

STATE OF INDIANA
BEFORE THE BOARD OF CLARK COUNTY COMMISSIONERS
RESOLUTION NO. 13-2021

**A RESOLUTION OF THE CLARK COUNTY, INDIANA
BOARD OF COMMISSIONERS APPROVING TERM SHEET WITH DEVELOPER**

WHEREAS, Clark County, Indiana (the “County”) is a governmental entity and political subdivision of the State of Indiana; and

WHEREAS, the Board of Clark County Commissioners (the “Commissioners”) is the County’s executive and legislative branch of government; and

WHEREAS, the Commissioners have the authority to promote and incentivize economic development to attract and retain jobs in the County, which will increase the tax base in the County; and

WHEREAS, the County has negotiated with Sazerac of Indiana, LLC (“Developer”) for a large industrial project that will attract significant capital investment to the County and add approximately 400 jobs that are expected to, on average, pay above the County average wage; and

WHEREAS, the Commissioners and Council previously adopted a Joint Resolution authorizing the County to offer a local incentives package for final consideration by the Developer; and

WHEREAS, the Commissioners believe that but for receipt of a responsible offer of local incentives includes the establishment of an economic development area and coterminous allocation area, the facilitation and issuance of bonds purchased by the Developer, and the use of American Rescue Plan Act funds pursuant to the guidance and rules of the United States Treasury, the Developer may locate the project elsewhere; and

WHEREAS, the County and Developer now seek to approve a term sheet listing incentives it is offering in the form of **Exhibit A**, which is attached hereto and incorporated by reference herein (the “Term Sheet”).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF CLARK COUNTY, INDIANA:

1. The Commissioners hereby approve the Term Sheet which is attached hereto as **Exhibit A** and incorporated by reference herein.
2. The President of the Commissioners is hereby authorized and directed to take all actions to approve a definitive Development Agreement with the Developer to provide additional details surrounding such incentives and to take such other actions

as are necessary to accomplish the purposes of such Term Sheet, which final Development Agreement is subject to review and approval of this Board of Commissioners.

So RESOLVED this 22nd day of December, 2021.

Members voting "NO"

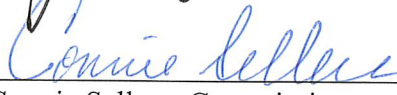
Members Voting "YES"

Jack Coffman, Commissioner



Jack Coffman, Commissioner

Connie Sellers, Commissioner



Connie Sellers, Commissioner

Bryan Glover, Commissioner



Bryan Glover, Commissioner

Attested by:



Danny Yost, Clark County Auditor

EXHIBIT A
DEVELOPMENT AGREEMENT

0146568.0751537 4861-0862-6182v2

**CLARK COUNTY, INDIANA
TERM SHEET FOR “PROJECT SLUGGER”**

- Project:** Sazerac of Indiana, LLC (“Sazerac”) plans to construct and develop facilities for the distribution, processing, packaging and storage of spirits near the City of Charlestown in Clark County, Indiana (the “Project”).
- Sazerac’s estimated capital costs for the Project are expected to be over Five Hundred Twenty Million Dollars (\$520,000,000) in three phases over fourteen years.
- The Project is situated on approximately 1,400 acres of real estate identified by the following Parcel Numbers: 10-03-07-700-001.000-003; 10-03- 07-800-002.000-003; 10-03-09-800-014.000-003; and 10-03-09- 900-006.000-003 (the “Project Site”). The Project will be financed by certain Bonds (as defined below) of Clark County, Indiana (the “County”) certain ARPA (hereinafter defined) funds of the County, Sazerac and investor equity, and private construction financing secured by Sazerac at its sole cost.
- Type of Bond:** Economic Development Bonds of 2022 (“Bonds”) payable from Tax Increment (as defined below) of a newly formed Economic Development Area and Allocation Area surrounding the Project.
- Bond Issuer:** The County
- Bond Purchaser:** Sazerac
- Financing Structure:** County issues the Bonds and loans the proceeds to Sazerac (through the Bond Trustee) for use in connection with the construction of the Project. The County will make the debt service payments on the Bonds to Sazerac, as the Bond Purchaser, from the new, real and designated depreciable personal property tax revenues generated by the Project from a to-be-created allocation area (the “TIF Area”). The County will have no obligation to pay the Bonds other than the funds described herein and these legal restrictions will be clearly set forth in the bond documents and the bond form. Funds from the Bond proceeds available to fund the Project will be disbursed pursuant to draw requests submitted by Sazerac through the County to the Trustee and disbursed only upon satisfaction of the condition precedents to disbursement set forth in the Bond Documentation. Bonds will be issued, in one or more series over time, by the County and purchased by Sazerac or its affiliate. The Bonds may be deemed purchased and bond proceeds deemed disbursed to Sazerac as Project costs are incurred without actual cash transfers being implemented, all as specifically described and set forth in the bond documentation.

