Document Number	DECLARATION OF RESTRICTIONS AND COVENANTS FOR BLUE STEM SUBDIVISION – PHASE 2 Document Title

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RONALD A. VOIGT
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Recording Area

Legal Description:

Lots 34-72 and Outlot 2 of BLUE STEM SUBDIVISION PHASE 2, being a part of the Northeast ¼ of the Northwest ¼ and the Northwest ¼ of the Northeast ¼ of Section 30, Town 10 North, Range 22 East, in the Village of Grafton, County of Ozaukee, State of Wisconsin.

2020 Tax Key No. Part of 10-030-02-011.00
2021 Tax Key Nos 10-248-0034-000 through 10-248-0072-000

Name and Return Address:

Michael J. Kaerek
Blue Stem Acquisition, LLC
11600 W. Lincoln Avenue
West Allis, WI 53227

Formerly known as:

Part of the Northeast 1/4 of the Northwest 1/4 and the Northwest 1/4 of the Northeast 1/4 of Section 30, Town 10 North, Range 22 East, in the Village of Grafton, Ozaukee County, Wisconsin, bounded and described as follows:

Commencing at the North ¼ Corner of said Section 30; thence South 02° 14' 26" East along the East line of the Northwest ¼ of said Section 30 a distance of 569.24 feet to the point of beginning of lands to be described; thence North 87° 45' 34" East 40.00 feet to a point; thence North 02° 14' 26" West along the East line of Cheyenne Avenue 0.84 feet to a point: thence North 87°45' 34" East 147.39 feet to a point; thence South 02° 20' 06"East 665.00 feet to a point; thence South 40° 21' 50" East 127.75 feet to a point in the North line of River Bend Estates; thence South 88° 29' 35" West along said North line 267.38 feet to a point in the East line of the Northwest ¼ of said Section 30; thence South 88° 34' 21" West along the South line of the North ½ of the Northwest ¼ of said Section 30 a distance of 912.53 feet to a point; thence North 05° 33' 04" West along the Easterly line of Blue Stem Subdivision 148.36 feet to a point; Thence Southwesterly 12.95 feet along said Easterly line and an arc of a curve whose center lies to the North, whose radius is 180.00 feet, and whose chord bears South 86° 30' 39" West 12.95 feet to a point; thence South 88° 34' 21" West along said Easterly line 8.24 feet to a point; thence North 01° 25' 39" West along said Easterly line 148.13 feet to a point; thence North 11° 34' 29" East along said Easterly line 409.60 feet to a point; thence North 88° 53' 31" East along said Easterly line 49.06 feet to a point; thence North 89° 07' 56" East along said Easterly line 95.74 feet to a point; thence North 87° 45' 34" East along said Easterly line 312.14 feet to a point; thence North 02° 14' 26" West along said Easterly line 40.90 feet to a point; thence North 87° 45' 34" East along said Easterly line 388.00 feet to the point of beginning.

BLUE STEM PHASE 2

Village of Grafton, Ozaukee County, Wisconsin

August 12, 2020

DECLARATION OF RESTRICTIONS AND COVENANTS

WHEREAS, Blue Stem Acquisitions, LLC with offices located at 11600 W. Lincoln Avenue, West Allis, Wisconsin 53227, owns all of the Lots in Blue Stem Subdivision Phase 2, Village of Grafton, Ozaukee County, Wisconsin (hereinafter "Subdivision").

WHEREAS, Blue Stem Acquisitions, LLC intending to establish a general plan for the use, occupancy and enjoyment of Blue Stem Subdivision Phase 2, desires to subject all the Lots within the Subdivision, each Lot of the same hereinafter referred to as a "Lot", to certain restrictions and covenants;

NOW THEREFORE, LET IT BE KNOWN that each and every person, party or entity hereafter purchasing or owning or in any way taking possession of any Lot in the Subdivision, shall do so subject to the following restrictions and covenants, to wit:

ARTICLE I

1. Definition of Terms:

1.1 "Family" shall mean one or more than one person living, sleeping, cooking or eating on premises as a single housekeeping group, and shall exclude a group or groups of persons where three or more persons thereof are not household employees or related by blood, adoption, or marriage.

1.2 "Architectural Control Committee" (ACC) shall mean the committee referred to in Article VI.

1.3 "Lot" shall mean a lot in the Subdivision as platted for residential development, and shall not include any platted outlot.

1.4 "Outlot" shall mean a parcel designated as an outlot on the Subdivision plat, which, by reason of such designation, is not platted as a building site.

1.5 "Dwelling" shall mean that primary building on a Lot to be occupied by a single Family.

1.6 "Blue Stem Homeowners Association, Inc." shall mean that Wisconsin non-stock corporation responsible for certain duties relating to the maintenance, administration and operation of the Subdivision as may be referred to herein or in its bylaws (the "HOA").

1.7 "Common Areas" are those areas identified or located on the Plat, including the Outlots, and set aside either as communal areas, open space, or drainage areas for storm water management purposes ("Storm Water Management Areas").

