
VILLAGE OF SUGAR GROVE BOARD REPORT

TO: VILLAGE PRESIDENT & BOARD OF TRUSTEES
FROM: BRENT M. EICHELBERGER, VILLAGE ADMINISTRATOR
SUBJECT: HANNAFORD FARM TOPSOIL STOCKPILES
AGENDA: FEBRUARY 15, 2022 VILLAGE BOARD MEETING
DATE: FEBRUARY 10, 2022

ISSUE

Should the Village amend the Hannaford Farm Annexation Agreement to address the topsoil stockpiles in Hannaford Farm.

DISCUSSION

This item has come before the Board numerous times over the last several years, the most recent being March 2, 2021 when the Board approved an agreement with the Hannaford Farm (HF) HOA to facilitate the removal of the main topsoil stockpile. That effort was very successful with the bulk pile being fully removed during 2021.

The next step in the process is to have the site properly graded and restored with the appropriate vegetation (native seeding). The Village, Badge 323 and the HOA have agreed that 1) Badge 323's obligations regarding public and HOA property have been met, 2) that the Village will oversee the site grading, and 3) the HOA will oversee the planting and ongoing maintenance.

To facilitate these efforts the Village and Badge 323 have agreed to a 4th Amendment to the Annexation Agreement. The Amendment allows the use of FILOD to complete the work, adjusts the FILOD repayment schedule to provide faster repayment to Badge 323, and extends the cap on permit fees for the vacant lots.

COST

Completion costs estimated at \$90,000 will be covered by the FILOD.

RECOMMENDATION

That the Board direct staff place approval of the 4th Amendment on a future agenda for consideration.

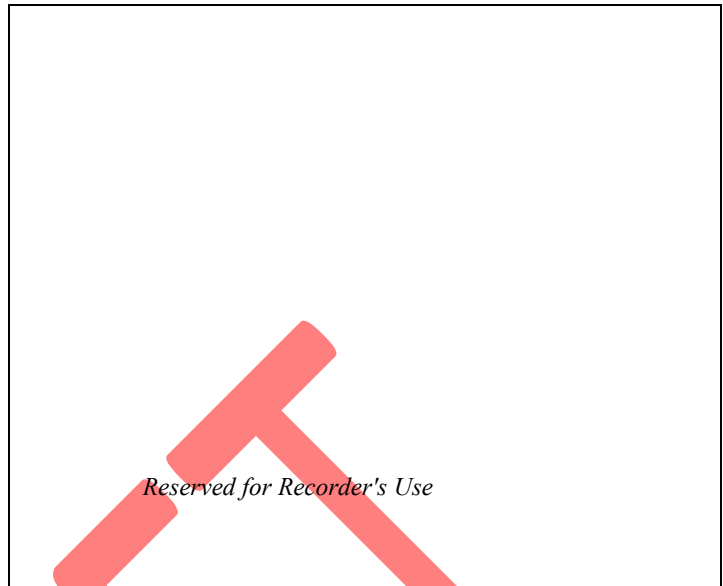
STATE OF ILLINOIS)
) SS
COUNTY OF KANE)

Prepared by:

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140 S. Municipal Drive
Sugar Grove, IL 60544

Return to after recording:

Village Clerk
Village of Sugar Grove
10 S. Municipal Drive
Sugar Grove, IL 60554



4th Amendment to Annexation Agreement

(Hannaford Farm Subdivision Developer Owned Lots)

This 4th Amendment to Annexation Agreement (the "Agreement"), is made and entered into this ____ day of _____, ~~2021~~2022, by and between the VILLAGE OF SUGAR GROVE, a municipal corporation (the "VILLAGE"); Badge 323, LLC, ("DEVELOPER") and, Badge 323, LLC (the "OWNER") individually referred to as "PARTY" and collectively referred to as "PARTIES."

