

ECONOMIC INCENTIVE AGREEMENT

This Agreement ("Agreement") is entered into this _____ day of April, 2021, by and between the **VILLAGE OF ROMEOVILLE**, an Illinois Municipal Corporation ("Village") and Scene 75 Holding Company, LLC ("Developer").

RECITALS

WHEREAS, the Village of Romeoville is a home rule unit of government pursuant to Article VII, Section 6(a) of the Illinois Constitution of 1970 and may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the Village has experienced the development of new residential units and a consequent growth in population; and

WHEREAS, the additional needs and demands created by an increased population within the Village have created the need for additional types of land uses and development within the corporate limits of the Village, including but not limited to the development of commercial uses such as indoor entertainment centers featuring games, attractions, activities with onsite food and beverage service to Village residents that are presently unavailable or insufficiently available within the existing corporate limits of the Village; and

WHEREAS, the Village desires that any such new development should be capable of generating substantial retailers' occupation tax revenues to assist the Village in conducting its operations without the necessity of resorting to property tax increases; and

WHEREAS, while the Village recognizes the importance of free and open economic competition, and the healthy nature of increased competition resulting from the creation of new businesses within the Village, the Village likewise desires to maintain a healthy economic climate for all existing business within the Village; and

WHEREAS, the Village has determined that the development of commercial operations such as those contemplated herein is itself a highly competitive endeavor, and that the successful completion of such a development at a particular location at a desired time may necessitate the use of a variety of incentives; and

WHEREAS, the Developer has presented an indoor entertainment center development to the Village to be located upon the land legally described in attached **Exhibit A** (the "Property"); and

WHEREAS, Developer proposes to construct, develop or redevelop on the Property an indoor entertainment center development (the "Business"), by undertaking those improvements depicted in the plans and submittals made to the Village and incorporated herein as **Exhibit B** and by undertaking such other improvements as are required by Village ordinances for the

conduct of the contemplated business, as well as other improvements desired by Owner (collectively, the "Improvements") (the Business and the Improvements are sometimes collectively herein referred to as the "Development"); and

WHEREAS, the Developer has represented to the Village that it cannot successfully complete the Improvements and open the Business or any substantially and functionally equivalent development of the Property without the ability to obtain certain economic incentives as more fully hereinafter set forth; and

WHEREAS, after review and consideration of the Development and the various submittals provided by the Developer in connection therewith, the Village has determined that the Development is eligible to be the subject of an economic incentive agreement, and that the Developer and the Development as proposed in said submittals will satisfy the criteria hereinafter set forth for the approval of an economic incentive agreement; and

WHEREAS, after due and careful consideration, the Corporate Authorities have determined that it is in the best interests of the Village to enter into this Agreement to provide economic incentives to the Development pursuant to the terms and conditions hereinafter set forth.

WHEREAS, the Village finds as follows:

- (a) That the property upon which the Development is proposed has remained vacant for at least one year; and
- (b) That the Development is expected to create or retain job opportunities within the Village which job opportunities will consist of both construction-related jobs and permanent jobs; and
- (c) That the Development will serve to further the development of adjacent areas within the Village including but not limited to the Weber Road commercial corridor;
- (d) That the Developer meets high standards of credit worthiness and financial strength;
- (e) That the Development when completed will strengthen the commercial sector of the Village;
- (f) That the Development when completed will enhance the tax base of the Village;
- (g) That this Agreement is made in the best interest of the Village; and

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, the receipt and sufficiency of which is hereby mutually acknowledged by the parties, the Village and the Developer hereby agree as follows:

1. **Recitals**. The foregoing recitals are hereby incorporated into this Agreement as if fully set forth herein.

2. **Development Requirements**. As a condition of the Village's obligation to make any payments, reimbursements, incentives or rebates hereunder, Developer shall be required to complete the Improvements and open the Business to the general public, and shall further be required to operate the Business and maintain the Property in a manner that is fully compliant with all applicable Village ordinances and all applicable laws of other governmental entities having jurisdiction, as the same may be amended from time to time. Developer acknowledges that the Village shall have the right to suspend or withhold payments, reimbursements, incentives or reimbursements hereunder in the event that Developer shall fail to comply with the aforementioned condition, or if the Developer shall otherwise fail to comply with the requirements of this Agreement or applicable laws or ordinances.

3. **Food and Beverage Tax Abatement; Entertainment Tax Exemption; Other Incentives**.