1.8 "Common Improvements" consist of the following, which may be located in Common Areas or may be located in public streets, individual Lots, on Outlots: all monuments/signs on the property generally identifying the Subdivision, and any fencing, lighting, landscape features, walking trails, drainage ways and easements, Storm Water Management Areas or other improvements made by the HOA in the Common Areas or elsewhere.

ARTICLE II

2. Property Subject to this Declaration: The following property shall be subject to this Declaration:

Part of the Northeast 1/4 of the Northwest 1/4 and the Northwest 1/4 of the Northeast 1/4 of Section 30, Town 10 North, Range 22 East, in the Village of Grafton, Ozaukee County, Wisconsin, bounded and described as follows:

Commencing at the North ¼ Corner of said Section 30; thence South 02° 14' 26" East along the East line of the Northwest ¼ of said Section 30 a distance of 569.24 feet to the point of beginning of lands to be described; thence North 87° 45' 34" East 40.00 feet to a point; thence North 02° 14' 26" West along the East line of Cheyenne Avenue 0.84 feet to a point: thence North 87°45' 34" East 147.39 feet to a point; thence South 02° 20' 06"East 665.00 feet to a point; thence South 40° 21' 50" East 127.75 feet to a point in the North line of River Bend Estates; thence South 88° 29' 35" West along said North line 267.38 feet to a point in the East line of the Northwest ¼ of said Section 30; thence South 88° 34' 21" West along the South line of the North ½ of the Northwest ¼ of said Section 30 a distance of 912.53 feet to a point; thence North 05° 33' 04" West along the Easterly line of Blue Stem Subdivision 148.36 feet to a point; Thence Southwesterly 12.95 feet along said Easterly line and an arc of a curve whose center lies to the North, whose radius is 180.00 feet, and whose chord bears South 86° 30' 39" West 12.95 feet to a point; thence South 88° 34' 21" West along said Easterly line 8.24 feet to a point; thence North 01° 25' 39" West along said Easterly line 148.13 feet to a point; thence North 11° 34' 29" East along said Easterly line 409.60 feet to a point; thence North 88° 53' 31" East along said Easterly line 49.06 feet to a point; thence North 89° 07' 56" East along said Easterly line 95.74 feet to a point; thence North 87° 45' 34" East along said Easterly line 312.14 feet to a point; thence North 02° 14' 26" West along said Easterly line 40.90 feet to a point; thence North 87° 45' 34" East along said Easterly line 388.00 feet to the point of beginning.

Now known as:

BLUE STEM SUBDIVISION PHASE 2, being a part of the Northeast ¼ of the Northwest ¼ and the Northwest ¼ of the Northeast ¼ of Section 30, Town 10 North, Range 22 East, in the Village of Grafton, County of Ozaukee, State of Wisconsin.

This is Phase 2 of Blue Stem Subdivision, and there will be future phases. Each future phase of Blue Stem Subdivision will be subject to its own Declaration of Restrictions and Covenants, but the lot owners in all future phases will be part of the homeowner's association established

pursuant to Article V, and will share in the financial responsibility for the Outlots and Common Improvements in all phases.

Title to the Outlots in Phase 2 and all future phases shall be held by the Homeowners Association. Each owner of a lot in the Subdivision and in all future phases shall be liable for a proportional share of any and all costs associated to maintenance, repair, and administration of all Outlots, Common Areas and Common Improvements of the Subdivision and the Outlots and Common Improvements of any future phases. The fractional share per lot shall have one (1) as the numerator and the number of lots in the Subdivision and any platted future phase as the denominator. Deeds for the conveyance of Lots in Blue Stem Phase 2 shall include a statement that such Lot includes a fractional liability of the Outlots and Common Improvements as provided in this Declaration.

ARTICLE III

3. General Purpose

3.1 The general purpose of this Declaration is to assure that the Subdivision will become and remain an attractive community and toward that end to preserve and maintain the natural beauty and the natural plant life and wildlife habitat of certain open spaces and recreational areas within and in the vicinity of the Subdivision; to insure the best use and the most appropriate development and improvement of each Lot; to protect the owners of Lots against such use of surrounding Lots as will detract from the value of their Lot; to guard against the erection thereon of poorly designed or proportioned structures; to obtain harmonious use of material and color schemes; to insure the highest and best residential development of the Subdivision consistent with the purposes for which it is platted; to encourage and secure the erection of attractive Dwellings thereon, with appropriate locations thereof on Lots; and to secure and maintain proper spatial relationship of structures and Lot lines.

ARTICLE IV

4. Lot Use and Building Types

4.1 **Lot Use:** Each Lot shall only be used for construction of a single-family residence with approved **Blue Stem Acquisitions, LLC** Architectural Control Committee (ACC), see article 6. Accessory buildings/structures, such as attached garages, swimming pools and similar improvements must also meet Village of Grafton code requirements. In ground swimming pools must be approved by the ACC prior to installation and pool heaters; filters, etc. must comply with the Village of Grafton wiring codes. Above ground swimming pools are not permitted unless they are portable/inflatable wading pools not to exceed 18" in depth. No statues of any kind are permitted. Flag poles are permitted, but are subject to ACC approval.

