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**VILLAGE OF SUGAR GROVE  
BOARD REPORT**

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**TO:** VILLAGE PRESIDENT & BOARD OF TRUSTEES  
**FROM:** MATT ANASTASIA, FINANCE DIRECTOR  
**SUBJECT:** RATIFICATION: RESOLUTION #20230117CCED AUTHORIZING ECONOMIC DEVELOPMENT AGREEMENT WITH THREE BROTHERS & PAPOU LLC. (BURNT BARREL)  
**AGENDA:** FEBRUARY 7, 2023  
**DATE:** JANUARY 25, 2023

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**ISSUE**

Shall the Village Board ratify Resolution #20230117CCD an economic development agreement with Three Brothers & Papou, LLC. (Burnt Barrel).

**DISCUSSION**

At the Board meeting held on February 7, 2023, the Board approved an Economic Development Agreement with Three Brothers & Papou, LLC. STAR. In the agreement, Section 5(c) referred to an on or before date in which development must occur. This section has been amended to state the following:

- A. Owner shall develop Lots 1, 2, 3, 4 & 5, commonly identified by PINs 14-08-251-034, 14-08-251-031, 14-08-251-033, 14-08-251-035, & 14-08-251-003 to commercially develop said parcels in a manner that continues to meet any requirements of §8-11-20 of the Municipal Code (all collectively referred to as the “**Future Projects**”) located on the above-specified College Corner Parcels and shall have obtained from the Village its final certificate of occupancy **within four (4) years of the date of this Agreement** as a condition of the Village entering into an Economic Incentive Agreement with respect to any Future Projects. **Notwithstanding the foregoing, the four (4) year deadline for obtaining a final certificate of occupancy for the College Corner Parcels shall be automatically extended by successive four (4) year terms unless written notice to terminate the agreement is provided by the Village at least 30 days prior to the then current term. However, under no circumstances shall the Economic Incentive Agreement exceed fifteen (15) years or the life of the Business District, whichever is sooner.**

This is the only change to the agreement, but was substantial to not be under the STAR provision. This is for Board ratification of this change to complete the agreement.

#### **COST**

There is no cost to the Village in ratifying the Resolution for the economic development agreement.

#### **RECOMMENDATION**

The Village Board ratify Resolution #20230117CCED Authorizing execution of an economic development agreement with Three Brothers & Papou, LLC. (Burnt Barrel).



**VILLAGE OF SUGAR GROVE**

**KANE COUNTY, ILLINOIS**

**Resolution No. 20230117CCED**

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**A Resolution Authorizing an Economic Development Agreement between the Village of  
Sugar Grove, Three Brothers & Papou, LLC  
and College Corner, LLC  
Village of Sugar Grove  
Kane County, Illinois**

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Adopted by the  
Village President and Board of Trustees  
of the Village of Sugar Grove  
Kane County, Illinois  
this 17<sup>th</sup> day of January, 2023

Published in Pamphlet Form  
by authority of the Village President and Board of Trustees  
of the Village of Sugar Grove  
Kane County Illinois  
this 17<sup>th</sup> day of January, 2023

**RESOLUTION NO. 20230117CCED**

**A RESOLUTION AUTHORIZING AN ECONOMIC DEVELOPMENT AGREEMENT  
BETWEEN THE VILLAGE OF SUGAR GROVE, THREE BROTHERS & PAPOU, LLC,  
AND COLLEGE CORNER, LLC**

**WHEREAS**, the Village of Sugar Grove (“**Village**”) is not a home rule municipality within Article VII, Section 6A of the 1970 Constitution of the State of Illinois, and accordingly, seeks to act pursuant to the powers granted to it under 65 ILCS 5/1-1 *et seq.*; and,

**WHEREAS**, the Village desires to enter into an economic development agreement with Three Brothers & Papou, LLC and College Corner, LLC; and,

**WHEREAS**, it is in the Village’s best interest to enter into said economic development Agreement.

**NOW, THEREFORE, BE IT RESOLVED**, by the President and Board of Trustees as follows:

1. That the Village Board hereby authorizes the execution of *An Economic Development Agreement between the Village of Sugar Grove, Three Brothers & Papou, LLC and College Corner, LLC*, attached hereto and made part hereof by this reference.
2. The Village President and Village Clerk are hereby directed to execute said agreement on behalf of the Village and to take any and all other actions necessary to effectuate the terms of this Agreement.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Sugar Grove, Kane County, Illinois, on this 17<sup>th</sup> day of January, 2023.

