

MEMORANDUM

TO: Claire Powell, City Manager

FROM: Marichelle Samples, Director of Economic Development

DATE: November 7, 2022

SUBJECT: **Approval of Termination of the Economic Development Agreement Between MM Lewisville RR, LLC and the City of Lewisville dated March 15, 2021; and Authorization for the City Manager, or her designee, to Sign Any Necessary Termination Documents.**

BACKGROUND

On March 15, 2021, the City entered into an economic development agreement (“Agreement”) with MM Lewisville RR, LLC (“Developer”) for the development and operation of SFERECO, an Italian style restaurant, located at 233 W. Church Street. Pursuant to the Agreement, the Developer upgraded the existing building and provided enhancements to the outdoor space to activate it for family entertainment. The Agreement provided for an annual tax grant for the local sales tax and city mixed beverage tax receipts as well as a start-up grant for the improvements to the outdoor space.

Under the Agreement, the Developer was required to meet the following conditions:

- Upgrade the building and provide enhanced improvements to activate the outdoor space on the western portion of the property.
- Maintain a minimum annual taxable sales amount of \$900,000.
- Open and operate a destination restaurant.

The Developer received a certificate of occupancy for SFERECO on June 14, 2021, and has been open and operational since then, with some reduced hours.

ANALYSIS

By meeting the above requirements and reaching the minimum taxable sales amount of \$900,000, the economic development agreement allowed for the following incentives:

- An annual tax grant for Local Sales Tax and City Mixed Beverage Tax in an amount equal to the following:
 - 75% of the Local Sales Tax Receipts and City Mixed Beverage Tax Receipts for years 1-5; and

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- 50% of the Local Sales Tax Receipts and City Mixed Beverage Tax Receipts for years 6-10.
- A start-up grant in an amount not to exceed \$20,000 for the improvements for the outdoor space.

Pursuant to the Agreement, the Developer is required to submit an annual compliance report to the City to qualify for distribution of incentives. The Developer did not submit the annual compliance report to City staff and has not requested payment for the start-up grant or the sales tax grant. To-date, no funds have been paid to the Developer. The Developer recently reduced its hours and informed the City that it wishes to sell the property to a third-party professional restaurateur to open a new restaurant, which is anticipated to be an Italian cuisine dining establishment known as Eddie's Napolis. The Developer, therefore, is requesting to terminate their agreement. Since the Agreement was approved by City Council, staff cannot unilaterally terminate the Agreement without the City Council's approval.

Over the last several years, the city has focused on the revitalization of Old Town through the implementation of the Old Town Master Plan, development of a variety of residential projects, and upcoming catalytic mixed-use developments. One of the goals for the area was to bring in more restaurant options to the center of Old Town. Doing so aims to enhance the nighttime and daytime populations and increases spending power within Old Town. Terminating the Agreement to allow for the opening of a new restaurant will allow the City to continue to meet its goals.

The request to terminate has been reviewed by the City Attorney and signed by the Developer. It is attached for your review and consideration

CITY STAFF'S RECOMMENDATION

That the City Council approve the termination to the economic development agreement and authorize the City Manager, or her designee, to sign any necessary termination documents as set forth in the caption above.