

RESOLUTION NO. 2017-05

ECONOMIC INCENTIVE AGREEMENT
by and between
THE VILLAGE OF WEST DUNDEE, KANE COUNTY, ILLINOIS
and
BLEU ROOT LLC

THIS ECONOMIC INCENTIVE AGREEMENT (the "*Agreement*") by and between the Village of West Dundee, Kane County, an Illinois municipal corporation (the "*Village*"), and Bleu Root LLC, an Illinois Limited Liability Company (the "*Developer*"), is entered into this 8th day of May, 2017.

PREAMBLES

WHEREAS, the Village is a home rule municipality pursuant to Article VII, Section 6(a) of the 1970 Constitution of the State of Illinois with power and authority to perform any function pertaining to its government and affairs; and,

WHEREAS, the Developer proposes to enter into a lease of the premises commonly known as 98 West Main Street, West Dundee (the "*Premises*") for the purpose of operating a full-service restaurant to be known as Blueroot (the "*Business*"); and,

WHEREAS, the Developer has advised the Village that in order to proceed, substantial renovation and upgrading of the Premises (the "*Project*") shall be required and but for financial assistance from the Village, the Project cannot proceed; and,

WHEREAS, the Village is prepared to assist the Developer with a loan of funds for the costs to be incurred in connection with the Project, and further assist the Developer with contributing to the interest charged on such loan and rebating a portion of the incremental sales taxes generated from the Business all as hereinafter set forth in order to attract the Business within the Village thereby retaining job opportunity and increasing the tax base of the Village.

NOW, THEREFORE, the parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

Section 1: Incorporation of Recitals.

All of the recitals contained in the Preambles hereinabove set forth are hereby incorporated into this Agreement as if fully restated herein.

Section 2. Developer's Obligation.

In order to be eligible for the financial assistance to be provided by the Village as hereinafter set forth in Section III, the Developer shall perform the following:

A. The Developer has delivered to the Village a copy of a fully executed lease for the Premises for a term of no less than five (5) years.

B. The Developer has submitted to the Village a detailed description of the plan to renovate and upgrade the Premises (the "Plan") and an itemized budget therefore which demonstrates an investment of no less than \$227,673 to commence operation of the Business at the Premises.

C. The Developer shall commence with the approved Plan within thirty (30) days of access to the Premises and complete construction thereof within six (6) months thereafter.

D. The Developer covenants and agrees to construct the Project in accordance with all applicable Village Codes and in accordance with all of the terms and conditions as set forth in the lease for the Premises.

E. The Developer shall pay all costs of the Project as and when due.

F. The Developer shall maintain its lease for the Premises in good standing throughout the term of this Agreement and pay all taxes, common area maintenance contributions and all other fees when due as required by the terms of the lease.

G. The Developer agrees to operate the Business throughout the term of this Agreement.

H. The Developer covenants and agrees to maintain its status as a limited liability company of Illinois in good standing throughout the term of this Agreement.

I. The Developer covenants and agrees to make all payments to the Village of principal and interest when due arising from the Loan, as hereinafter defined, and all late fees, fees, fines and other lawful assessments of the Village resulting from the operation of the Business at the Premises.

J. The Developer agrees to provide personal guarantees from its major shareholders secured by a Note in the form attached hereto as *Exhibit B* guaranteeing the prompt payment of all amounts due on the Loan.

Section 3. Village's Obligations.

For and in consideration of satisfaction of all of the obligations of the Developer as set forth in Section III above, and so long as no notice of default is outstanding as set forth in Section 14 hereof, the Village agrees to undertake the following:

A. Upon completion of the Project, the Village covenants and agrees to loan to the Developer the amount of \$50,000.00. Said Loan shall have a term of five (5) years with an interest rate not to exceed 5.00%, payable in monthly installments as set forth on *Exhibit B* attached hereto (the "*Loan*") to be disbursed to the Developer as provided in Section 4 hereof.

B. On each anniversary of the date on which the proceeds of the Loan were disbursed to the Developer, the Village shall reduce the principal outstanding balance of the Loan in the amount of \$407.64, being an amount equal to the amount required to reduce the actual interest charged and paid by the Developer to three and a half percent (3.5%). In other words, the annual credit to the outstanding principal balance on the Loan from the Village shall result in reducing the actual annual interest paid on the Loan to 3.5% from 5.00%.