Additional series of Bonds may be issued for subsequent phases of the Project. However, the issuance of such additional bonds is contingent on Sazerac's completion of prior phases of the Project in a manner satisfactory to County and the Sazerac's compliance with and satisfaction of the terms, covenants, and conditions of this Term Sheet. Sazerac shall submit a project report and budget to County for each phase of the Project with each request to County to issue additional Bonds.

ARPA Funds:

A portion of the funds that the County received from the American Rescue Plan Act of 2021 ("ARPA") in an amount not to exceed \$7,500,000.00 will be used exclusively to reimburse Sazerac for certain eligible water, sanitary sewer and broadband extension costs of the Project. Sazerac is solely responsible for using the ARPA funds for costs that are eligible under the ARPA law and regulations. The disbursement of ARPA funds described above is contingent on a determination by the County that each proposed extension of water, sanitary sewer, and broadband to the Project Site is a permissible use of ARPA funds, pursuant to guidance of the U.S. Department of the Treasury and other governmental entities, and that federal and state procurement laws are satisfied, as applicable. Besides the ARPA funds described above, no other funds of the County will be allocated or used for the proposed extension of water, sanitary sewer and broadband to the Project Site. ARPA Funds will be disbursed pursuant to the provisions of an ARPA Subrecipient Agreement that is satisfactory to the County and entered into between the parties. Sazerac is not entitled to be reimbursed with any ARPA funds of the County in excess of \$7,500,000.00.

The Bonds:

The Bonds shall (i) mature in not more than 25 years from the date of issuance of the first series, (ii) shall be prepayable by the County in whole or in part without penalty (or otherwise as agreed by the County), (iii) shall be in a principal amount and bearing an interest rate determined by the County upon the advice of the County's municipal advisor to be paid in full from Tax Increment (as such term is defined below) of an applicable phase or phases.

Tax Increment:

"Tax Increment" means 80% of the incremental real and designated depreciable personal property tax proceeds from increase in assessed valuation of real and designated depreciable personal property attributable to the Project as described in IC 36-7-14-39(b)(1) as such statutory provision exists on the date of the issuance of the Bonds. The principal amount of the bonds and the bond payments shall be established such that they can be paid with 80% of the expected increment generated in the TIF Area each year (the "TIF Revenues"), with the remaining TIF Revenues to be used at the County's discretion.

Sazerac shall use the Bond Proceeds exclusively for costs and expenses in connection with the Project and as permitted by the bond documentation.

TIF Administration Fee: Prior to determining the 80%/20% split of tax increment for the payment of the Bonds and funds to the County, the County will be entitled to a \$12,500.00 administration fee payable from tax increment each year for the County's costs associated with administering and maintaining the TIF Revenues.

Project Completion: The Project will be substantially completed on or before the end of 2035, with Phase 1A to be substantially completed on or before the end of 2023, Phase 1B to be substantially completed on or before the end of 2024, Phase 1C to be substantially completed on or before the end of 2023, Phase 2 to be substantially completed on or before the end of 2032, and Phase 3 to be substantially completed on or before the end of 2035.¹ Compliance with this timeline is required for the issuance of additional series of Bonds.

Investment and Job Creation: Sazerac is expected to hire 400 full-time workers at the Project Site within five (5) years of this Term Sheet. Sazerac will pay said workers an average wage of at least \$26.50 an hour. Sazerac is expected to make a capital investment at the Project Site in excess of \$174,368,000.00 by the end of 2023, \$349,368,000.00 by the end of 2024, \$400,000,000.00 by the end of 2032.

Fees: The Bond Issuer is represented by Frost Brown Todd LLC ("FBT"). FBT as Bond Counsel and Project Counsel to the Bond Issuer, will be preparing the Bond documents for the transaction. We understand that the fees of Bond Counsel, municipal advisor, and local counsel to the Bond Issuer will be paid out of costs of issuance of the Bonds; however, if the issuance of the Bonds is aborted by the Sazerac, Sazerac will pay all costs incurred by the County related to the Project in an amount not to exceed \$150,000.