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Jennifer Konen, Village President

ATTEST: \_\_\_\_\_

Alison Murphy, Village Clerk

	Aye	Nay	Absent	Abstain
Trustee Heidi Lendi	_____	_____	_____	_____
Trustee Matthew Bonnie	_____	_____	_____	_____
Trustee Sean Herron	_____	_____	_____	_____
Trustee James F. White	_____	_____	_____	_____
Trustee Ryan Walter	_____	_____	_____	_____
Trustee Michael Schomas	_____	_____	_____	_____
Village President Jennifer Konen	_____	_____	_____	_____

## **ECONOMIC DEVELOPMENT AGREEMENT**

**THIS ECONOMIC DEVELOPMENT AGREEMENT (“Agreement”)** is entered into this 17<sup>th</sup> day of January, 2023, by and between the **VILLAGE OF SUGAR GROVE**, an Illinois Municipal Corporation (**“Village”**), **THREE BROTHERS & PAPOU, LLC, d/b/a Burnt Barrel II**, an Illinois Limited Liability Company (**“Developer”**), and **COLLEGE CORNER, LLC**, an Illinois Limited Liability Company (**“Owner”**) as each may individually be referred to as a **“Party”** and collectively referred to as the **“Parties”**.

### **WITNESSETH:**

**WHEREAS**, The Village is an Illinois Municipal Corporation existing under and by virtue of the Constitution and laws of the State of Illinois, including by not limited to the Illinois Municipal Code (65 ILCS 5/et seq.) (**“Code”**); and,

**WHEREAS**, Section 8-11-20 of the Code (65 ILCS 5/8-11-20) authorizes the corporate authorities of a municipality to enter into Economic Incentive Agreements as provided therein; and,

**WHEREAS**, Illinois law has also long recognized that expenditures of municipal funds for economic development is within the powers of municipalities for the public welfare; and,

**WHEREAS**, College Corner, LLC owns certain parcels located within the College Corners Business Improvement District (**“Business Improvement District”** or **“BID”**), with said parcels more specifically identified on **Exhibit A**, attached hereto and incorporated herein by reference (**“College Corner Parcels”**); and,

**WHEREAS**, Three Brothers & Papou, LLC is the owner and developer of 799 Heartland Drive, Sugar Grove, Illinois 60554 and commonly identified by PIN 14-08-253-004 (**“Burnt Barrel II Property”**) which is also located within the Business Improvement District, and which has an existing building; and,

**WHEREAS**, Developer has found it necessary and desirable to rehabilitate said existing structure and to convert, develop, and operate it as a restaurant to be known as Burnt Barrel II in Sugar Grove (**“Project”**); and

**WHEREAS**, all of the property legally described in **Exhibit A** is located within the corporate limits of the Village and within the Business Improvement District; and

**WHEREAS**, development of the Project will require significant improvements to the existing site and facilities; and

**WHEREAS**, the operation and construction of the Project will create job opportunities and economic development within the Village; and

**WHEREAS**, the Village has established the Business Improvement District and imposed a 1% (one percent) Sales Tax within said Business Improvement District (“**BID Sales Tax**”); and

**WHEREAS**, without this Agreement, the Project would not be possible; and

**WHEREAS**, it is the intent of the Owner to develop the remaining parcels described in **Exhibit A** in a manner that meets the requirements of §8-11-20 of the Municipal Code; and

**WHEREAS**, it is in the best interest of the Village, the Owner, and the Developer to enter into this Agreement.

### **SECTION 1. Incorporation.**

The Preambles to this Agreement are hereby declared to be the findings of the Parties. Said Preambles, and all Exhibits referred to in this Agreement, are incorporated by reference as though fully set forth in this Section 1.

### **SECTION 2. Findings for Burnt Barrel II Property.**

- A. The Village finds that the Burnt Barrel II Property meets the following requirements of §8-11-20 of the Municipal Code:
  - a. That the building on the Burnt Barrel II Property has remained less than significantly unoccupied or underutilized for a period of at least one year;
  - b. The Project is expected to create or retain job opportunities within the Village;
  - c. The development of the Burnt Barrel II Property will serve to further the development of adjacent areas;
  - d. But for this Agreement, the development of the Burnt Barrel II Property would not be possible;
  - e. Developer meets the high standards of creditworthiness as demonstrated by one or more of the following:
    - i. Corporate debenture ratings of BBB or higher by Standard & Poor’s Corporation or Baa or higher by Moody’s Investor Services, Inc.
    - ii. A letter from a financial institution with assets of \$10,000,000 or more attesting to the financial strength of Developer, and/or
    - iii. Specific evidence of equity financing for not less than 10% of the total project costs.

