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**VILLAGE OF SUGAR GROVE  
BOARD REPORT**

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**TO:** VILLAGE PRESIDENT & BOARD OF TRUSTEES  
**FROM:** WALTER MAGDZIARZ, COMMUNITY DEVELOPMENT DIRECTOR  
**SUBJECT:** ORDINANCE: HANNAFORD FARM ANNEXATION AGREEMENT AMENDMENT #4  
**AGENDA:** MARCH 1, 2022 VILLAGE BOARD MEETING  
**DATE:** FEBRUARY 25, 2022

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**ISSUE**

Shall the Village Board approve an Annexation Agreement Amendment #4 for Hannaford Farm.

**DISCUSSION**

Due to the failure of the initial developer/owner of Hannaford Farm to complete the required public improvements and the failure of the bank backing the associated Letter of Credit to provide the funds needed to complete the public improvements, the responsibility to complete these improvements falls to the successor/s (individual lot owners).

The Board will recall that while much of the required public improvements were completed in the subdivision prior to the failure of the original subdivider, a number of improvements were not begun or were in an incomplete state. Chief among the incomplete public improvements was the final lift of asphalt on the streets in the subdivision and a list of repairs and improvements that remained to be completed. The annexation agreement was amended to address the responsibility of the new property owner with respect to funding and completing the necessary public improvements. In short, the new owner made the improvements with all vacant lot owners sharing in the cost through the continuation of the existing additional fee (FILOD) at permit issuance. A schedule for the completion of the improvements was also provided in the amendment.

Since then, the new owner has completed the incomplete public improvements and the Village coordinated the removal and restoration of the topsoil stockpile that was a longstanding neighborhood nuisance. Now, comes the time to reconcile all of the costs to complete the subdivision improvements.

The Village and Badge 323, LLC, the Developer, have reached agreement on the final disposition of the fee-in-lieu-of developer that was established in the second amendment of the Annexation Agreement. The Annexation Agreement is being amended to memorialize the final accounting, obligations and responsibilities of the parties going forward. Additionally, the final grading and restoration of the common area lot that was the location of the topsoil stockpile is addressed in the amendment.

Since the last time this matter was discussed, the amount approved for Badge 323 is increased by \$6,700.00, and the amount the Hannaford Farm HOA will receive for the restoration expenses is capped at \$12,500.00.

Staff recommends approval of the Annexation Agreement Amendment #4 for Hannaford Farm.

**ATTACHMENTS**

- Ordinance Authorizing Execution of an Annexation Agreement Amendment #4

**COSTS**

In this instance, the publication, recording, and Village Attorney costs associated with this project are the Village's responsibility.

**RECOMMENDATION**

That the Village Board approve an Ordinance Authorizing Execution of Amendment #4 of the Hannaford Farm Annexation Agreement.

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**VILLAGE OF SUGAR GROVE  
KANE COUNTY, ILLINOIS**

**ORDINANCE NO. 2022-0301A**

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**AN ORDINANCE AUTHORIZING EXECUTION OF  
AMENDMENT #4 OF THE HANNAFORD FARM ANNEXATION AGREEMENT**

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Adopted by the Board of Trustees and President of the Village of Sugar Grove  
this 1<sup>st</sup> day of March 2022

Published in pamphlet form by authority of the Board of Trustees of the Village of Sugar Grove, Illinois,  
this 1<sup>st</sup> day of March 2022

**VILLAGE OF SUGAR GROVE**

**ORDINANCE NO. 2022-0301A**

**AN ORDINANCE AUTHORIZING EXECUTION OF  
AMENDMENT #4 OF THE HANNAFORD FARM ANNEXATION AGREEMENT**

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**WHEREAS**, the Village of Sugar Grove is not a home rule municipality within Article VII, Section 6A of the Illinois Constitution and, pursuant to the powers granted to it under 65 ILCS 5/1-8 *et seq.*; and,

**WHEREAS**, BADGE 323, LLC, (“DEVELOPER”) have petitioned for an amendment to the Annexation Agreement for the Hannaford Farm subdivision more accurately described in Exhibit A, attached hereto and made a part hereof by this reference, as it pertains to DEVELOPER responsibilities and obligations; and