4.2 **Structures:** No structure of any kind shall be constructed, altered, placed, maintained or permitted upon any Lot except one (1) newly constructed, private, permanent, single-family dwelling designed for [and limited to] occupancy of only a single-family group, not exceeding two (2) stories in height from the determined final Lot grade at highest point of building's foundation. Nor may the dwelling be more than three (3) stories in height, where one (1) floor elevation is set below the determined final Lot grade at the building foundation. In addition, detached structures are permitted as per 4.5 following.

4.3 Any dwelling previously approved for construction on any Lot may be altered and/or the exterior remodeled, only upon approval of such changes by the ACC. In the event of catastrophic loss, permission is herewith granted to rebuild in accordance with the original approved design, without the need for obtaining approval of the ACC.

4.4 Attached Garage Required: Each residence shall have attached to it, by common foundation, a vehicle garage having a minimum floor area of four hundred fifty (450) square feet. The exterior surfaces of this garage shall be consistent and harmonious with the exterior materials placed upon the dwelling.

4.5 Detached Structures Permitted: Detached buildings are permitted with the approval of the ACC and the Village of Grafton. Sheds must substantially conform in appearance to the style of the home with regard to siding, colors, roof pitch, windows and doors. Sheds shall be no larger than one hundred fifty (150) square feet.

4.6 Fences and Walls: No fence or wall shall be permitted except for fences in the side or rear yard, and fences around in-ground pools. In order to construct any fence or wall, the Lot Owner shall submit plans and specifications, including materials, colors and location, to the ACC, and such plans and specifications must be approved in writing by the ACC. Approval may be given only for fences of an open type of construction with a black wrought iron appearance and which are no more than five (5) feet in height. On a case-by-case basis, the ACC, in its sole discretion, may consider and approve the construction of a fence of an appearance other than black wrought iron. Chain link and privacy fences, and fences of any material other than wrought iron, must obtain ACC approval. Approval may be given for retaining or landscape walls if such walls are constructed of stone, brick or other similar natural material. The ACC has the right to deny any and all fence requests at their sole discretion.

4.7 Signs: Permanent signs of any size or type are not permitted. Temporary signs placed upon the Lot promoting the sale of the Lot or contractor's signs posted during the term of construction are permitted and then such permitted signs shall not exceed eight (8) square feet in size. **Blue Stem Acquisitions, LLC** may erect one or more temporary development signs that do not exceed thirty-two (32) square feet in area and meets all other Village of Grafton requirements, until **Blue Stem Acquisitions, LLC** no longer owns any Lots in the subdivision. All other temporary signs (i.e. yard sale, campaign) must be in good taste, are subject to the discretion of the ACC and must be removed in a timely manner.

4.8 Dwelling Design: Each dwelling shall be designed by a professional home designer or architect experienced in home design. Approved exterior elevation designs shall consist of Traditional, Early American, Provincial, Williamsburg, Victorian or Colonial styles. Roof pitches are to be a minimum of 8/12 pitch or greater unless architecturally not feasible. All homes shall have attached garage with minimum of four hundred fifty (450) square feet. Garages and accessory buildings must conform in design to that of the dwelling.

4.9 Minimum Building Living Area: The finished living area of each dwelling shall be no less than the following schedule, with all measurements taken from exterior walls not to include garages, porches, patios, breezeways and similar additions. The ACC has the authority to reduce these requirements by up to 15% at its sole discretion.

One Story Dwelling	1,700 square feet
One and One-Half Story Dwelling	2,200 square feet total
Two Story Dwelling	2,200 square feet total

Note: Other Village of Grafton zoning restrictions may apply.

4.10 Bathrooms: Each dwelling shall contain a minimum of two (2) baths.

4.11 Grading: Grading on Lots in the subdivision must be completed substantially in compliance with the master grading plan on file with the Village of Grafton. Deviations from the grading plan must be approved by the ACC and Village of Grafton Engineer. The Village of Grafton Engineer will only approve deviations based on grading plans encompassing the general area, not just one Lot.

4.12 Exterior Building Materials: The exterior building materials of each home must consist of natural materials (brick, stone, wood), cement board or vinyl siding. Aluminum soffit and fascia are allowed. Roof shingles shall be dimensional design asphalt. Use of other materials is subject to approval of the ACC. Front elevation shall have a minimum of fifteen percent (15%) stone or brick masonry. The Stone or Brick may be real or cultured. Portions of the driveway in the right of way must be constructed to the Village of Grafton standards.

4.13 Minimum Building Setback: The minimum front setback of any dwelling or structure shall be thirty (30) feet. The minimum side yard setback shall be ten (10) feet on one side and six (6) feet on the other. Each dwelling shall have a minimum rear yard setback of twenty-five (25) feet. All setbacks must be verified with the Village for compliance with Village ordinances prior to submitting plans to the ACC for review. Variations from setback requirements may be allowed as provided below if an appropriate governmental variance, if required, has been previously approved. Governmental approval does not mean the ACC must also approve, and the ACC may decline to approve a variation irrespective of the granting of a governmental variance.

4.14 Utilities: Electric, telephone (if installed in subdivision) and cable television services shall be provided to each home by the installation of underground lines.

