

RESOLUTION NO. R-33-2015

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN
AGREEMENT BETWEEN
THE VILLAGE OF BENSENVILLE AND
3 SOUTH CENTER LLC
FOR THE USE OF TIF NO. 12 FUNDS FOR
EXTERIOR BUILDING IMPROVEMENTS**

WHEREAS, the VILLAGE OF BENSENVILLE (hereinafter "VILLAGE") is a municipal corporation established and existing under the laws of the State of Illinois pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

WHEREAS, the VILLAGE is empowered to make all agreements and contracts and to undertake other acts as necessary in the exercise of its statutory powers; and

WHEREAS, Section 3 of the Intergovernmental Cooperation Act, 5 ILCS 220/3 authorizes public agencies as defined in Section 2(1) of that Act to exercise, combine, transfer, and enjoy jointly any power or powers, privileges, functions, or authority exercised or which may be exercised by any one of them, and to enter into intergovernmental agreements for that purpose; and

WHEREAS, the VILLAGE has determined that it is reasonable, necessary, and desirable to enter into an agreement with the 3 South Center LLC regarding the use of TIF No. 12 funds for exterior building improvements (an awning), which is attached hereto and incorporated herein by reference as Exhibit "A."

NOW, THEREFORE, BE IT RESOLVED by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, as follows:

SECTION ONE: The recitals set forth above are incorporated herein and made a part

hereof.

SECTION TWO: The Village President is hereby authorized and directed to execute on behalf of the Village of Bensenville the Agreement attached hereto and incorporated herein by reference as Exhibit "A."

SECTION THREE: This Resolution shall take effect immediately upon its passage and approval as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Bensenville, Illinois, this 24 day of March, 2015.

APPROVED:



Frank Soto, Village President

ATTEST:


Ilsa Rivera-Trujillo, Village Clerk

Ayes: Janowiak, Jarecki, O'Connell, Wesseler

Nays: None

Absent: Bartlett, Ridder

AGREEMENT BETWEEN THE VILLAGE OF BENSENVILLE
AND 3 SOUTH CENTER LLC

THIS AGREEMENT, made and entered into as of the 22 day of March, 2015, by and between the VILLAGE OF BENSENVILLE, an Illinois municipal corporation (hereinafter the "Village") and 3 SOUTH CENTER LLC (hereinafter "3 South Center").

WITNESSETH:

WHEREAS, 3 South Center is the owner of the property located at the 3 South Center Street, Bensenville, Illinois; and

WHEREAS, Two Chefs Restaurant and Bar operates at the property; and provides a valuable stream of commerce for the Village and its residents; and

WHEREAS, the Two Chefs restaurant and Bar provides a valuable stream of commerce for the Village and its residents; and

WHEREAS, the exterior of the property is in need of enhancement and 3 South Center has requested that the Village assist in offsetting the costs of installing an awning over the outdoor dining area; and

WHEREAS, the enhancement of the building and outdoor dining area will promote the economic growth and development of the downtown area; and

WHEREAS, the Village will benefit from the economic growth attributed to the enhancement through an increase in sales taxes; and

WHEREAS, the cost of the new awning and its installation is Eighteen Thousand Five Hundred and 00/100 Dollars (\$18,500.00); and

WHEREAS, the Parties have reached an Agreement in which the Village will provide Eighteen Thousand Five Hundred and 00/100 Dollars (\$18,500.00) to 3 South Center for the fabrication and installing of awning at the parking lot of the property located at 3 South Center Street, which will be refunded to the Village by 3 South Center in the event 3 South Center sells the property within one year of the execution of the Agreement, and in consideration of the Village's payment, 3 South Center shall reference the Village in any and all advertisements related to Two Chefs Restaurant and Bar.

NOW, THEREFORE, in consideration of the foregoing recitals and of the covenants and conditions hereinafter contained, the adequacy and sufficiency of which the Parties hereto hereby stipulate, the Parties hereto agree as follows:

SECTION ONE: That the recitals set forth above are incorporated herein and made a part hereof by reference.

SECTION TWO: That the Village will tender Eighteen Thousand Five Hundred and 00/100 Dollars (\$18,500.00) to 3 South Center for the fabrication and installation of an awning to cover the outdoor dining area located 3 South Center Street, which will be refunded to the Village by 3 South Center in the event 3 South Center sells the property within one year of the execution of the Agreement, and, in consideration of payment from the Village, 3 South Center shall reference the Village in any and all advertisements related to Two Chefs restaurant and Bar.

SECTION THREE: That 3 South Center hereby releases, waives and forever discharges the Village, its Trustees, Officers, employees, attorneys and agents from and against any and all claims, losses, demands, rights, causes of action or otherwise resulting from, or arising out of, the installation of an awning over the outdoor dining area, or any activities related thereto.

SECTION FOUR: That 3 South Center, its successors, agents, officers and assigns, shall indemnify and hold harmless the Village, its Trustees, Officers, agents, employees, successors and assigns, from and against any and all liability, any and all injury, actions, claims, assertions of liability, losses, demands, and causes of action or lawsuits, and shall waive any claims or causes of action, arising out of related to or resulting in any way from the fabrication and installation and operation of an awning over the outdoor dining area at 3 South Center Street.

SECTION FIVE: That this Agreement sets forth the entire understanding of the Parties and may only be amended, modified or terminated by a written instrument signed by the Parties except as herein otherwise provided.

SECTION SIX: That this Agreement shall be interpreted and construed in accordance with the laws of the State of Illinois.

SECTION SEVEN: That the 18th Judicial Circuit of DuPage County shall be the proper venue for any action arising out of this Agreement.

SECTION EIGHT: That 3 South Center shall pay the court costs and attorney fees of the Village in the event the Village prevails in any litigation arising from this Agreement.

IN WITNESS WHEREOF, the parties hereto have read and understood the terms of the Agreement and, upon their signatures, knowingly agree to the terms of this Agreement.

FOR THE VILLAGE:

By: _____

Michael Cassady, Village Manager

March 24, 2015

FOR 3 SOUTH CENTER LLC

By: _____

Robert Tercall

March 25, 2015