Closing Conditions: County and Sazerac shall work to develop a definitive Development Agreement within 90 days of the date hereof (the "Closing"). The following are conditions to Closing:

1. The Project Site will be owned by the Sazerac.
2. The County shall have approved a preliminary site plan for the Project.

¹ The Phases will be further described and defined in the hereinafter defined Development Agreement between the parties hereto.

3. Sazerac will have established, to the reasonable satisfaction of the County, that Sazerac has adequate funds (proceeds of a project or construction loan, equity investments, and/or cash on hand) to complete the first phase of the Project.
4. The County shall have approved preliminary schematic Project plans.
6. Sazerac will have obtained (or County, in the exercise of its reasonable discretion, will have determined that Sazerac will be able to obtain) all permits required to commence construction of the first phase of the Project. County agrees to support Sazerac's efforts to obtain all permits required to commence construction of the first phase of the Project.
7. Sazerac will have obtained all land use approvals necessary to develop, construct and operate the first phase of the Project. County agrees to support Sazerac's efforts to obtain all required land use approvals. County shall have determined that all commitments to adjoining property owners shall have been agreed to and/or satisfied by Sazerac.
8. Sazerac will have delivered to County a (i) survey, (ii) preliminary Project budget, (iii) a preliminary master plan for the Project, (iv) proposals and cost estimates on the extension of water, sanitary sewer, and broadband to the Project Site, and (v) a timeline for the completion of the first phase of the Project.
9. Sazerac has delivered to County evidence that water, sanitary sewer and broadband can and will be extended to the Project.
10. Sazerac shall have an agreed-upon term sheet with the Indiana Economic Development Corporation regarding State support of the project and Sazerac agrees to comply with the requirements of any such agreements with the State.
11. Sazerac agrees not to consent to the voluntary annexation of any political subdivision in connection with real property owned or leased by Sazerac related to the Project and agrees, at its sole cost, to challenge any involuntary annexation of the Project Site.
12. Neither the County nor any of its boards, commissions and instrumentalities will be required to exercise eminent domain in connection with commitments described in this Term Sheet.

Tax Payments:

Sazerac agrees to timely pay when due all taxes assessed against the Project on real or personal property owned or leased by Sazerac related

to said Project. Sazerac further agrees to not appeal any of said property taxes for the duration of the Project to the extent such property tax appeal would reduce the generated tax increment below the threshold needed to generate TIF Revenues to pay debt service on all series of Bonds.

Contacts:

R. Scott Lewis, Clark County Attorney
Clark County Government Center
501 E. Court Avenue, Ste. 40
Jeffersonville, IN 47130
812-285-6275
slewis@co.clark.in.us

Jack Coffman, President of Clark County Commissioners
Clark County Government Center
501 E. Court Avenue
Jeffersonville, IN 47130

Maxwell McCrite, Clark County Council Attorney
Lorch Naville Ward LLC
506 State Street
New Albany, IN 47150
812-949-1000
mmccrite@lnwlegal.com

Barbara Hollis, President of Clark County Council
Clark County Government Center
501 E. Court Avenue
Jeffersonville, IN 47130

**County's Project
Counsel:**

Beau F. Zoeller
Frost Brown Todd LLC
400 West Market Street, Floor 32
Louisville, KY 40202
502-779-8696
bfzoeller@fbtlaw.com

**County's Bond
Counsel:**

Beau F. Zoeller
Frost Brown Todd LLC
400 West Market Street, Floor 32
Louisville, KY 40202
502-779-8696
bfzoeller@fbtlaw.com

Municipal Advisor: TBD

Agreed to by:

SAZERAC

SAZERAC OF INDIANA, LLC
a Delaware limited liability company

By: Sazerac Company, Inc., a Kentucky limited liability company, its
Managing Member

By: _____
Mark Brown, President Date: _____

Attested by:

Name:
Title:

BOND ISSUER
CLARK COUNTY, INDIANA

By: The Clark County Board of Commissioners

Jack Coffman, President

Date: _____

By: The Clark County Council

Barbara Hollis, President

Date: _____

NOTE: This Term Sheet is not an offer of, or an agreement to provide incentives. It is at-will, non-binding, and subject to change at Issuer's and/or Sazerac's discretion. Any incentives described herein are granted only after completing required statutory procedures and obtaining required governmental approvals.