- iv. The development of the Burnt Barrel II Property will strengthen the commercial sector of the Village;
- v. The development of the Burnt Barrel II Property will enhance the tax base of the Village; and,
- vi. An economic incentive agreement is in the best interest of the Village.

### **SECTION 3. Conditions Precedent to the Undertaking on the part of the Village.**

All undertakings on the part of the Village pursuant to this Agreement with respect to the Burnt Barrel II Property are subject to the satisfaction of the following conditions by the Developer:

- A. The Developer shall rehabilitate an existing structure and convert and develop it into a restaurant, to be known as Burnt Barrel II, including building and site improvements more specifically outlined in the Economic Incentive Agreement, attached hereto and incorporated herein as **Exhibit 1**, located on the Burnt Barrel II Property and shall have obtained from the Village its final certificate of occupancy for the Project on or before June 30, 2023.
- B. The Developer shall construct and operate the Project all in accordance with all applicable zoning ordinances and regulations, and all building and fire code regulations, unless otherwise granted zoning entitlements through the Planning and Zoning Commission and Corporate Authorities.

### **SECTION 4. Undertaking on the Part of the Village upon satisfaction by the Developer of all the Conditions stated in Section 2 hereof.**

- A. The Village shall enter into an Economic Incentive Agreement with the Developer, in substantially in the form attached hereto as **Exhibit 1**, to pay to Developer one hundred percent (100%) of the BID Sales Tax collected from the Burnt Barrel II Property for a period of fifteen (15) years duration (“**Inducement Term**”). The Inducement Term shall commence upon the Project receiving a final Certificate of Occupancy from the Village.

### **SECTION 5. Conditions Precedent to the Undertaking on the part of the Village with respect to the College Corner Parcels.**

All undertakings on the part of the Village pursuant to this Agreement with respect to the remaining parcels described on **Exhibit A** are subject to the satisfaction of the following conditions by Owner:

- B. The Village finds that the remaining parcels described in **Exhibit A** are vacant but meet the requirements of §8-11-20 of the Municipal Code.



- C. Owner shall develop Lots 1, 2, 3, 4 & 5, commonly identified by PINs 14-08-251-034, 14-08-251-031, 14-08-251-033, 14-08-251-035, & 14-08-251-003 to commercially develop said parcels in a manner that continues to meet any requirements of §8-11-20 of the Municipal Code (all collectively referred to as the “**Future Projects**”) located on the above-specified College Corner Parcels and shall have obtained from the Village its final certificate of occupancy **within four (4) years of the date of this Agreement** as a condition of the Village entering into an Economic Incentive Agreement with respect to any Future Projects. **Notwithstanding the foregoing, the four (4) year deadline for obtaining a final certificate of occupancy for the College Corner Parcels shall be automatically extended by successive four (4) year terms unless written notice to terminate the agreement is provided by the Village at least 30 days prior to the then current term. However, under no circumstances shall the Economic Incentive Agreement exceed fifteen (15) years or the life of the Business District, whichever is sooner.**
- D. Owner shall construct and operate the Future Projects all in accordance with all applicable zoning ordinances and regulations, and all building and fire code regulations, unless otherwise granted zoning entitlements through the Planning and Zoning Commission and Corporate Authorities.

**SECTION 6. Undertakings on the Part of the Village upon satisfaction by Owner of all the Conditions herein stated.**

- A. On the condition of Owner meeting the requirements of Section 5 of this Agreement the Village commits to entering into an Economic Incentive Agreement with the Village substantially in the form attached hereto as **Exhibit 1**, except as may need to be modified to incorporate specifics with regard to Owner and the Future Projects, to pay to Owner one hundred percent (100%) of the BID Sales Tax collected from future development on Owner’s Parcels 14-08-251-034, 14-08-251-031, 14-08-251-033, 14-08-251-035, & 14-08-251-003 for a period of fifteen (15) years duration for each Future Project (each, an “**Inducement Term**”). Each Future Project’s respective Inducement Term shall commence upon the development on the parcel receiving a final Certificate of Occupancy from the Village.

**SECTION 7. Representations and Warranties of Owner and Developer.**

- A. Owner and Developer each hereby represents and warrants that but for economic assistance from the Village, the Project and the Future Projects would not be undertaken within the Village.
- B. Owner and Developer each hereby represents and warrants that at all times they shall comply with all applicable zoning ordinances and regulations, and all building and fire code regulations, and all other applicable Village ordinances, resolutions, codes and regulations.