C. Commencing on the first anniversary of the date on which the Business is open and operating and continuing annually thereafter for an additional four (4) years (for a total of five (5) annual rebates), the Village agrees to rebate to the Developer fifty percent (50%) of "Sales Taxes," as hereinafter defined, on the condition that the Developer provides applicable copies of the ST-1 Form from the Illinois Department of Revenue to the Village Finance Director for calculation of the annual rebate and apply such rebate to the outstanding principal balance owing on the Loan. If, at any time the Loan is fully repaid, the Village agrees to rebate directly to the Developer the Sales Taxes due.

For purposes of this Agreement, Sales Taxes shall mean the retail sales taxes and home rules sales taxes imposed upon the operations of the Business collected from the operations of the business.

Section 4. Procedures for and Application of Reimbursement to the Developer.

To establish a right of disbursement of the Loan under this Agreement, the Developer shall submit to the Village a written statement in the form attached to this Agreement as *Exhibit C* (a "*Request for Reimbursement*") setting forth the amount of reimbursement requested and the costs for which reimbursement is sought. Each Request for Reimbursement shall be accompanied by such paid bills, contracts, invoices, lien waivers, or other evidence as the Village shall reasonably require to evidence the right of the Developer to the proceeds of the Loan. The Village shall have ten (10) days after receipt of any Request for Reimbursement from the Developer to recommend approval or disapproval of such Request and, if disapproved, to provide the Developer in writing and in detail with an explanation as to why it is not prepared to recommend such reimbursement. The only reason for disapproval of any expenditure for which reimbursement is sought shall be that such expenditure is that it was not incurred and completed by the Developer in accordance with all applicable Village Code requirements, permits and the provisions of this Agreement.

Section 5. Term.

Unless earlier terminated pursuant to Section 14, the term of this Agreement shall commence on the date of execution and end upon the fifth anniversary of the date on which the Business was open and operating (the "*Termination Date*").

Section 6. No Liability of Village to Others for Developer's Expenses.

The Village shall have no obligations to pay costs of the Project or to make any payments to any person other than the Developer, or its successors or assigns nor shall the Village be obligated to pay any contractor, subcontractor, mechanic, or materialman providing services or materials to the Developer for the construction of the Project.

Section 7. Time; Force Majeure.

Time is of the essence of this Agreement; provided, however, a party shall not be deemed in material breach of this Agreement with respect to any of such party's obligations to be performed under this Agreement, if such party fails to timely perform the same and such failure is due in whole or in part to any strike, lock-out, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, wet soil conditions, failure or interruptions of power, restrictive governmental laws and regulations, condemnations, riots, insurrections, war, fuel shortages, accidents casualties, floods, earthquakes, fires, acts of God, epidemics, quarantine restrictions, freight embargoes, acts caused directly or indirectly by the other party (or the other party's agents, employees or invitees) or similar causes beyond the reasonable control of such party ("*Force Majeure*"). If one of the foregoing events occurs or either party claims that such an event occurred, the party to whom such claim is made shall investigate and consult with the party making such claim, and the party to whom such claim is made shall grant any extension for the performance of the unsatisfied obligation equal to the period of the delay, which period shall commence to run from the time of the commencement of the Force Majeure; provided that the failure of performance was reasonably caused by such Force Majeure.

Section 8. Assignment.

This Agreement may not be assigned by the Developer without the prior written consent of the Village.

Section 9. Developer Indemnification.

The Developer shall indemnify and hold harmless the Village, its agents, officers and employees against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs, and expenses (including any liabilities, judgments, costs and expenses and reasonable attorney's fees) which may arise directly or indirectly from the failure of the Developer, or any contractor, subcontractor, agent, or employee thereof (so long as such contractor, subcontractor, agent, or employee thereof is hired by the Developer) to timely pay any contractor, subcontractor, laborer, or materialman, from any default or breach of the terms of this Agreement by the Developer; or from any negligence or reckless or willful misconduct of the Developer or any contractor, subcontractor,

agent, or employee thereof (so long as such contractor, subcontractor or agent or employee is hired by the Developer). The Developer shall, at its own cost and expense, appear, defend, and pay all charges of attorneys, costs, and other expenses arising therefrom or incurred in connection therewith. If any judgment shall be rendered against the Village, its agents, officers, officials, or employees in any such action, the Developer shall have no obligation whatsoever, with respect to any acts of negligence or reckless or willful misconduct on the part of the Village or any of its officers, agents, employees, or contractors.