4.15 Outside Storage/Antennae/Window Air Conditioners:

- No outside storage of boats, recreational vehicles, non-working vehicles trailers or miscellaneous equipment permitted.
- The outside storage or parking of commercial vehicles is expressly prohibited and any such vehicle must be housed in a garage.
- Firewood, not more than a face cord, may be stacked along the rear of the home or garage. Homes on corner lots shall shield the view of this wood from the street by way of landscaping or tasteful structure.

- No exterior antennae are permitted except satellite dishes with a maximum dimension of 36" x 18", or the smallest possible size as technology advances. Satellite dishes must be located on the house in an area approved by the ACC, but not on the front facade of the house.
- No window air conditioning units of any type are permitted.

4.16 Nuisances: No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done on or to a Lot which is or may become a nuisance or annoyance to the neighborhood. Trash, garbage and other waste shall be kept in sanitary containers that shall be stored in the attached garage.

4.17 Occupancy: No dwelling may be occupied until it has been completed in accordance with the approved plans and specifications and until an occupancy permit has been granted by the Village of Grafton.

4.18 Zoning Laws, etc.: In addition to the provisions outlined in this document, the Developer, its successors and assigns, and all parties hereafter having an interest in the property shall be subject to all ordinances, zoning laws, building codes and other regulations of the Village of Grafton, Ozaukee County and the State of Wisconsin as applicable and the same may be more restrictive that these Restrictions. The provisions of the **Blue Stem Acquisitions, LLC** Developer's Agreement, **Blue Stem Acquisitions, LLC** shall also apply. In the event there is a conflict between the requirements of these regulations, the more restrictive provisions shall apply.

4.19 Animals, Livestock, Poultry: No animals such as livestock or poultry shall be raised, bred or kept outside on any Lot. No more than two (2) dogs and three (3) cats shall be kept inside or outside any dwelling unit per municipal code and not kept for any commercial purpose. Any outdoor animal kennels must be approved by the ACC as to location, size and design, and must meet Village of Grafton ordinance requirements.

4.20 Vision Triangles: No planting, structure or other improvement shall be installed within "intersection vision triangle" areas shown on the Subdivision Plat except as allowed by the Village.

ARTICLE V

5. OWNERS ASSOCIATION

5.1 **Blue Stem Acquisitions, LLC** has created a non-profit corporation known as the **BLUE STEM OWNERS ASSOCIATION, INC.**, hereinafter referred to as the "HOA".

5.2 Purpose:

- To own and maintain common owned lands including all drainage easements, together with any other amenity that may be provided by **Blue Stem Acquisitions, LLC** or the HOA, and that may exist from time to time;
- To assess the prorated share of the cost of maintenance and other expenses incurred from operation of the HOA, upon the individual Lot Owners, and to collect such assessments, and;

- To act as the ACC upon termination of **Blue Stem Acquisitions, LLC** involvement in the subdivision.

5.3 Membership: Each Lot Owner in Phase 2 of Blue Stem, in Phase 1 of Blue Stem, and in all future phases of Blue Stem, shall be a member of the HOA, and each such Lot in Phases 1 and 2 and in each future platted phase shall represent one (1) vote only in the affairs of the HOA, regardless of the number of Owners of a Lot.

. Person(s) owning more than one (1) Lot shall have one (1) vote for each Lot owned.

5.4 Directors and Officers of the HOA: An initial Board of Directors of three (3) members will be appointed by **Blue Stem Acquisitions, LLC.** The Board of Directors shall name the HOA officers. **Blue Stem Acquisitions, LLC,** shall establish this Board prior to the sale of twelve (12) Lots in the Subdivision. Until the sale of the final Lot, the initial term of the Members of this Board will be at the discretion of **Blue Stem Acquisitions, LLC,** its successors or assigns. At the first annual meeting after the sale of the final **Blue Stem Acquisitions, LLC** owned Lot, the HOA shall hold elections for the Board of Directors.

5.5 Annual and Special Meetings: An annual meeting at a date, time and location to be determined by the Board of Directors must be held each year. The purpose of the meeting will cover various issues including, but not limited to, the annual budget, subdivision improvements, future election of Directors and other business deemed necessary by the Board. The initial meeting shall be held within sixty (60) days of the **Blue Stem Acquisitions, LLC** establishing the Board. Special meetings may be called by the Board of Directors, acting on their own, and shall be called upon petition of twenty percent (20%) of the Lot Owners of all platted phases of Blue Stem Subdivision following provision of a notice thereof at least forty-eight (48) hours prior to convention.

5.6 Operating Budget and General Annual Assessment:

- Commencing with calendar year 2019 and for each subsequent year after, the HOA shall prepare an operating budget covering the period January 1st through December 31st of each year. The adopted budget is to be posted in a conspicuous area within the development (or, at the option of the HOA, delivered to each Lot Owner).
- In accordance with the financial needs of the HOA, all of the Lots shall be subject to a general annual assessment, determined solely by the HOA, for the purpose of deferring the costs and expenses of the HOA and carrying out its stated purposes and functions. Such costs shall include, but not be limited to, cost to prepare Homeowners Association tax return by an Accountant, payment of outlot real estate taxes, maintenance, repair, replacement and additions to the common improvements and areas, and the cost of labor, equipment, materials, management and supervision thereof.
- The amount of the general annual assessment for each calendar year shall be determined during the month of December of the previous calendar year, and shall be sufficient to raise an amount which, in the judgment of the HOA's members represented at the HOA's annual membership meeting, may be required for the ensuing calendar year. Such assessments shall be paid by each Lot Owner to the HOA in a lump sum, on or before the first day of March of each year. The initial yearly assessment is $50 per lot.
- The first annual assessment for a lot shall be payable at closing of the initial purchase of the lot from the developer.

