Memorandum

May 12, 2020

To:  
Honorable Mayor Hall and Members of City Council

From:  
Sheila Cobian, City Clerk Services Manager

Via:  
Geoff Patnoe, Assistant City Manager

Re:  
Additional Materials Regarding Staff Report Item #4 – Guidelines for Considering City Lease Rent Deferral Requests and Consideration of City Lease Rent Deferral Requests for Chapters Café and New Village Arts

This memorandum provides additional materials regarding the staff report for the May 12, 2020 City Council Meeting Item #4 – Guidelines for Considering City Lease Rent Deferral Requests and Consideration of City Lease Rent Deferral Requests for Chapters Café and New Village Arts.

Exhibit 1 (Resolution) paragraph 5, referenced an Attachment A – Guidelines for Considering City Lease Rent Deferral Requests. The attachment was inadvertently not included in the published staff report. Please find attached the Guidelines for Considering City Lease Rent Deferral Requests.

Attachments:
A. Guidelines for Considering City Lease Rent Deferral Requests

cc: Scott Chadwick, City Manager
Celia Brewer, City Attorney
Gary Barberio, Deputy City Manager, Community Services
Curtis Jackson, Real Estate Manager
GUIDELINES FOR CONSIDERING CITY LEASE RENT DEFERRAL REQUESTS

The guidelines attempt to balance the need for immediate assistance for city tenants with the needs of the city in meeting its fiduciary and legal duties. The guidelines are to be utilized by the city manager in considering and making recommendations on all city lease rent deferral requests. All rent deferral recommendations from the city manager would need to be reviewed and approved by the City Council. All rent deferral requests granted would require an associated lease amendment or rent deferral agreement that would need to be approved by the City Council.

Minimum Conditions Applicable to All Tenants Seeking Rent Deferral

The city manager will analyze tenants independently and balance the following factors on a case-by-case basis in determining whether a recommendation to the City Council for rent deferral relief is appropriate:

(1) The tenant is in good standing with the city and is expected to remain a tenant in good standing throughout the term of the lease deferral period. The criteria to determine whether a tenant is in “good standing” are: (i) maintenance of the leasehold in good condition, free of deferred maintenance; (ii) prompt payment history prior to March 4, 2020; (iii) compliance with the non-rent provisions of the current lease, including use provisions, insurance requirements, and regulatory permitting requirements; and (iv) maintenance of accurate financial records that are accessible to the city.

(2) The tenant provides evidence demonstrating the need for the rent deferral was caused by the COVID-19 pandemic state of emergency. The evidence may include documents showing the tenant’s business was closed or its business operations were modified because of COVID-19 public health orders and the closure or modification resulted in a significant decrease in gross revenues.

(3) The long-term viability of the tenant’s business.

(4) The remaining term on the tenant’s lease agreement.

(5) Whether the tenant has applied for and received funds from a state or federal aid program for which the tenant qualifies (tenants who have applied for state or federal assistance are eligible, but may not also apply to the city for rent deferral to cover costs for which they have already received state or federal assistance).

After considering the above factors, the city manager may recommend to the City Council approval of one of the following methods of rent relief:

(1) Temporary deferral of rent payments for up to a six-month period to be paid back over a twelve-month period beginning in January of the next calendar year with no interest or late charges. If the full amount of rent deferral is not repaid within 12 months, a three
percent (3%) compounding interest charge will be applied to the balance of the amount due.

(2) Temporary reduction in rent payments below the rent payment amounts specified in the lease for up to a six-month period to be paid back over a twelve-month period beginning in January of the next calendar year with no interest or late charges. If the full amount of rent deferral is not repaid within 12 months, a three percent (3%) compounding interest charge will be applied to the balance of the amount due.

(3) Temporary deferral of rent payments for up to a six-month period to be paid back over the balance of the remaining initial lease term with no interest or late charges. If the full amount of rent deferral is not repaid by the end of the initial lease term, a three percent (3%) compounding interest charge will be applied to the balance of the amount due.

Rent deferral requests beyond 6 months, or from tenants who have already received a temporary rent reduction, will be evaluated by the city manager under these guidelines and a recommendation will be presented to the City Council for its review and consideration.