescue grasses often produce seed heads up to two feet tall in early to mid-July. Do not mow before this time. The seed heads will be cut off by the mow, leaving the grass seed heads in the fescue. The fescue mow will form a soft, tall fluffing carpet of grass.



**EXHIBIT F  
DISMISSAL ORDER**

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT  
LAKE COUNTY, ILLINOIS**

VILLAGE OF LAKE BLUFF, an Illinois	)	
municipal corporation,	)	
	)	
Plaintiff,	)	Case No.: 20 OV 378
v.	)	
	)	Consolidated with Case No. 20 MR 173
SB 2011, a Delaware limited liability company,	)	
	)	
Defendant.	)	

**AGREED DISMISSAL ORDER**

The parties come before the Court for entry of an order by agreement of the parties to dismiss Case Nos. 20 OV 378 and 20 MR 173 with prejudice. The Court being properly and fully advised hereby orders:

1. Pursuant to the parties’ Settlement Agreement (“Agreement”), Case Nos. 20 OV 378 and 20 MR 173 are each dismissed with prejudice with each party to be responsible for its own attorneys’ fees and costs.
2. The Court shall retain jurisdiction to enforce the terms and conditions of the Agreement.

**Agreed:**

SB 2011, LLC	Village of Lake Bluff and R. Drew Irvin
By _____	By _____
Its attorney	Their attorney

ENTER:

Order Prepared By:  
Attorney for Plaintiff  
Robert T. O’Donnell (ARDC No. 3124931)  
O’Donnell Callaghan LLC  
28045 N. Ashley Drive, Suite 101  
Libertyville, IL 60048  
847-367-2750  
[rodonnell@och-law.com](mailto:rodonnell@och-law.com)

\_\_\_\_\_  
Hon. Mitchell L. Hoffman