- Lots owned by the Developer are not subject to HOA fees until a building permit has been issued for the lot.

5.7 Special Assessments: A special assessment may be levied on each Lot by the HOA for the purpose of any unexpected repair or replacement of improvements if consented to by a majority of the members of the HOA present at a membership meeting called for that purpose.

5.8 Delinquent Assessments: If any assessment, general or special, is not paid on the date when due, then the assessment shall become delinquent, and shall, together with such interest thereon and costs of collection thereof as hereinafter provided, become a continuing lien on the assessed property which shall bind such property in the hands of the then Owner, his or her heirs, representatives, successors and assigns. Such assessment shall also be a personal obligation for the statutory period. If the assessment is not paid within fifteen (15) days after the delinquent date, the lot owner shall have no right to vote at any meeting of the HOA until the assessment is paid in full. If the assessment is not paid within thirty (30) days after the delinquent date, the assessment shall bear interest at the rate of eighteen percent (18%) per annum, and the HOA may bring an action at law, filing of a mechanic's lien or lien in equity against the Owner personally obligated to pay the same or foreclose the lien against the property, and there shall be added to the amount of such assessment the entire cost of collection, including reasonable attorney's fees.

5.9 Certificates: The HOA shall, upon request, furnish to any Lot Owner a certificate in writing signed by an officer of the HOA setting forth whether the assessments have been paid. Such certificate shall be conclusive evidence of the payment of any and all such assessments therein stated to have been paid. The HOA may impose a reasonable charge for each such certificate requested and issued.

5.10 Duties and Authority: The administration of these restrictions, subject to the provisions of Article 5, as well as the authority to run the day-to-day operations of the HOA, is vested in the Board of Directors.

5.11 In the event the H.O.A. does not properly landscape or maintain any common area, or properly maintain any signage, the Village of Grafton may send written notice to the H.O.A. indicating that the Village of Grafton will perform such landscaping and/or maintenance if not properly done by the H.O.A. The above-referenced notice shall give the H.O.A. a minimum of seven (7) days to correct the problem. If the common area and/or sign is not properly landscaped and/or maintained within the time granted by the above-reference notice, the Village of Grafton shall then have the authority to landscape and/or maintain any such common area and/or sign referred to in said notice and shall have the right to charge the lot owners on a pro rata basis for any costs incurred by the Village as a result of said landscaping and/or maintenance. Said costs shall be assessed as special charges pursuant to Section 66.0627, Wis. Stats. If such charges are not paid by any lot owner within the period fixed by the Village of Grafton, charges shall become a lien upon the lot owner's lot as provided in Section 66.0627, Wis. Stats., and shall be extended upon the tax rolls as a delinquent tax against the lot owner's lot as provided in Section 66.0627, Wis. Stats.

ARTICLE VI

6. ARCHITECTURAL CONTROL COMMITTEE (ACC)

6.1 Blue Stem Acquisitions, LLC has formed an Architectural Control Committee consisting of three (3) persons appointed by **Blue Stem Acquisitions, LLC** hereinafter referred to as "ACC".

6.2 Procedures: The ACC's consent, approval or disapproval as provided herein shall be in writing. In the event the ACC fails to act on any matter presented to it within sixty (60) days after application (application meaning the submittal of a written request plus copies of building plans, specifications, surveys, etc.), approval will be deemed to have been obtained insofar as required in Section 4.1 only. No other provisions of these restrictions requiring the consent, decision or action of the ACC shall be affected by the non-action of the ACC.

6.3 Responsibility and Purpose: In order to obtain and maintain harmony in appearance, and for the protection of the Owners of the Lots, certain site improvements are subject to written approval by the ACC. These include, but are not limited to, buildings or structures of any type, fencing, unusual or unsightly landscaping and modification or other change to approved drainage patterns (NOTE: changes which will alter drainage patterns will be in violation of the site grading plan and/or recorded drainage easements and will require the approval of the Village of Grafton Engineering Department). The ACC shall have the right to reject any such addition or alteration to any Lot, which in its conclusive judgment, is not in conformity with these or future restrictions or is not desirable for aesthetic or other detrimental reasons. In passing judgment upon such plans and specifications, the ACC may take into consideration, among other things, the suitability of the proposed modifications, the exterior color schemes to be used for any building or structure, the general design and materials to be used and the compatibility of the modification with surroundings Lots.

6.4 Right To Waive Non-Compliance: The ACC shall have the right to waive minor infractions or deviations from these restrictions in cases of hardship, provided the Village of Grafton building codes and/or Developer's Agreement are not violated. The ACC shall have the sole discretion to determine which of the minimum dwelling size requirements apply to a particular proposed dwelling and whether the same has been met.