Section 10. Waiver.

Any party to this Agreement may elect to waive any remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless the party waiving such right or remedy does so in writing. No such waiver shall obligate such party to waive any right or remedy hereunder, or shall be deemed to constitute a waiver of other rights and remedies provided said party pursuant to this Agreement.

Section 11. Severability.

If any section, subsection, term, or provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term, or provision of this Agreement, or the application of same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

Section 12. Notices.

All notices, demands, requests, consents, approvals, or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party, or an officer, agent, or attorney of the party, and shall be deemed to have been effective as of the date of actual delivery, if delivered personally, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

To the Developer: BLEU ROOT LLC
98 West Main Street
West Dundee, Illinois 60118

To the Village: Joseph A. Cavallaro, Village Manager
Village of West Dundee
102 South Second Street
West Dundee, Illinois 60118

With a copy to: Kathleen Field Orr
Kathleen Field Orr & Associates
53 West Jackson Boulevard
Suite 964
Chicago, Illinois 60604

Section 13. No Joint Venture, Agency, or Partnership Created.

Neither anything in this Agreement nor any acts of the parties to this Agreement shall be construed by the parties or any third person to create the relationship of a partnership, agency, or joint venture between or among such parties.

Section 14. Remedies – Liability.

A. If, in the Village's judgment, the Developer is in material default of this Agreement, the Village shall provide the Developer with a written statement indicating any failure on the Developer's part to fulfill its obligations under this Agreement. Except as required to protect against further damages, the Village may not exercise any remedies against the Developer in connection with such failure until thirty (30) days after giving such notice. If such default cannot be cured within such thirty (30) day period, such period shall be extended for such time as is reasonably necessary for the curing of the same, so long as the Developer diligently proceeds with such cure; if such default is cured within such extended period, the default shall not be deemed to constitute a breach of this Agreement. A default not cured as provided above shall constitute a breach of this Agreement. Any failure or delay by the Village in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach of any rights or remedies it may have as a result of such default or breach.

B. If the Developer materially fails to fulfill its obligations under this Agreement after notice is given by the Village and any cure periods described in paragraph (a) above have expired,

the Village may elect to terminate this Agreement or exercise any right or remedy it may have at law or in equity, including the right to specifically enforce the terms and conditions of this Agreement.

C. If prior to completion of the Project, any voluntary or involuntary petition or similar pleading under any section of any bankruptcy or insolvency act shall be filed by or against the Developer; or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare the Developer insolvent or unable to pay the Developer's debts; or the Developer makes an assignment for the benefit of its creditors; or a trustee or receiver is appointed for the Developer or for the major part of the Developer's property; the Village may elect, but is not required to, terminate this Agreement with or without notice, to the extent permitted by law and enforceable under applicable federal bankruptcy laws.

D. In addition to any other rights or remedies, a party may institute legal action against the other party to cure, correct, or remedy any default, or to obtain any other remedy consistent with the purpose of this Agreement, either at law or in equity, including, but not limited to, the equitable remedy of an action for specific performance; provided, however, no recourse for any claim under or upon any obligation contained in this Agreement shall be had against the Village, its officers, agents, attorneys, representatives, or employees, in any amount or in excess of any specific sum agreed to be paid by the Village pursuant to this Agreement; and no liability, right, or claim at law or in equity shall be attached to or incurred by the Village, its officers, agents, attorneys, representatives, or employees in any amount in excess of any specific sums agreed by the Village to be paid hereunder, and any such claim is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

E. The rights and remedies of the parties are cumulative and the exercise by a party of one or more such rights or remedies shall not preclude the exercise, at the same time or different times, of any other rights or remedies for the same default or for any other default by the other party.

Section 15. Amendment.

This Agreement, and any exhibits attached to this Agreement, may be amended only in a writing signed by all parties with the adoption of any ordinance or resolution of the Village approving

the amendment, as provided by law, and by execution of the amendment by the parties or their successors in interest. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations, and discussions relative to the Project.

Section 16. In the event the Developer discontinues the operation of the Business at the Premises or relocates its operations outside of the Village or opens another business operation outside the Village during the term of this Agreement, the Developer shall repay to the Village all Sales Taxes rebated to the Developer as follows:

100% if discontinuation or relocation within the first year of the opening of the Business;

80% if discontinuation or relocation within the second year;

60% if discontinuation or relocation within the third year;

40% if discontinuation or relocation within the fourth year;

10% if discontinuation or relocation prior to the fifth (5th) anniversary of the opening of the Business.

