

**RESOLUTION NO. 2016-11**

**A RESOLUTION APPROVING AN ECONOMIC INCENTIVE AGREEMENT  
by and between  
THE VILLAGE OF WEST DUNDEE and BAMBOOZELS, INC.  
for  
BAMBOOZELS BAR AND GRILL  
101 WEST MAIN STREET**

THIS ECONOMIC INCENTIVE AGREEMENT (this "Agreement") is entered into by and between the Village of West Dundee, an Illinois municipal corporation located in Kane County, Illinois (the "Village") and Bamboozels, Inc. for Bamboozels Bar and Grill ("Bamboozels"). The Village and Bamboozels are collectively referred to as the Parties.

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

WHEREAS, the Village has adopted a resolution supporting the concept of economic incentives in order to encourage private investment and enhance the tax base of the Village and affected taxing districts through the reinvestment of tax dollars as permitted by state statute;

WHEREAS, Bamboozels has presently leased and has an option to purchase the property at 101 West Main Street, West Dundee, Illinois ("the Subject Property") to operate a bar and grill;

WHEREAS, Bamboozels will be making interior and exterior improvements to establish a bar and grill as depicted in Attachment A: Elevations and;

WHEREAS, Bamboozels will undertake construction of leasehold improvements and;

WHEREAS, the Village has been petitioned to assist in the establishment of the business at this location at the Subject Project by assisting with certain leasehold improvements;

WHEREAS, the Village finds that the attraction of this business and securing the leasehold improvements are in the best interests of the Village and will result in maintaining and

improving sales tax revenue for the Village, will create a public benefit, and will help retain and spur on attraction of businesses to the downtown area, all of which are consistent with the Village's resolution supporting the concept of economic incentives;

WHEREAS, it is the desire of the Village to have Bamboozels undertake the leasehold improvements subject to reasonable economic incentives as set forth herein;

WHEREAS, but for the economic incentives contained in this Agreement, Bamboozels will not be able to go forward with the leasehold improvements;

WHEREAS, negotiations have taken place between Bamboozels and the Village and an accord has been reached;

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals:** The recitals set forth above are expressly incorporated into and made a part of this Agreement.
2. **Authority:** This Agreement is entered into by the Village pursuant to the Village's authority as a Home Rule unit of local government.
3. **Undertakings on the Part of Bamboozels:**
  - a. Within six months from the date of this Agreement, Bamboozels hereby covenants and agrees to complete leasehold improvements. Such leasehold improvements are a condition precedent to the Village's obligations set forth in this Agreement.
  - b. Bamboozels agrees to operate at the subject property for a period of not less than five (5) years from the date of this agreement.

- c. Bamboozels agrees that if it discontinues operation at this location within five (5) years from the date of this Agreement, that it shall repay all economic incentive monies forwarded to it by the Village.
- d. Within six months from the date of this Agreement, Bamboozels hereby covenants and agrees that it will invest approximately \$615,000 (through Jacobs Holdings LLC) to purchase the building at 101 West Main Street and approximately \$400,000 to complete leasehold improvements which include but are not limited to 1) interior renovations (including furnishings), 2) kitchen upgrades (including equipment), and 3) remodeling and will comply with required life safety and/or accessibility codes in a manner consistent with the plans that will be reviewed and approved by the appropriate Village authorities. Upon completion of this work, Bamboozels shall submit documentation reasonably required to detail expenses as identified in this paragraph.
- e. Bamboozels agrees to comply with all applicable ordinances and State and federal statutes to the extent required by law and agrees to conform to all requirements of the Illinois Department of Revenue Local Tax Collection Act.
- f. Bamboozels hereby covenants and agrees that at all times it shall comply with all applicable local zoning ordinances and regulations, building code, fire code, and all other applicable Village ordinances, resolutions, and regulations. Bamboozels shall bring itself into compliance with any applicable local zoning ordinances and regulations, building code, fire code, and all other applicable Village ordinances, resolutions, and regulations within thirty (30) days after written notice from the Village of any violation of any of the foregoing.
- g. Bamboozels hereby covenants and agrees to comply with all applicable laws, rules, and regulations of the State of Illinois, the United States, and all agencies

of each of them having jurisdiction over the corporation or any business operation of Bamboozels, Inc.