**WHEREAS**, after due notice, the corporate authorities of the Village have held a public hearing on March 1, 2022 on the proposed amended agreement, similar in form and substance to the Agreement attached hereto; and,

**WHEREAS**, the corporate authorities have approved this Agreement; and,

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, as follows:

**SECTION ONE: AMENDED ANNEXATION AGREEMENT**

That the Amended Annexation Agreement entered into by and between the VILLAGE OF SUGAR GROVE, an Illinois municipal corporation (the "VILLAGE"); and Badge 323, LLC., (the "DEVELOPER"); setting forth terms and conditions relating to the territory described in **Exhibit A** is hereby incorporated by reference in this ordinance as if fully set forth in the body hereof, a copy of which is attached hereto as **Exhibit B**. Said **Exhibit B** is hereby approved and the Village President and Clerk are hereby authorized to execute said amended agreement on behalf of the Village of Sugar Grove.

**SECTION TWO: RECORDING AND NOTICE**

The Village Clerk is hereby authorized to record this Ordinance along with all exhibits in the Office of the Recorder of Kane County.

**SECTION THREE: GENERAL PROVISIONS**

**REPEALER:** All ordinances or portions thereof in conflict with this annexation ordinance are hereby repealed.

SEVERABILITY: Should any provision of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and effect the same as if the invalid provision had not been a part of this ordinance.

EFFECTIVE DATE: This ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, this 1<sup>st</sup> day of March 2022.

ATTEST:

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Jennifer Konen,  
President of the Board of Trustees

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Alison Murphy,  
Village Clerk

	Aye	Nay	Absent	Abstain
Trustee Matthew Bonnie	___	___	___	___
Trustee Sean Herron	___	___	___	___
Trustee Heidi Lendi	___	___	___	___
Trustee Michael Schomas	___	___	___	___
Trustee Ryan Walter	___	___	___	___
Trustee James F. White	___	___	___	___

**Exhibit A**

*(Legal Description)*

Hannaford Farm Unit 1, part of the Southeast Quarter of Section 4 and the Northeast Quarter of Section 9, Township 38 North, Range 7 East of the Third Principal Meridian, Kane County, Illinois according to the document number 2004K159382 recorded on December 14, 2004 in the Recorder's Office of Kane County, Illinois; and

Hannaford Farm Unit 2, South half of Section 4, Township 38 North, Range 7 East of the Third Principal Meridian, Kane County, Illinois according to the document number 2007K038156 recorded on April 9, 2007 in the Recorder's Office of Kane County, Illinois  
all commonly known as the Hannaford Farm subdivision.

**Exhibit B**

*(Amended Annexation Agreement on following pages)*

STATE OF ILLINOIS     )  
                                      ) SS  
COUNTY OF KANE     )

*Prepared by:*

Laura Julien  
Mickey, Wilson, Weiler, Renzi, Lenert & Julien, P.C.  
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

*Reserved for Recorder's Use*

#### **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 24 day of FEBRUARY, 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 3<sup>rd</sup> Amendment to the Annexation Agreement; and,

**WHEREAS**, it is the desire of OWNER and DEVELOPER to amend the 3<sup>rd</sup> 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 3<sup>rd</sup> 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 Six Hundred Sixty-Eight Thousand Three Hundred Sixty-Seven Dollars and Ninety-Five Cents (\$668,367.95) in cost for all FILOD eligible work completed as of the date of this 4<sup>th</sup> 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 Three Hundred Thirty-Eight Thousand Nine Hundred Fifty-Five Dollars and Twelve Cents (\$338,955.12) leaving a balance due of Three Hundred Twenty-Nine Thousand Four Hundred Twelve Dollars and Eighty-Three Cents \$329,412.83).