Section 17. Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

PASSED AND APPROVED by the President and Board of Trustees of the Village of West

Dundee, Kane County, Illinois, this 8th day of May, 2017.

AYES: Trustees Kembitzky, Price, Hanley, Yuscka, Anderley and Wilbrandt

NAYS: None

ABSENT: None



Christopher Nelson, Village President

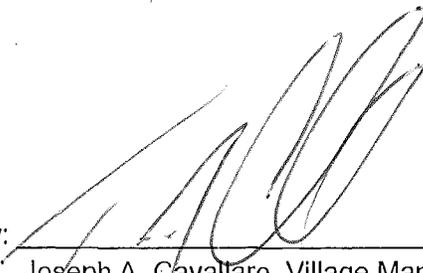
ATTEST:



Barbara Traver, Village Clerk

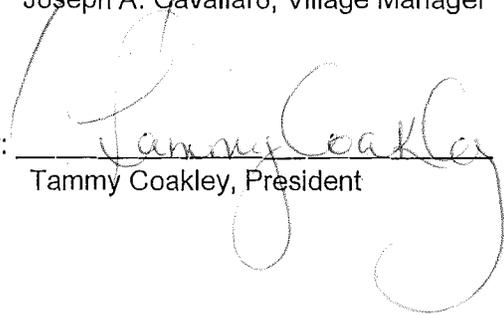
IN WITNESS WHEREOF, the Village has caused this Agreement to be executed by its duly authorized officer, and BLEUROOT, LLC has executed this Agreement, this 8th day of May, 2017.

VILLAGE OF WEST DUNDEE,
an Illinois Municipal Corporation



By: _____
Joseph A. Cavallaro, Village Manager

BLEUROOT LLC



By: _____
Tammy Coakley, President

Exhibit A

MONTHLY INSTALLMENTS

Amortization Schedule Calculator

Date	Payment	Principal	Interest	Total Interest	Balance
May 2017	\$943.56	\$735.23	\$208.33	\$208.33	\$49,264.77
June 2017	\$943.56	\$738.29	\$205.27	\$413.60	\$48,526.46
July 2017	\$943.56	\$741.37	\$202.19	\$615.80	\$47,785.11
Aug. 2017	\$943.56	\$744.46	\$199.10	\$814.90	\$47,040.65
Sept. 2017	\$943.56	\$747.56	\$196.00	\$1,010.90	\$46,293.10
Oct. 2017	\$943.56	\$750.67	\$192.89	\$1,203.79	\$46,542.42
Nov. 2017	\$943.56	\$753.80	\$189.76	\$1,393.55	\$44,788.62
Dec. 2017	\$943.56	\$756.94	\$186.62	\$1,580.17	\$44,031.68
Jan. 2018	\$943.56	\$760.10	\$183.47	\$1,763.64	\$43,271.56
Feb. 2018	\$943.56	\$763.26	\$180.30	\$1,943.94	\$42,508.32
Mar. 2018	\$943.56	\$766.44	\$177.12	\$2,121.05	\$41,741.87
April 2018	\$943.56	\$769.64	\$173.92	\$2,294.98	\$40,972.24
May 2018	\$943.56	\$772.84	\$170.72	\$2,465.70	\$40,199.39
June 2018	\$943.56	\$776.06	\$167.50	\$2,633.19	\$39,423.33
July 2018	\$943.56	\$779.30	\$164.26	\$2,797.46	\$38,644.03
Aug. 2018	\$943.56	\$782.54	\$161.02	\$2,958.47	\$37,861.49
Sept. 2018	\$943.56	\$785.81	\$157.76	\$3,116.23	\$37,075.68
Oct. 2018	\$943.56	\$789.08	\$154.48	\$3,270.71	\$36,286.60
Nov. 2018	\$943.56	\$792.37	\$151.19	\$3,421.91	\$35,494.23
Dec. 2018	\$943.56	\$795.67	\$147.89	\$3,569.80	\$34,698.56
Jan. 2019	\$943.56	\$798.98	\$144.56	\$3,714.38	\$33,899.58
Feb. 2019	\$943.56	\$802.31	\$141.25	\$3,855.62	\$33,097.27
Mar. 2019	\$943.56	\$805.66	\$137.91	\$3,993.53	\$32,291.61
April 2019	\$943.56	\$809.01	\$134.55	\$4,128.08	\$31,482.60
May 2019	\$943.56	\$812.38	\$131.18	\$4,259.26	\$30,670.21
June 2019	\$943.56	\$815.77	\$127.79	\$4,387.05	\$29,854.44
July 2019	\$943.56	\$819.17	\$124.39	\$4,511.44	\$29,035.28
Aug. 2019	\$943.56	\$822.58	\$120.98	\$4,632.42	\$28,212.69
Sept. 2019	\$943.56	\$826.01	\$117.55	\$4,749.97	\$27,386.68
Oct. 2019	\$943.56	\$829.45	\$114.11	\$4,864.09	\$26,557.24
Nov. 2019	\$943.56	\$832.91	\$110.66	\$4,974.74	\$25,724.33
Dec. 2019	\$943.56	\$836.38	\$107.18	\$5,081.93	\$24,887.95