## **SECTION 8. Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois and the forum of any dispute shall be in the Sixteenth Judicial Circuit, Kane County, Illinois.

## **SECTION 9. Amendment.**

This Agreement may be amended only by the mutual consent of the Parties, or their successors and assigns, by a written instrument specifically referencing this Agreement.

## **SECTION 10. Notices.**

All notices, elections and other communications between the Parties shall be in writing and shall be mailed by certified mail, return receipt requested, postage prepaid, or delivered personally to the Parties at the following addresses or such other addresses as the Parties may, by notice, designate:

### **For the Village:**

Village of Sugar Grove  
160 S. Municipal Dr, Suite 110  
Sugar Grove, Illinois 60554  
Attention: Village Administrator and Village Clerk

### **With copy to:**

Mickey, Wilson, Weiler, Renzi, Lenert & Julien, P.C.  
140 S. Municipal Dr.  
Sugar Grove, Illinois 60554  
Attention: Laura M. Julien

### **For the Developer:**

Three Brothers & Papou, LLC.  
d/b/a Burnt Barrel II  
3150K Cannonball Trail  
Yorkville, Illinois 60560-1040

### **For the Owner: College Corner, LLC**

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### **With a copy to:**

Daniel J. Kramer

Attorney at Law  
1107A S. Bridge St.  
Yorkville, Illinois 60560

Notices shall be deemed received on the fourth (4<sup>th</sup>) business day following deposit in the U.S. Mail, if given by certified mail as aforesaid, and upon receipt or refusal, if personally delivered.

**SECTION 11. Effective Date.**

This Agreement shall be effective on the date set forth above.

**SECTION 12. Mutual Assistance and Consents.**

The Parties agree to do all things necessary or appropriate to carry out the terms and provisions of this Agreement and to aid and assist each other in carrying out the terms of this Agreement, including, without limitation, the enactment by the Village of such ordinances and resolutions and the taking of such other actions as may be necessary to enable the Parties' compliance with the terms and provisions of this Agreement. In the event that any Party to this Agreement is required to grant its consent or approval to the other Party to this Agreement in connections with any of the terms and provision of this Agreement, such consent or approval shall not be unreasonably withheld.

**SECTION 13. Severability.**

If any provision, covenant or portion of this Agreement is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Agreement.

**SECTION 14. Entire Agreement and Execution.**

This Agreement supersedes all prior agreements, negotiations and exhibits and is a full integration of the entire agreement of the Parties. This Agreement may be executed and delivered in counterparts, each of which when executed and delivered shall be an original, and all of which when executed shall constitute one and the same instrument. The exchange of copies of this Agreement and of signature pages by facsimile or other electronic transmission shall constitute effective execution and delivery of this Agreement as to the Parties and may be used in lieu of the original Agreement for all purposes. Signatures of the Parties transmitted by facsimile or other electronic means shall be deemed to be their original signatures for all purposes.

**SECTION 15. Successors and Assigns.**

This Agreement may not be assigned by Owner or Developer unless said assignment is approved by Resolution of the Corporate Authorities.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement on the date and year first above written, and by so executing this Agreement, they mutually represent and warrant to one another that they have full power and authority to enter into this Agreement.

**VILLAGE OF SUGAR GROVE,**  
An Illinois Municipal Corporation

**ATTEST:**

By: \_\_\_\_\_  
Alison Murphy, Village Clerk

By: \_\_\_\_\_  
Jennifer Konen, Village President

**THREE BROTHERS & PAPOU, LLC.,**  
d/b/a Burnt Barrel II

**ATTEST:**

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

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

**COLLEGE CORNER, LLC**

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

**ATTEST:**

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

## **EXHIBIT A**

### **COLLEGE CORNER PARCELS:**

- 14-08-251-003\*
- 14-08-251-031\*
- 14-08-251-033\*
- 14-08-251-034\*
- 14-08-251-035\*

\*Denotes parcel eligible for Economic Incentive Agreement for Future Project

### **BURNT BARREL II PROPERTY:**

14-08-253-004

LOT 11 IN SUGAR GROVE RESEARCH PARK, ACCORDING TO THE PLAT THEREOF  
RECORDED ON MARCH 21, 1990 AS DOCUMENT NO. 90K14321, IN THE VILLAGE OF SUGAR  
GROVE, KANE COUNTY, ILLINOIS.

**EXHIBIT 1**