

Request For Board Action

REFERRED TO BOARD: August 12, 2019

AGENDA ITEM NO: 10

ORIGINATING DEPARTMENT: Village Administrator's Office

SUBJECT: Approval of an amended resolution to revise the Business Development Incentive package for the Rivalry Ale House

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

The owners of the proposed Rivalry Ale House were unable to secure funding when the bank they had been working with changed management and determined to change its target market. This resulted in delays and the owners sought out a different bank, this time utilizing an SBA loan. The loan has been approved in principal, but among several conditions, the lenders have asked that the Village allow them to take a first position over the Village's security for the conditional repayments of the grant. Allowing this would result in a significant impairment of the Village's security.

In an effort to replace this security, the owners have offered personal guarantees to the Village. Such guarantees are, of course, unsecured personal notes of the owners and have inherent risks. While the Village Board has strongly endorsed this project, replacement of the security originally described in the Grant Agreement carries risks that should be weighed by the Trustees. Staff and legal are not in a position to evaluate those risks fully and recommend thoughtful consideration of the offer and the potential benefits to the Village of the proposed redevelopment and new downtown restaurant.

FINANCIAL IMPACT: \$200,000. Business Development Incentive

DOCUMENTS ATTACHED:

1. Resolution

RECOMMENDED MOTION:

Motion to approve A Resolution Amending Resolutions 18-43 And 18-89 Revising the Business Development Incentive Package for The Rivalry Ale House.

RESOLUTION 2019 - _____

**A RESOLUTION AMENDING RESOLUTIONS 18-43 AND 18-89
REVISING THE BUSINESS DEVELOPMENT INCENTIVE PACKAGE
FOR THE RIVALRY ALE HOUSE**

WHEREAS, the Village Board previously adopted Resolutions 18-43 and 18-89 (with trustees Johnson and Macek recusing themselves in each instance), and

WHEREAS, Resolution 18-43 granted a business incentive package to the developers of the Rivalry Ale House to be located at 945 Main Street, and

WHEREAS, Resolution 18-89 modified only the concept plans for the exterior of the building to achieve construction cost savings and to provide a more visually striking and complementary façade to the public face of the structure, and

WHEREAS, the developers have spent a considerable time in securing third party financing for the project, and due to factors beyond their control the bank they were originally working with changed course and declined to provide funds, which in turn necessitated utilization of SBA financing through a different correspondent bank, and

WHEREAS, the SBA loan appears to be fundamentally approved, but both the United States Small Business Administration and the correspondent bank have insisted that they take a first lien position on all security instruments relating to the structure and the equipment therein, and

WHEREAS, the Village's originally intended security for the contingent repayments required in the event the establishment closed prior to five years of business was a first lien on the restaurant equipment and fixtures in the form of a UCC filing, and

WHEREAS, the SBA and correspondent bank's insistence on being in a first lien position on the UCC filing renders the security offered thereby to become illusory since the depreciation of restaurant equipment and fixtures will quickly reduce the salvage value to an amount equal to or possibly less than the first UCC lien, and

WHEREAS, the principals in the Rivalry project have offered to give personal guarantees to the Village in lieu of the UCC lien, and the Village Board finds that accepting such personal guarantees is an appropriate form of security for the contingent repayment agreement in the Development Agreement, and

WHEREAS, Village Trustees Jerry T. Johnson and Ed Macek have again recused themselves from consideration, discussion or other participation in the deliberations and decision of the Village Board on the matters discussed herein,

NOW THEREFORE, BE IT RESOLVED by the Village of Antioch, Lake County, Illinois, as follows:

Village of Antioch, Illinois

SECTION ONE: Resolutions 18-43 and 18-89 are herewith confirmed in all respects other than as specifically described in this amendatory resolution.

SECTION TWO: The requirement of a UCC filing and UCC first lien on the restaurant equipment and fixtures is hereby deleted, and in its place, the personal guaranty of all of the principals of the Rivalry Ale House running in favor of the Village is substituted therefore, upon the same contingencies and conditions for execution.

SECTION THREE: The completion date and business opening date prescribed in Resolution 18-43 and 18-89 remain as the developers' commitment to complete the structure and cause the business to open at the earliest practicable date, provided that all safety requirements of the trades be followed at all times.

SECTION FOUR: This resolution shall take effect immediately upon passage.

PASSED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF ANTIOCH, ILLINOIS,
ON THIS 12TH DAY OF AUGUST, 2019.

ATTEST:

LAWRENCE M. HANSON, MAYOR

LORI K. ROMINE, VILLAGE CLERK