



CITY OF WASHINGTON, ILLINOIS

Finance & Personnel Committee Agenda Communication

Meeting Date: January 21, 2020

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Agenda Item: Heider Properties TIF Agreement Amendment Consideration

Explanation: The City of Washington entered into a TIF redevelopment agreement with Heider Properties, LLC, in April 2017. The agreement allowed for the eventual interior and exterior renovations to the Blacksmith and Cornerstone Inn spaces.

The agreement paid Heider Properties \$350,000 in three installments. It includes a deescalating financial penalty that started at \$40,000 in 2017 and is reduced by \$8,000 each year thereafter if a restaurant on the lower floor, a restaurant or a mutually-agreed upon sales tax producing business on the first floor, or inn on the second floor were to be closed for a period of 20 consecutive days through 2021. A restaurant would need to serve at least two meals per day for at least six days a week through 2021. Of those meals, at least one must be offered in a restaurant on the lower level. Each of these provisions were violated in late 2019. Violation of these provisions in 2019 carries a repayment by the developer of \$24,000.

Additionally, the agreement contains a clause that requires repayment to the TIF Fund an amount equal to 10% of any profits accrued through 2021 or \$35,000, whichever is less. This is determined by the developer's adjusted EBITDA. Heider Properties paid \$2,000 of the \$6,177.10 due for 2017 (payable in 2018) and still owes \$13,675.58 for 2018 (payable in 2019). The agreement would allow for up to an additional \$15,147.32 to be owed through 2021 depending on the EBITDA calculations for the remaining three years. The current total due based on the existing agreement is \$41,852.68.

Staff understands the impact of the Denhart's building to the Square. The developer has indicated the difficulty in operating a restaurant on both levels due to a shared kitchen and the struggle in retaining adequate staff. This played a role in the closure of the middle floor and with only serving lunch and dinner from Tuesday-Saturday. With that noted, a significant public investment through the TIF Fund was used for the building's renovation. Staff would suggest the following if an amendment to the TIF agreement were to be considered to help ensure that the remaining businesses continue to operate:

- Require payment of the \$17,852.68 for the remaining 2017 and 2018 EBITDA calculations. Additionally, maintain the requirement for payment of up to \$15,147.32 through 2021 for the remaining three years of the agreement.
- Prorate the violation of the two meals per day/six days per week and closure of the middle floor clauses to take into consideration that the developer was in compliance with the agreement for about 49 weeks in 2019. Such a proration would reduce that particular payment from \$24,000 to \$16,462.
- Consider further reduction of the \$16,462 payment if the middle floor vacancy did not linger through the entire year. Staff would recommend that the developer pay \$16,462 but allow for it to be reduced to \$8,000 if there is a mutually-agreed upon sales tax producer that opens in the middle floor space by July 1. Hosting a sufficient number of group events could also be sufficient if agreeable to the Council, though details of sales tax revenue as part of those would need to be submitted for consideration. If the Council agrees to such a business that is established by July 1 or

hosting group events, the City would reimburse \$8,462 of the \$16,462 owed under the consideration of a prorated penalty payment. It would likely be best to have new language drafted that addresses a new penalty should there be a new violation within the timeframe of the agreement.

- Under the following scenarios for an agreement amendment, the developer would owe anywhere from \$25,852.68-\$34,314.68 depending on the operation in the middle floor. Again, the existing agreement would require payment of \$41,852.68.

Fiscal Impact: To be determined depending on if the City Council would like to amend the TIF agreement.

Action Requested: Staff requests feedback on the consideration of any TIF agreement amendment. If there was interest in an amendment, it would need to be approved at an upcoming City Council meeting.