6.5 Blue Stem Acquisitions, LLC Control of ACC: So long as **Blue Stem Acquisitions, LLC**, its successors or assigns, shall own any Lot in Blue Stem, the authority and functions of the ACC shall be vested in and exercised solely by **Blue Stem Acquisitions, LLC,** acting through its Board of Directors or its successors or assigns acting through the Board of Directors. When **Blue Stem Acquisitions, LLC,** its successors or assigns has transferred ownership in all the Lots, the ACC shall then automatically transfer to the members of the Board of Directors elected under the provisions of Section 5.4 above.

6.6 Landscaping and Grading Requirements:

- **Landscaping and Erosion Control:** Final grading to the requirements of the subdivision's master grading plan and establishment of a finished lawn must be completed within ninety (90) days of completion of the residence occurring between April 1st and August 1st OR by June 1st for completion between August 2nd and March 30th. During the time between gaining occupancy (completion) and establishment of the finish lawn, the Homeowner is responsible for installing and/or

maintaining erosion controls for their Lot. All other landscaping must be completed within one (1) year of completion of the residence. Landscaping by definition includes (a) a hard surfaced drive (asphalt, concrete, paver brick) and pedestrian access; (b) planting three (3) trees of at least two inches (2") caliper upon each Lot; (c) grass cover established over the balance of the Lot; thereafter, each Lot Owner is responsible for the upkeep and continuous maintenance of all landscaping under the Owners control. Note: It is the responsibility of each Lot Owner to install grass on Village right-of-way areas within the same timetable as the on-Lot lawn.

- **No filling of stormwater facilities allowed:** As part of the grading and landscaping of each Lot in the subdivision, no part of the Lot including rear and side yard swales, Outlot or Stormwater detention areas that are delineated on the recorded plat or grading plan with or without accompanying easements (some side and rear yard swales are not covered by private drainage easements, but are critical to the overall drainage plan for the subdivision) shall be filled or altered in any way without approval of all necessary governing parties including the Village of Grafton. No trees, shrubs or planting beds of any kind shall be planted within swales or stormwater detention areas. No accessory structures will be allowed within these areas either.
- **Improvements may require permits:** Other site improvements of any type that are placed upon or maintained within the public street right-of-way (walks, drives, etc.) or drainage easements require a permit from the Village of Grafton and/or the State of Wisconsin as may be applicable, which shall be obtained before work is commenced.
- Tree removal and or moving light pole, if necessary, for driveway installation, will be at lot Owner's expense.

ARTICLE VII

7. STREET MAINTENANCE AND EROSION CONTROL BOND

7.1 Deposit: Upon approval of dwelling construction plans by the ACC, each Lot Owner will be required to place in escrow with **Blue Stem Acquisitions, LLC** the sum of one thousand dollars ($1,000.00) Lot Owner completion of finish landscape, driveway, and three (3) tree plantings within one (1) year of occupancy. It is the responsibility of the Lot Owner to ensure that his agents or contractors maintain, at all times, streets within the subdivision and adjacent properties, clear of any type of material or debris, especially during landscape operations. Also, it is the responsibility of the Lot Owner to ensure that his agents or contractors maintain, at all times, the erosion controls in place on the Lot and/or install new erosion controls to meet the intent of the erosion control plan. Failure of the Lot Owner to regulate his agents or contractors in this regard will cause **Blue Stem Acquisitions, LLC** to proceed to clear and clean the street and/or install appropriate erosion controls as required and to charge the Street Maintenance and Erosion Control Bond account deposited by each Lot Owner in accordance with this paragraph. Once Lot Owner meets finish landscape and driveway requirements, the Street Maintenance and Erosion Control Bond will be refunded in full unless a portion of the bond was retained to for tree plantings, erosion control fencing or landscape operation clean-up by **Blue Stem Acquisitions, LLC.**

7.2 Excess Costs: In the event **Blue Stem Acquisitions, LLC** is required to perform street cleaning operations in which the costs exceed the Lot Owner's deposited amount under this Article 7, **Blue Stem Acquisitions, LLC** will assess the respective Lot Owner for the additional amount due and failure of the Lot Owner to pay **Blue Stem Acquisitions, LLC** for any such additional charge within ten (10) days of being billed, will give to **Blue Stem Acquisitions, LLC,** the right to file and foreclose a mechanic's lien upon the Owner's Lot. **Blue Stem Acquisitions, LLC** charges for performing under this section will include the actual amount of costs incurred plus a management fee equal to twenty-five percent (25%) of the actual cost. Upon issuance of an occupancy permit, all Street Maintenance escrow funds placed with **Blue Stem Acquisitions, LLC** less any funds disbursed, shall be returned to the Lot Owner without any interest.

7.3 Use of Deposited Funds: Each Lot Owner's deposit under this paragraph is for the sole and exclusive use of each respective Lot Owner and deposited funds are not to be used to offset the costs created by acts of other Lot Owners, except in the instance where the violator of these requirements cannot be readily determined; then all Lot Owners having funds on deposit shall be charged equally.