A. **Reimbursement to Developer**. Upon the completion of the Improvements, the issuance by the Village of a certificate of occupancy for the Business and the occurrence of the opening of the Business to the general public for business, Developer shall become eligible, subject to the provisions of Section 3.C. hereof, to begin receiving reimbursements from the Village of a sum equal to Fifty Percent (50%) of the Village Home Rule Food and Beverage Tax payments imposed pursuant to Chapter 122.65 et. seq. of the Village Code of Ordinances, but only to the extent the Developer has actually collected such taxes and paid the same over to the Village in compliance with all applicable requirements of said Chapter 122 (the aforementioned payments are sometimes hereinafter referred to as "Tax Reimbursement Payments"). No persons or entities other than the Developer, or its successors or assigns, shall be entitled to receive any payments whatsoever pursuant to this Agreement. Upon that date which is ten (10) years from the date on which the Village adopts legislation authorizing the execution of this Agreement, the right of Developer to receive Tax Reimbursement Payments hereunder shall immediately terminate and become of no further force or effect.

B. **Entertainment Tax Exemption**. At all times during which the Developer shall be entitled hereunder to receive Tax Reimbursement Payments, the Developer shall be exempt from the provisions of any applicable Village ordinances that specifically levy a tax calculated on the fees or charges imposed on patrons of any type of participatory entertainment (including but not limited to video or electronic games, nonelectronic games or amusements, and amusement rides or attractions).

C. **Conditions on Incentive Payments**. Notwithstanding anything herein to the contrary, the right of Developer to receive the Tax Reimbursement Payments contemplated

above in Section 3.A. as well as the obligation of the Village to make any such payments shall be subject to the following conditions:

i) The Village shall have no obligation under this Agreement to make any payments to the Developer in any amount beyond fifty percent of the sum of the amount of Village Home Rule retailers' occupation tax payments collected by the State of Illinois pursuant to duly adopted Village ordinance and generated by retail sales activity of the Development and the amount of the Village Home Rule Food and Beverage Tax collected by Developer and paid over to Village in compliance with Chapter 122 of the Village Code of Ordinances, nor shall the Village have any obligation hereunder to make any payments to any person or entity whatsoever from any fund or sources of funds or monies other than those expressly provided for in this Agreement.

ii) In the event that Developer, after receiving any Reimbursement Tax Payments pursuant to Section 3.A. shall at any time thereafter cease for any reason to operate the Business for a period of more than twelve (12) consecutive months, except as provided below, the right of Developer to receive any Reimbursement Tax Payments shall terminate as of the expiration of such twelve (12) month period. Temporary cessation of operation upon the Property due to fire or other casualty, acts of God, COVID-19 or similar public health emergencies, labor disputes or other causes beyond the reasonable control of the Developer beyond such twelve (12) month period for the purpose of rebuilding, making alterations or for resuming operations shall not be deemed a cessation of operation within the meaning of this paragraph.

iii) Prohibited Uses – In consideration of the Village's entering into this Agreement, Developer shall be prohibited from developing all or any portion of the "Property" or the "Development" with any one or more of the following enumerated uses, each of which shall hereinafter be referred to as a "Prohibited Use" and shall be defined as set forth in the Village Code of Ordinances or as hereinafter set forth. The substance of this Section 3.C(iii) shall also be included in a restrictive covenant approved by the Village and which shall be recorded against the "Property" prior to the issuance of any certificate of occupancy for all or any part of the "Development". The Prohibited Uses include the following: Any and all uses whatsoever other than the Business contemplated hereunder. Any use of the Property for any purpose other than the operation of the Business shall immediately terminate Developer's right hereunder to receive Reimbursement Tax Payments.

D. Timing of Incentive Payments; Required Documentation. Subject to the conditions of Section 3.C., all Reimbursement Tax Payments contemplated or required to be made hereunder by the Village to the Developer shall be made on a calendar quarterly basis, within thirty (30) days after the Village has received all returns and forms from Developer required by Chapter 122.65 et. seq. with respect to the Village Home Rule Food and Beverage Tax, current for the quarter for which the Reimbursement Tax

Payment is sought, together with the payment of all taxes, penalties and interest shown to be due to the Village thereon. All information provided by the Developer shall be kept confidential by the Village except to the extent that the law otherwise requires the disclosure of such information. As a condition of Developer's entitlement to receive any Reimbursement Tax Payments hereunder, Developer shall specifically be required to file all of the aforementioned documentation with the Village throughout the entire time during which Developer seeks Reimbursement Tax Payments. All determinations of the amount of any reimbursement of Reimbursement Tax Payments due or owing hereunder shall be made by the Village Finance Director based upon the provisions of this Agreement, the documentation, information and payments required to be provided pursuant to this Section 3.D., and such determinations shall be final and conclusive.