Date	Payment	Principal	Interest	Total Interest	Balance
Jan. 2020	\$943.56	\$839.86	\$103.70	\$5,185.63	\$24,048.09
Feb. 2020	\$943.56	\$843.38	\$100.20	\$5,285.83	\$23,204.73
Mar. 2020	\$943.56	\$846.88	\$96.69	\$5,382.51	\$22,367.85
April 2020	\$943.56	\$850.40	\$93.16	\$5,475.67	\$21,507.45
May 2020	\$943.56	\$853.95	\$89.61	\$5,565.26	\$20,653.50
June 2020	\$943.56	\$857.51	\$86.06	\$5,651.34	\$19,798.00
July 2020	\$943.56	\$861.08	\$82.48	\$5,733.82	\$18,934.92
Aug. 2020	\$943.56	\$864.67	\$78.90	\$5,812.72	\$18,070.25
Sept. 2020	\$943.56	\$868.27	\$75.29	\$5,888.01	\$17,201.98
Oct. 2020	\$943.56	\$871.89	\$71.67	\$5,959.69	\$16,330.10
Nov. 2020	\$943.56	\$875.52	\$68.04	\$6,027.73	\$15,454.58
Dec. 2020	\$943.56	\$879.17	\$64.39	\$6,092.12	\$14,575.41
Jan. 2021	\$943.56	\$882.83	\$60.73	\$6,152.85	\$13,692.58
Feb. 2021	\$943.56	\$886.51	\$57.05	\$6,209.91	\$12,803.07
Mar. 2021	\$943.56	\$890.20	\$53.36	\$6,263.26	\$11,915.87
April 2021	\$943.56	\$893.91	\$49.65	\$6,312.91	\$11,021.95
May 2021	\$943.56	\$897.64	\$45.92	\$6,358.84	\$10,124.32
June 2021	\$943.56	\$901.38	\$42.18	\$6,401.02	\$9,222.94
July 2021	\$943.56	\$905.13	\$38.43	\$6,439.45	\$8,317.81
Aug. 2021	\$943.56	\$908.90	\$34.66	\$6,474.11	\$7,408.90
Sept. 2021	\$943.56	\$912.69	\$30.87	\$6,504.98	\$6,493.21
Oct. 2021	\$943.56	\$916.49	\$27.07	\$6,532.05	\$5,579.72
Nov. 2021	\$943.56	\$920.31	\$23.25	\$6,555.30	\$4,659.40
Dec. 2021	\$943.56	\$924.15	\$19.41	\$6,574.71	\$3,735.26
Jan. 2022	\$943.56	\$928.00	\$15.56	\$6,590.27	\$2,807.26
Feb. 2022	\$943.56	\$931.86	\$11.70	\$6,601.97	\$1,875.39
Mar. 2022	\$943.56	\$935.75	\$7.81	\$6,609.79	\$939.65
April 2022	\$943.56	\$939.65	\$3.92	\$6,613.70	\$0.00

Amortization Schedule Help

A mortgage amortization calculator shows how much of your monthly mortgage payments goes toward principal (the money you borrowed), and how much goes toward interest.

Amortization

Amortization is paying off a debt over time in equal installments. Part of each payment goes toward the loan principal, and part goes toward interest.

With a mortgage, the amount going toward principal starts out small, and gradually grows larger month by month. Meanwhile, the amount going toward interest declines month by month.

The amortization schedule calculator shows:

- How much principal and interest are paid in any particular payment.
- How much total principal and interest have been paid at a specified date.
- How much principal you owe on the mortgage at a specified date.
- How much time you will chop off the end of the mortgage by making one or more extra payments.