4. **Undertakings on the Part of the Village:**

- a. On the condition that there is no default on the part of Bamboozels considering its undertakings in paragraph 3 under this Agreement, the Village covenants and agrees to incentivize Bamboozels an amount not to exceed \$50,000 toward the build-out and investment through sales tax reimbursement.
- b. To provide economic incentive funds, the Village covenants and agrees to provide Bamboozels a rebate in the amount of fifty percent (50%) of its local sales tax dollars generated from the property for a period of five (5) years commencing upon issuance of the Certificate of Occupancy and continuing until such time that the full amount of the loan is paid but no longer than five years. The total maximum amount to be rebated to Bamboozels shall not exceed \$50,000.
- c. Reimbursement to Bamboozels for sales tax revenue sharing shall be made on an annual basis. Bamboozels shall provide applicable copies of the ST-1 Form from the Illinois Department of Revenue to the Village Finance Director for calculation of the eligible rebate and the amount due to Bamboozels. If at the end of the five year period, an outstanding amount remains on the \$50,000 amount paid, the Village and Bamboozels will work together to evaluate extending the term of the sales tax rebate to continue the repayment arrangement.
- d. The Village agrees to reclaim three (3) existing on-street parallel parking spaces on the west side of First Street immediately south of West Main Street for the purpose of extending the curb and widening the sidewalk to accommodate

outdoor dining. This work will be completed by the Village at its expense in conjunction with other downtown improvements, currently estimated to cost \$20,846.

5. **Mutual Agreements:**

- a. This Agreement incorporates all agreements and understandings of the parties hereto as of the date of its execution. Each party acknowledges that no representations or warranties have been made which have not been set forth herein.
- b. Time is of the essence.
- c. All notices and requests, if any, required pursuant to this Agreement shall be sent by certified mail as follows:

To Bamboozels:                      Bamboozels, Inc.  
Diana Jacobs  
200 Helm Road  
Barrington Hills, IL 60010

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

With Copies to:                      Law Offices of John H. Brechin  
445 S. Lombard Ave.  
Lombard, IL 60148

- d. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois.
- e. Bamboozels shall not assign this Agreement to any person or entity without the written consent of the Village, which consent shall not be unreasonably held. All obligations of Bamboozels shall remain in full force and effect until such time as the assignee to which the Village has consented has assumed all such

obligations. The terms and conditions of this Agreement are binding upon the successors and assigns of all parties hereto.

- f. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- g. No recourse under or upon any obligation, covenant, or provision of this Agreement, or for any claim based thereon or otherwise in respect thereof shall be had against the Village, its officers, agents, and employees, in any amount or in excess of any specific sum agreed by the Village to be paid to Bamboozels under this Agreement. No liability, right or claim at law or in equity shall attach to or shall be incurred by the Village, its officers, agents and employees in excess of such amounts; and all and any such rights or claims against the Village, its officers, agents and employees are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

6. **Defaults:**

- a. Failure on the part of Bamboozels to comply with any term, representation, warranty, provision, or condition of this Agreement within thirty (30) days after written notice thereof from the Village shall constitute an event of the default. Upon an occurrence of an event of default, the Village shall be relieved of any and all of its obligations arising pursuant to this Agreement, and such obligations shall be immediately canceled and without any force or effect, and the Village may take whatever action at law or in equity as may appear necessary or desirable to enforce the performance and observance of any obligation, understanding, covenant or agreement of Bamboozels. Further, upon an

occurrence of an event of default by Bamboozels shall be responsible to the Village for reimbursement of all costs incurred by the Village in seeking to enforce the performance and observance of any obligation, understanding, covenant, or agreement as aforesaid, including, but not limited to, costs incurred by use of its employees, officers, and attorneys.

- b. In the event Bamboozels fails to complete the leasehold improvements at the Subject Project as required by the terms and conditions of the Agreement including economic incentive amounts paid and the actual cost of construction of the outdoor dining area, or in the event that Bamboozels terminates its business operations before the term of this Agreement has expired, Bamboozels shall repay to the Village any and all sums already paid to it by the Village under the terms of this Agreement with interest at the rate of five percent (5%) per annum on the unpaid principal amount due.

7. **Term:** The term of this Agreement shall commence as of the date of its execution after approval by the corporate authorities of the Village. This Agreement will terminate five years after the date of commencement.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of West Dundee, Kane County, Illinois, this 26<sup>th</sup> day of September, 2016.

AYES: Trustees Kembitzky, Price, Hanley and Wilbrandt

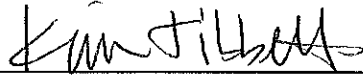
NAYS: None

ABSENT: Trustees Yuscka and Pflanz



Christopher Nelson, Village President

ATTEST:



Kim Tibbetts, Deputy Village Clerk

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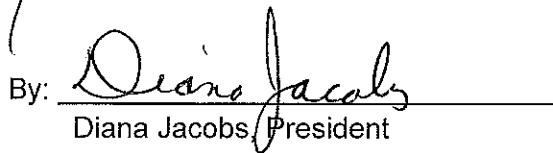
IN WITNESS WHEREOF, the Village has caused this Agreement to be executed by its duly authorized officer, and Bamboozels, Inc. has executed this Agreement, this 26TH day of SEPTEMBER, 2016

VILLAGE OF WEST DUNDEE,  
an Illinois Corporation



By: Joseph Cavallaro, Village Manager

BAMBOOZELS, INC.



By: Diana Jacobs, President