WITNESSETH

WHEREAS, OWNER owns fee simple interest to a portion of the subdivision which is legally described in **EXHIBIT "A"**, attached hereto, consisting of approximately 122.109 acres, more or less (the "Property") (portions being previously sold or transferred to individual owners); and,

WHEREAS, the OWNER and DEVELOPER are a party to the 3rd Amendment to the Annexation Agreement; and,

WHEREAS, it is the desire of OWNER and DEVELOPER to amend the 3rd Amendment to the Annexation Agreement to address changes in circumstances; and,

WHEREAS, the PARTIES acknowledge that this Amendment does not affect the rights of other landowners in the subdivision who are not signatories hereto and is only intended confer both rights and duties on the PARTIES hereto; and,

WHEREAS, all notices required by law relating to this amended annexation agreement of the Property to the VILLAGE have been given to the persons or entities entitled to such notice pursuant to the applicable provisions of the Illinois Compiled Statutes; and,

WHEREAS, the Corporate Authorities of the VILLAGE have duly affixed and completed the time for a public hearing on this Agreement and pursuant to legal notice have held such hearing thereon all as required by the provisions of the Illinois Compiled Statutes; and,

WHEREAS, in accordance with the powers granted to the VILLAGE by the provisions of 65 ILCS 5/11-15.1-1 through 15.1-5, inclusive, relating to Annexation Agreements, the PARTIES hereto wish to enter into a binding Amendment to Annexation Agreement and to provide for various other matters related directly or indirectly to the annexation of the Property as authorized by the provisions of said statutes; and,

NOW, THEREFORE, in consideration of the mutual covenants, agreements and conditions herein contained, and by authority of and in accordance with the aforesaid statutes of the State of Illinois, the PARTIES agree as follows:

A) OBLIGATION TO CONSTRUCT IMPROVEMENTS:

- 1) The PARTIES acknowledge and agree that the public improvements required to be installed by the OWNER/DEVELOPER per Section A.1. of the 3rd Amendment have been substantially completed to the satisfaction of the VILLAGE.
- 2) The PARTIES acknowledge and agree that there is a mutual desire for the Hannaford Farm Homeowners Association (HOA) owned common area generally located between Chestnut Hill Lane, Hunters Ridge Lane, and Redbud Land, to be improved with final grading and seeding and any needed repairs including, but not limited to stormwater structures be completed (HOA IMPROVEMENTS). OWNER/DEVELOPER shall have no responsibility to complete HOA IMPROVEMENTS. VILLAGE shall in its sole discretion may complete, or cause to be completed, the HOA IMPROVEMENTS, and that all such work and related costs shall be reimbursable through the Fee-In-Lieu-Of-Development or Construction (FILOD).

B) FEE IN LIEU OF DEVELOPMENT OR CONSTRUCTION (FILOD):

- 1) The PARTIES acknowledge and agree that the OWNER/DEVELOPER incurred a total of ~~TO BE INSERTED~~ \$661,667.95 in cost for all FILOD eligible work completed as of the date of this 4th Amendment, and that no other additional costs are eligible for reimbursement.
- 2) The PARTIES acknowledge and agree that the OWNER/DEVELOPER has been reimbursed a total of ~~TO BE INSERTED~~ \$338,955.12 leaving a balance due of ~~TO BE INSERTED~~ \$322,712.83.