ARTICLE VIII

8. EASEMENTS

8.1 SUBDIVISION UTILITY, DRAINAGE EASEMENTS: Blue Stem Acquisitions, LLC, reserves to itself the right to record utility and drainage easements and to implement improvements in these easements as necessary to properly provide service to all Lots in Blue Stem. These improvements may include but are not limited to: drainage improvements to alleviate drainage problems, addition of pipes for drainage, addition of cable utilities to extend to future phases of development.

8.2 POSSIBLE FUTURE EASEMENTS: Seller reserves the right for a period of three (3) years after closing hereof to grant easements to WE Energies, Village of Grafton Utilities and Cable companies for utility purposes over, upon, under or across all Lots in this Subdivision whether owned by the Developer or third parties. Such easements shall, so far as reasonably possible, be confined to areas within twenty (20) feet of all Lot lines and be granted standard utility forms. Seller reserves the right for a period of three (3) years after closing to create side Lot line or rear Lot line swales for drainage purposes. Such swales shall, so far as reasonably possible, be confined to an area within twenty (20) feet of all Lot lines and may involve tree removal and grading within such areas.

ARTICLE IX

9. STORMWATER MANAGEMENT The Owners of Lots in **Blue Stem,** and the HOA shall collectively be responsible for maintenance of the stormwater management measures (the "Responsible Parties").

9.1 The Responsible Parties shall maintain the stormwater management measures installed on all outlots in accordance with the approved stormwater design and Storm Water

Management Practices Maintenance Agreement prepared by R.A. Smith Engineering and on file in the offices of the Village.

9.2 The Village is authorized to access the property to conduct inspections of stormwater practices as necessary to ascertain that practices are being maintained and operated in accordance with the approved stormwater plan.

9.3 The Responsible Parties, on an annual basis, shall provide maintenance of each stormwater management measure, including but not limited to, removal of debris, maintenance of vegative areas, maintenance of structural stormwater management measures, aeration equipment and sediment removal.

9.4 Upon notification of the Responsible Parties by the Village of maintenance problems which require correction, the specified corrective actions shall be taken within a reasonable timeframe as directed by the Village.

9.5 The Village is authorized to perform the corrective actions identified in the inspection report if the Responsible Parties do not make the required corrections in the specified time period. The costs and expenses shall be levied against the properties served as special charges for current services, pursuant to 66.0627, Wisconsin Statues, or as special assessments pursuant to 66.0701, Wisconsin Statues. Special charges and special assessments, including delinquent amounts, shall be collected by the Village as provided for in the statutory sections indicated above.

9.6 **Storm Water Facilities:** The stormwater retention basins that have been constructed in Blue Stem are required by the Village to assist in the removal of sediment from and detention of storm water. The stormwater retention basins are not intended to be used for swimming or recreational facilities. Any such use of the stormwater retention basins is strictly prohibited. Anyone entering or using the stormwater retention basins for prohibited use does so at their own risk. By acceptance of a deed or other conveyance of a Lot in Blue Stem, each Owner and its respective successors, assigns, heirs and personal representatives thereby waives, to the fullest extent permitted by law, any and all claims for liability against the Village, Developer and the HOA and their respective agents, contractors, employees, officers and directors, for injury or damage to person or property sustained in or about or resulting from the use or existence of the stormwater retention basins. In addition, each Owner (and its successors, assigns, heirs and personal representatives) agrees to indemnify, defend and hold harmless the Village, Developer, the HOA and their respective agents, contractors, employees, officers and directors from and against any and all liabilities, claims, demands costs and expenses of every kind and nature (including attorney fees) including those arising from any injury or damage to any person (including death) or property sustained in or about or resulting from the use or existence of the storm water retention basins.

9.7 Pursuant to Chapter 14 of the Village Storm Water Management and Erosion Control, the Developer has entered into a Storm Water Management Practice Maintenance Agreement for the benefit of the H.O.A. The H.O.A is responsible for compliance with the Storm Water Management Practice Maintenance Agreement, including but not limited to the maintenance of the landscaped areas surrounding the detention, retention, and infiltration ponds.

Should the H.O.A. fail to comply with the Storm Water Management Practice Maintenance Agreement, the Village pursuant to such agreement, shall complete all repairs, maintenance, modifications and work necessary to ensure proper Storm Water Management. One Thirty Third (1/33) of such costs plus any applicable interest, shall be assessed to each Owner of a Lot in the Subdivision by the Village and payable on the Owners real estate taxes.

ARTICLE X

10. AMENDMENT

10.1 Blue Stem Acquisitions, LLC Amendment Rights: This Declaration shall run with the land and shall be binding upon all persons purchasing any Lot in the Subdivision after **recording of** this Declaration. Any of the herein restrictions, covenants or other provisions of this Declaration may be annulled, waived, changed, modified or amended at any time by a written declaration, executed in such manner as to be recordable, setting forth such annulment, waiver, change, modification or amendment, executed solely by **Blue Stem Acquisitions, LLC** or its successors or assigns, until such time as **Blue Stem Acquisitions, LLC** or its successors or assigns, shall no longer own any Lot in the subdivision or additions. These rights are subordinate to the review by the Village prior to effectiveness for compliance with Village ordinance and provisions of the Developer's agreement with the Village. This section does not terminate, and shall not be interpreted to authorize termination of, any drainage easements, pond maintenance requirements, or other restriction herein that affects an interest in the real estate remains in the State of Wisconsin or a political subdivision or municipal corporation of the State of Wisconsin, including the Village, and the duration of any such restriction shall be unlimited and perpetual, unless terminated by the benefitted political subdivision by recorded document.