E. **Building Permit Fee Reduction.** In connection with all building permit applications and submittals made by the Developer or its landlord on or before the issuance by the Village of a certificate of occupancy for the Facility, the Village shall reduce the basic building permit fee payable to the Village Community Development Department in connection with the issuance, review or administration of building permits or inspections pursuant to Chapter 43.02 of the Village Code of Ordinances to an amount equal to twenty-five percent (25%) of the then-current amount of such fee otherwise due and payable under Chapter 43.02, provided, however, the building permit fee reduction provided for herein shall be limited solely to building permit fees due and payable with respect to building permits applied for in connection with interior buildout work, renovation work or remodeling work done by the Developer on or prior to the issuance by the Village of a certificate of occupancy for the Development. Furthermore, nothing in this Section 3.E shall be deemed to reduce or modify in any way the Developer's obligation under Chapter 43.02 to pay any fees, charges or expenses of any kind to the Village where such fees, charges or expenses arise or result from out-of-pocket expenditures made by the Village to third-party consultants or service providers in connection with the receipt, review, approval or administration of applications or submittals made in connection with building permits or inspections, or to reduce or modify in any way the obligation of the Developer to pay any fees imposed by Chapter 43.02 that are not expressly set forth and identified in this Section 3.E. Nothing herein shall be deemed to limit in any way the Village's ability to amend all or any fees due under Chapter 43.02 from time to time, at its sole discretion, and nothing herein shall entitle the Developer or any predecessor to make any claim for or receive any refund of any fees whatsoever that became due and payable prior to the adoption of this Agreement.

F. **Expedited Building Permit Reviews.** The Village shall use its best efforts to expedite its review of all building permit applications and submittals made by the Developer on or before the issuance by the Village of a certificate of occupancy for the Development to ensure the completion of such review as soon as reasonably possible.

4. **Miscellaneous.**

A. The parties acknowledge and agree that the individuals who are members of the group constituting the corporate authorities of the Village are entering into this Agreement in their corporate capacities as members of such group and shall have no personal liability in their individual capacities.

B. This Agreement shall be valid and binding upon the Village and the Developer, together with their respective successors and assigns.

C. The failure of any party to this Agreement to insist upon the strict and prompt performance of the terms, covenants, agreement, and conditions herein contained, or any of them, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant, agreement or condition, but the same shall continue in full force and effect. No action taken by any party to this Agreement shall be deemed to constitute an election of remedies and all remedies set forth in this Agreement shall be cumulative and non-exclusive of any other remedy either set forth herein or available to any party at law or equity.

D. This Agreement sets forth all agreements, understandings, and covenants between and among the parties. This Agreement supersedes all prior agreements, negotiations and understandings, written and oral, and is a full integration of the entire Agreement of the parties.

E. If any provision, clause, word, or designation of this Agreement is held to be invalid by any court of competent jurisdiction, such provision, clause, word or designation shall be deemed to be excised from this Agreement and the invalidity thereof shall not affect any other provision, clause, word, or designation contained herein.

F. This Agreement may be executed in multiple counterparts, all of which when taken together shall constitute one Agreement.

G. The headings of the Sections of this Agreement are for convenience and reference only and do not form a part hereof and do not modify, interpret or construe the understandings of the parties hereto.

H. This Agreement may be reproduced by means of carbons, xerox process or otherwise. Each such reproduction, if manually executed by the parties, shall for all purposes be deemed, and the same is hereby declared, to be a duplicate original of this Agreement.

I. Terms used in this Agreement shall be read in the singular or the plural as may be appropriate to the context in which they are used.

J. During the term of this Agreement, or until written notice of a change in address is delivered to the other parties, notices shall be in writing and sent by certified

mail or by a national overnight courier providing evidence of delivery (such as Federal Express, UPS, DHL, or Airborne) to the following addresses:

If to the Village, or the corporate authorities:

VILLAGE OF ROMEOVILLE
13 Montrose Drive
Romeoville, Illinois 60446
Attn: Village Manager

with a copy to the Village Attorney:

Rich Vogel
Village Attorney
2801 Black Road, Second Floor
Joliet, Illinois 60435

If to the Developer:

Scene 75 Holding Company, LLC

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers duly authorized to execute the same, the day and year first above written.

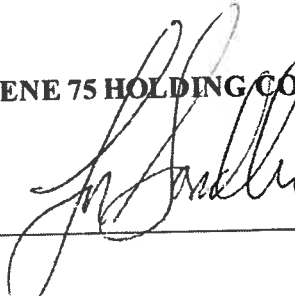
VILLAGE OF ROMEOVILLE,
a municipal corporation,

By: _____
Village President

ATTEST:

By: _____
Deputy Village Clerk

SCENE 75 HOLDING COMPANY LLC



ATTEST:




EXHIBIT A—LEGAL DESCRIPTION OF PROPERTY

LOT 2 IN ROMEVILLE CROSSINGS 2ND RESUB, BEING A RESUB OF
LOTS 1, 2, 3 & OUTLOTS 12, 13 & 16 IN ROMEVILLE CROSSINGS
BEING A SUB OF PRT OF THE NE1/4 OF SEC 18, T36N-R10E.

EXHIBIT B—PLANS AND SUBMITTALS FOR DEVELOPMENT

The plans and submittals to be incorporated by reference into this Agreement as Exhibit B shall be all those plans and submittals required to be made by the Developer under the applicable ordinances of the Village, and the same shall be deemed to be so incorporated herein as and when the same shall have been reviewed and approved by the Village.