- 3) The PARTIES acknowledge and agree that the VILLAGE has incurred a total of ~~TO BE~~ INSERTED \$412,149.91 in cost for all FILOD eligible work completed as of the date of this 4th Amendment.
- 4) The PARTIES acknowledge and agree that the VILLAGE has been reimbursed a total of ~~TO BE~~ INSERTED \$140,360.6, leaving a balance due of ~~approximately TO BE~~ INSERTED \$271,789.75.
- 5) The PARTIES acknowledge and agree that in addition to the current balance due, the VILLAGE shall be entitled to FILOD reimbursement for all actions ~~previously taken, and~~ taken in the future in accordance with Section A.2 of this Amendment, and any limits on VILLAGE reimbursement contained in prior Agreements or Amendments are rescinded.
- 6) The PARTIES acknowledge and agree that the current per lot FILOD fee is Fifteen Thousand Five Hundred Ninety-Five Dollars and Forty Cents (\$15,595.40), and that the VILLAGE shall not adjust the FILOD fee without the written consent of OWNER/DEVELOPER.
- 7) The PARTIES acknowledge and agree that for certain lots the FILOD fee paid was less than the current FILOD fee and may be less than the final FILOD fee, and that said lots shall not be required to pay any additional FILOD fee.
- 8) The PARTIES acknowledge and agree that lots 28 (494 Willow), 62 (835 Wheatfield), and 99 (1091 Redbud Lane), each paid a Sixteen Thousand Four Hundred Thirty-One Dollar (\$16,431.00) FILOD fee and the current owners of Lots 28 and 62 have been refunded Nine Hundred Thirty-One dollars in 2016. The current owner of Lot 99, as of the date of Village Board approval of this Amendment, shall be provided a refund of Eight Hundred Thirty-Five Dollars Sixty Cents (\$835.60), payable from FILOD within 60 days approval of this Amendment by the PARTIES (REFUNDS).
- 9) The PARTIES acknowledge and agree that the VILLAGE shall distribute collected FILOD fee amounts in the following manner.
 - a. REFUNDS shall be paid first.
 - b. HOA IMPROVEMENT costs borne by the HOA shall be paid second.
 - c. The VILLAGE and OWNER/DEVELOPER shall be reimbursed with 70% of the collected funds being paid to OWNER/DEVELOPER and 30% being paid to the VILLAGE. Once either party is paid in full, 100% of the collected funds shall be paid to the other PARTY until paid in full.

- d. Any funds remaining shall be remitted to the HOA to be used exclusively for the maintenance of the HOA IMPROVEMENT.

C) REVISED FEES SCHEDULE

- 1) The PARTIES acknowledge and agree OWNER/DEVELOPER EXHIBIT BB of the 3rd Amendment to the Annexation Agreement is hereby repealed and substituted with **EXHIBIT BB** of this Agreement.

D) TOP SOIL STOCKPILE

- 1) The PARTIES acknowledge and the agree that the remaining Top Soil Stockpile located on Village owned property at the current western terminus of Denny Road (“VILLAGE PROPERTY”) is owned and controlled by the VILLAGE. The VILLAGE agrees that OWNER/DEVELOPER may access the VILLAGE PROPERTY and the Top Soil may be removed and used as needed on vacant lots within the PROPERTY by the OWNER/DEVELOPER, and others as may be approved by the VILLAGE. OWNER/DEVELOPER agrees to indemnify the VILLAGE and hold the VILLAGE harmless from all losses, damages, or expenses that relate to OWNER/DEVELOPER’S access to the VILLAGE PROPERTY, use of the Top Soil, and any and all other activities performed by OWNER/DEVELOPER pursuant to this Section D. The VILLAGE retains the right to limit or cease any or all usage rights at the VILLAGE’S sole discretion and agrees to use its best efforts to provide advance notice to all users.

E) ALL OTHER PROVISIONS OF ANNEXATION AGREEMENT AND PREVIOUS AMENDMENTS REMAIN IN FULL FORCE AND EFFECT:

Any provisions of the original annexation agreement and previous amendments thereto not specifically addressed herein shall remain in full force and effect. These include without limitation the following: Annexation, Zoning, Plats and Plans, Roadway Dedication, land contributions (if not already completed), Signage/ Model and Production homes, extension of all public improvements, indemnification, granting of easements and annexation to Fox Metro Water Reclamation District, building and occupancy permits, storm water release rates, water supply requirements, construction delivery and street and site cleanup, appearance standards, disconnection, Special Service Areas, common areas and re-subdivision, variances granted and general obligations. For purposes of construing the provisions of the Agreement, the PARTIES agree that this Amendment shall be fully integrated into the Agreement from and after its execution by the PARTIES.

E) TERM: The term of this Amendment shall be 20 years from the date of execution hereof.

DRAFT

IN WITNESS WHEREOF, the PARTIES have executed this Annexation Agreement the day and year first above written.