10.2 Homeowner Amendment Rights: When **Blue Stem Acquisitions, LLC** or its successors or assigns no longer retain interest in the Subdivision or any additional platted phase, the Owners of at least seventy-five percent (75%) of the Lots in Phase 1 may amend these Restrictions and Covenants as provided in Section 10.1 above Notwithstanding this right, any amendment of Articles V or VI must have the consent of at least seventy-five percent (75%) of the Lots in **ALL** platted phases of Blue Stem Subdivision..

10.3 Effective Date: The effective date of any such annulment, waiver, change or modification of amendment shall be as of the date of recording of such Declaration at the offices of the Ozaukee County Register of Deeds.

ARTICLE XI

11. GENERAL PROVISIONS

11.1 Initial Term and Extensions: The restrictions and covenants herein contained shall be deemed to be running with the land and shall be binding upon all persons, parties and entities having an interest in the land affected thereby, or claiming such rights for a period of twenty-five (25) years from the date hereof, at which time this Declaration shall be automatically extended for successive periods of ten (10) years each, unless, prior to the end of the initial (or any successive) period, an instrument signed by the Owners of at least seventy-five percent (75%) of the Lots has been duly recorded terminating or amending this Declaration in whole or in part.

11.2 Period For Protesting Violations: Any violation of these restrictions which shall exist for a period of one (1) year or more without protest thereof being received by the Owner of the Lot containing such violation, shall not be considered a violation thereafter and any Lot Owner or other party shall be forever barred from proceeding under the provisions of this Declaration.

11.3 Enforcement of Declaration: No Reversion of Title

- The HOA shall have the exclusive right to enforce, by proceedings at law or in equity, all the terms, conditions, and provisions of this Declaration and any Rules or Regulations adopted by the HOA, except that any Lot Owner may proceed, at such Lot Owner's expense, to enforce any such terms, conditions or provisions (other than for collection of assessments against Lot Owners of other Lots) if the HOA fails to take such action within sixty (60) days following a written request by such Lot Owner for the HOA to do so. Any Lot Owner violating any of the terms, conditions or provisions of this Declaration or any Rules and Regulations shall pay all costs, expenses and actual attorney's fees incurred by the HOA or by a prosecuting Lot Owner in the successful enforcement thereof. Neither the HOA or the ACC, nor any member, director or officer thereof, shall be subject to any suit or claim by any Lot Owner for failure of the HOA or the ACC to take any action requested by a Lot Owner.

- Each remedy set forth in this Declaration and/or in Rules and Regulations shall be in addition to all other rights and remedies available at law or in equity. All such remedies shall be cumulative and the election of one shall not constitute a waiver of any other. Any forbearance or failure of the HOA or ACC to exercise any such right or remedy for any violation shall not be a waiver of such right or remedy under any circumstances (except as specifically provided in this Declaration) unless a written waiver is obtained from the HOA or ACC.

- Under no circumstances shall any violation of this Declaration or of any Rule and Regulation result in any revert or reversion of title to any Lot.

11.4 Invalidation: Invalidation of any of the restrictions or covenants herein contained, or any part thereof, by any judgment or court order shall not affect any of the other provisions herein contained, which shall remain in full force and effect.

11.6 ACC Approval: Prior to any permit submittal to the Village of Grafton, said applicant shall first obtain approval of the ACC as provided in this Declaration.

This Declaration shall be binding upon and inure to the benefit of **Blue Stem Acquisitions, LLC** its successors and assigns, and all persons, parties or entities who may hereafter become Owners of any Lot, and their legal representatives, heirs, successors and assigns.

IN WITNESS WHEREOF, this Declaration has been duly executed as of the date first above written.

Blue Stem Acquisitions, LLC

Michael J. Kaerek, Manager

STATE OF WISCONSIN)
)ss.
COUNTY OF MILWAUKEE)

Personally came before me this 13 day of August, 2020, Michael J. Kaerek, Manager of **Blue Stem Acquisitions, LLC** by its authority, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

(signature)

JAN FRANCKI (print name)

Notary Public, State of Wisconsin
My Commission Expires 11/22/2023

NOTARY PUBLIC JAN FRANCKI STATE OF WISCONSIN

Blue Stem Acquisitions, LLC

Robert Tillmann

Robert Tillmann, Manager

STATE OF WISCONSIN)
)ss.
COUNTY OF MILWAUKEE)

Personally came before me this 12 day of August, 2020, Robert J. Tillmann, Manager of **Blue Stem Acquisitions, LLC** by its authority, and to me known to be the person who executed the foregoing instrument and acknowledged the same.

(signature)

(print name)

Notary Public, State of Wisconsin
My Commission Expires 4-3-23

This instrument was drafted by:
Michael J. Kaerek, Manager, **Blue Stem Acquisitions, LLC**
11600 W. Lincoln Avenue
West Allis, WI 53227
414-321-5300