- 3) The PARTIES acknowledge and agree that the VILLAGE has incurred a total of Four Hundred Twelve Thousand One Hundred Forty-Nine Dollars and Ninety-One Cents (\$412,149.91) in cost for all FILOD eligible work completed as of the date of this 4<sup>th</sup> Amendment.
- 4) The PARTIES acknowledge and agree that the VILLAGE has been reimbursed a total of One Hundred Forty Thousand Three Hundred Sixty Dollars and Sixty Cents (\$140,360.60), leaving a balance due of Two Hundred Seventy-One Thousand Seven Hundred Eighty-Nine Dollars and Seventy-Five Cents (\$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 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 and Zero Cents (\$931.00) 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 and 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 up to Twelve Thousand Five Hundred Dollars and No Cents (\$12,500.00) 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 3<sup>rd</sup> 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. The VILLAGE shall not authorize the hauling off or use of the Top Soil outside of the Hannaford Farm Subdivision without providing OWNER/DEVELOPER at least one-hundred twenty (120) days' prior notice. Upon receipt of such notice and prior to the expiration of the one-hundred twenty (120) day period, OWNER/DEVELOPER may relocate the Top Soil for use within the Hannaford Farm Subdivision, subject to any applicable standard permitting procedures, of which approval shall not be unreasonably withheld. Said one-hundred twenty (120) day notice may be waived in the VILLAGE's sole discretion in an emergent situation (e.g., such as may be necessary to meet the conditions of a grant for public improvements. The VILLAGE shall meet with the OWNER/DEVELOPER to discuss any pending emergent situation prior to any declaration thereof of action pursuant to.

**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.

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 \_\_\_\_\_, 2022.

Notary Public

DEVELOPER: Member of Badge 323, LLC

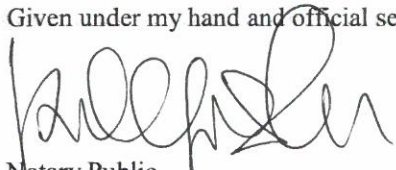
By: William R McClure

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 WILLIAM R. MCCLURE, personally known to me to be the MEMBER and \_\_\_\_\_ of BADGE 323, LLC, an Illinois limited COMPANY 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 MEMBER, he signed and delivered the said instrument as MEMBER 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 24 day of FEBRUARY, 2022

  
Notary Public



OWNER:

By: William R McLe  
Member of Badge 323, LLC

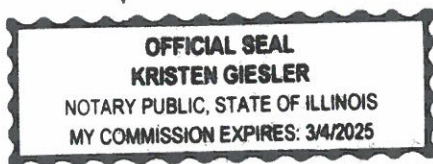
Attest: \_\_\_\_\_

STATE OF ILLINOIS       )  
                                      ) SS  
COUNTY OF               )

I, the undersigned, a Notary Public in and for the County and State aforesaid, do hereby certify that WILLIAM R. McLE, personally known to me to be the MEMBER and \_\_\_\_\_ of BADGE 323 LLC an Illinois limited COMPANY, 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 MEMBER, he signed and delivered the said instrument as MEMBER 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 24 day of FEBRUARY, 2022

Kristen Giesler  
Notary Public



## LIST OF EXHIBITS

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



EXHIBIT A

ENTIRE SUBDIVISION

Hannaford Farm Unit 1, part of the Southeast Quarter of Section 4 and the Northeast Quarter of Section 9, Township 38 North, Range 7 East of the Third Principal Meridian, Kane County, Illinois according to the document number 2004K159382 recorded on December 14, 2004 in the Recorder's Office of Kane County, Illinois; and

Hannaford Farm Unit 2, South half of Section 4, Township 38 North, Range 7 East of the Third Principal Meridian, Kane County, Illinois according to the document number 2007K038156 recorded on April 9, 2007 in the Recorder's Office of Kane County, Illinois

all commonly known as the Hannaford Farm subdivision.

EXHIBIT BB

REVISED PERMIT, IMPACT AND TRANSITION FEE SCHEDULES

**Hannaford Farm - 4th Amendment  
Exhibit BB**

**FINAL**

**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)
	<b>Permit</b>		
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>	
	<b>Impact</b>		
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		523.14	
		<u>523.14</u>	
Fire District Impact		109.97	
		<u>109.97</u>	
Library District Impact		33.94	
		<u>33.94</u>	
Total Impact		<u>\$ 15,330.00</u>	
	<b>Transition</b>		
Village		\$ -	
School District		-	
Park District		-	
Fire District		-	
Library District		-	
Township		-	
Total Transition		<u>\$ -</u>	
<b>Total Collected by Village</b>		<b>\$ 17,850.00 (4)</b>	

(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.