This means you can use the mortgage amortization calculator to:

- Find out how much principal you owe now, or will owe at a future date.
- Figure out how much extra you need to pay every month to repay the mortgage in, say, 22 years instead of 30 years.
- See how much interest you have paid over the life of the mortgage, or during a particular year.
- Figure how much equity you have.

Exhibit B

NOTE

\$50,000.00

May 8, 2017

WHEREAS, on May 8, 2017, BLEUROOT LLC, an Illinois Limited Liability Company (the "*Developer*") entered into a certain Economic Incentive Agreement (the "*Agreement*") with the Village of West Dundee, Kane County, Illinois (the "*Village*") wherein the Village is prepared to loan the Developer the sum of \$50,000 for a period of five (5) years at an annual interest rate of 5.00% (the "*Loan*"); but only on the condition that the undersigned agree to repay the Loan to the Village in the event of the Developer's failure to make payments of the Loan when due, as provided in the Agreement.

FOR AND IN CONSIDERATION of the Village's making the Loan to the Developer as hereinabove set forth, the undersigned hereby promises to pay to the Village the balance of any outstanding principal due and owing with interest at the rate of 5.00% per annum upon notice from the Village of the Developer's failure to make a payment as required pursuant to the terms and conditions of the Agreement.

The undersigned hereby waive protest, presentment, notice of dishonor, and notice of acceleration of maturity and agree to continue to remain bound for the payment of principal, interest and all other sums due under this Note notwithstanding any change or changes by way of release, amendment, exchange or modification or by way of extension or extensions of time for the payment of principal and interest of the Loan; and such parties waive all and every kind of notice of such change or changes and agree that the same may be made without notice or consent.

In the event any payment under this Note is not paid when due, the undersigned agree to pay, in addition to the principal and interest hereunder, reasonable attorneys' fees not exceeding a sum equal to 15% of the then outstanding balance owing on the Note, plus all other reasonable expenses incurred by Payee in exercising any of its rights and remedies upon default.

Governing Law. This Note shall be governed by, and construed in accordance with, the laws of the State of Illinois.

Notices to the undersigned shall be sent:

To the Developer: BLEU ROOT LLC
98 West Main Street
West Dundee, Illinois 60118

To the Village: Joseph A. Cavallaro, Village Manager
Village of West Dundee
102 South Second Street
West Dundee, Illinois 60118

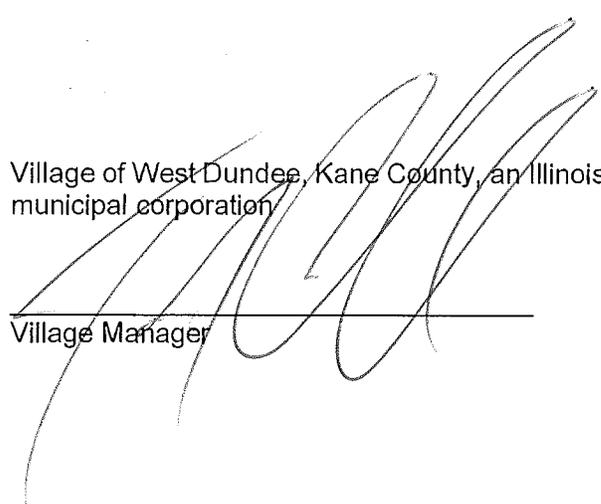
With a copy to: Kathleen Field Orr
Kathleen Field Orr & Associates
53 West Jackson Boulevard
Suite 964
Chicago, Illinois 60604

[SIGNATURE PAGE FOLLOWS]

Dated: May 8, 2017

Village of West Dundee, Kane County, an Illinois
municipal corporation

By:



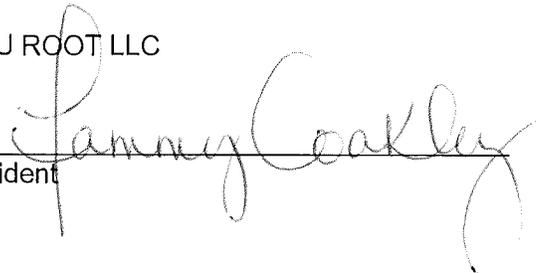
Village Manager

Attest:

Barbara Traver
Village Clerk

BLEU ROOT LLC

By:



President