VILLAGE:
THE VILLAGE OF SUGAR GROVE

By: _____
Village President

Attest: _____
Village Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____ and _____, personally known to me to be the Village President and Village Clerk, respectively, of the Village of Sugar Grove, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledge that as such Village President and Village Clerk, they signed and delivered the said instrument as President and Village Clerk caused the corporate seal of said Village to be affixed thereto, pursuant to authority, given by the Village of Sugar Grove Board of Trustees as the free and voluntary act and deed of said Village for the uses and purposes set forth.

Given under my hand and official seal, this _____ day of _____, ~~2020~~2022.

Notary Public

OWNER:

By: _____

Attest: _____

STATE OF ILLINOIS)
) SS
COUNTY OF)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, personally known to me to be the _____ and _____ of _____, an Illinois limited _____, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledge that as such _____, he signed and delivered the said instrument as _____ and caused the seal of said _____ to be affixed thereto, as the free and voluntary act for the uses and purposes set forth.

Given under my hand and official seal, this _____ day of _____, ~~2020~~2022+

Notary Public

DEVELOPER:

By:

Attest:

STATE OF ILLINOIS)
) SS
COUNTY OF)

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that _____, personally known to me to be the _____ and _____ of _____, an Illinois limited _____, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledge that as such _____, he signed and delivered the said instrument as _____ and caused the corporate seal of said Corporation to be affixed thereto, as the free and voluntary act for the uses and purposes set forth.

Given under my hand and official seal, this _____ day of _____, 2021

Notary Public

LIST OF EXHIBITS

EXHIBIT A	Legal Description of Entire Subdivison
EXHIBIT BB	REVISED PERMIT, IMPACT AND TRANSITION FEE SCHEDULES

DRAFT

EXHIBIT A

ENTIRE SUBDIVISION

DRAFT

EXHIBIT BB

REVISED PERMIT, IMPACT AND TRANSITION FEE SCHEDULES

DRAFT

Exhibit BB

Permit, Impact, and Transition Fees, Donations and Contributions

		Years 1-7 Through April 30, 2029 \$17,850 + \$500 per Year CAP (1)	Years 8+ May 1, 2029+ NO CAP (2)
	Permit		
Building Permit		\$ 1,435.00	(3)
Certificate of Occupancy		100.00	
Plan Review		-	
Engineering Review		490.00	
Water Meter		495.00	
Total Permit		<u>\$ 2,520.00</u>	
	Impact		
Village HF ERF & CIP Debt to Village		\$ 5,054.65	
Village Capital Improvement		3,039.52	
Village Sewer Connection		68.33	
Village Water Connection		2,625.18	
Village Road Impact		<u>2,843.47</u>	
		<u>13,631.15</u>	
School District Land Cash		515.90	
School District Impact		<u>515.90</u>	
		<u>1,031.80</u>	
Park District Land Cash		<u>523.14</u>	
		<u>523.14</u>	
Fire District Impact		<u>109.97</u>	
		<u>109.97</u>	
Library District Impact		<u>33.94</u>	
		<u>33.94</u>	
Total Impact		<u>\$ 15,330.00</u>	
	Transition		
Village		\$ -	
School District		-	
Park District		-	
Fire District		-	
Library District		-	
Township		-	
Total Transition		<u>\$ -</u>	
Total Collected by Village		\$ 17,850.00	(4)

(1) \$17,850 through April 30, 2022, \$500 increase in CAP effective May 1 of each year 2022 - 2028. The Village reserves the right to adjust allocations as long as the CAP is not exceeded.

(2) Shall be that amount as set from time to time by the Village.

(3) Actual cost varies by size of home and shall be that amount as set from time to time by the Village.

(4) The Parties acknowledge and agree that the fees listed herein are being donated solely to the VILLAGE (notwithstanding titles and headings herein), and the use, method, manner, timing and distribution of any subsequent distributions by the VILLAGE to other governmental entities, if at all, shall be solely controlled by the VILLAGE.