

 <p style="text-align: center;">Council Communication Office of the City Manager</p>	Date:	May 20, 2013
	Agenda Item No.	64
	Roll Call No.	<u>13-850</u>
	Communication No.	<u>13-267</u>
	Submitted by:	Matthew A. Anderson, Assistant City Manager

AGENDA HEADING:

Proposed preliminary terms of agreement with Merle Hay Mall for economic development assistance of up to \$400,000 annually for a total of up to \$1.6 million from proposed tax increment revenues for Merle Hay Mall / Phase 2 improvements.

SYNOPSIS:

Recommend proceeding with negotiations and final document preparation with the owners of Merle Hay Mall (Elizabeth Holland, Secretary for Merle Hay Mall Limited Partnership LLC, Abell Credit Corporation, 30 Michigan Avenue, Suite 1008, Chicago, Il) for the proposed use of tax increment revenues.

FISCAL IMPACT:

Amount: A development grant of 100% of the project’s net tax increment generation, up to \$400,000 annually for four years for a total of up to \$1,600,000, is requested on a cash-available basis starting in Fiscal Year (FY) 2026/2027. This timing is based on when the Merle Hay Mall Phase 1 grant agreement payments are completed in FY2025/2026 and payments for 50% of the new increment created by the development at 3801 Merle Hay Road are completed in accordance with the development agreement executed with 3801 LLC. The Merle Hay Mall Phase 2 payments will end in 2030 with the urban renewal plan/tax increment designation termination.

Funding Source: Each project agreement has an individual project code which will be assigned at the time the payments begin.

ADDITIONAL INFORMATION:

Merle Hay Mall is the first mall constructed in Des Moines in the late 1950s. A major update to the main entrance facing Merle Hay Road was undertaken several years ago; that work was done with Tax Increment Financial (TIF) assistance from the City of Des Moines.

The mall owners are now proposing a second phase of improvements that would be undertaken in the “middle” of the mall in the area often known as the bridge/court since it connects the Merle Hay Road-facing stores to the west anchor stores (Kohls and Youngers department stores).

The proposed Phase 2 improvements include demolishing the current south parking structure and reconstruct/enlarge the south entrance, which will be the main entry for a new major tenant, Flix Brewhouse and movie theater which will develop an eight (8) screen, dine-in theater and brewery on the

upper level of the mall. Construction would start late summer and be completed by 2014. The total project is estimated to cost \$12 million. The owners are asking for an extension of the economic development assistance (up to \$400,000/year) for four (4) years to help pay for the newest project. These payments would not be made until FY2025/2026 when payments for the Phase 1 are completed.

The proposed demolition of the south parking ramp and renovation of the south entrance area provides an opportunity to address the stormwater run-off in the area. Many of the rainfall events now create significant water flows over Douglas Avenue between 60th and 62nd Streets. The City will work the mall owners to explore on-site holding measures to decrease and slow the release of water onto Douglas Avenue.

GRAPHICS

General Area of Merle Hay Mall Phase 2 Improvement



a. View from parking lot fronting Douglas Avenue looking north at parking ramp proposed for demolition.



b. View of mall's south entrance area from interior drive. To the left is the ramp to be demolished.

Images of Proposed Phase 2 Improvements (Provided by Merle Hay Mall Owner)



ENTRY SKETCH

Proposed New South Entrance to Merle Hay Mall 1





Proposed Interior View of Phase 2 Improvements to Merle Hay Mall

Background

In July 2008, the City entered into an urban renewal development agreement with the Merle Hay Mall Limited Partnership. As part of this agreement, the Mall had to complete certain improvements and execute a minimum assessment agreement to increase the Mall's property tax assessment by at least \$10 million (to \$18 million) as a result of the improvements.

Upon completion of those activities, the City is then to make semi-annual payments (capped at \$400,000 annually) for 15 years to the owners of Merle Hay Mall based on the property tax revenue from the Merle Hay Mall assessment and the availability of tax increment revenue in the Merle Hay Commercial Area tax increment finance district. As noted below, the payments made to-date have been less than the \$400,000/annually.

A second development agreement using TIF was executed in 2011 with the development of an in-line set of stores at 3801 Merle Hay Road. This agreement provides for payment of 50% of the new property tax increment created by the development and has a carryover provision if the amount due for payment cannot be paid at that time.

The TIF revenues generated by this area have been less than the \$400,000/annual payment since the TIF payments were started in FY2010/2011 to Merle Hay Mall. It is anticipated that the full payment of \$400,000 may not be made until FY2014/2015. Factors contributing to the decrease in the property assessments in this area include demolition of various structures and conversion of several apartment buildings from commercial to residential classification and commercial structures to non-profit status. There has also been an overall decrease in commercial assessments throughout Des Moines that impacted this commercial area.

The future estimates of TIF revenues are uncertain due to a large number of property assessment appeals made by major property owners in the Merle Hay area to the State of Iowa's Property Assessment Appeals Board as well as potential changes by the State Legislature that could alter how commercial real estate is taxed. It is anticipated, though, that overall values in this area will improve gradually and several new developments will be fully taxable in the next year.

PREVIOUS COUNCIL ACTION(S):

Date: July 25, 2011

Roll Call Number: [11-1326](#)

Action: [Urban](#) Renewal Development Agreement and Conceptual Development Plan for the redevelopment of 3801 Merle Hay Road by 3801 LLC (Richard Eychaner). ([Council Communication No. 11-483](#))

Date: August 9, 2010

Roll Call Number: [10-1279](#)

Action: [Acknowledgement](#) and Consent Agreement requested by Wells Fargo Bank for Merle Hay Mall Limited Partnership, LLC on refinancing of loan for Merle Hay Mall. ([Council Communication No. 10-502](#)) Moved by Moore to adopt. Motion Carried 7-0.

Date: February 8, 2010

Roll Call Number: [10-206](#)

Action: [First](#) amendment to Development Agreement and issuance of Certificate of Completion for the Merle Hay Mall Rehabilitation project. ([Council Communication No. 10-059](#)) Moved by Hensley to adopt. Motion Carried 7-0.

Date: July 14, 2008

Roll Call Number: [08-1238](#), [02-1239](#), [08-1240](#), [08-1241](#), [08-1242](#), [08-1243](#)

Action: Items regarding Merle Hay Commercial Area Urban Renewal Plan and redevelopment of a portion of Merle Hay Mall:

- (A) [Receive](#) and file communication from Plan and Zoning Commission finding the Urban Renewal Plan to be in conformance with the Des Moines 2020 Community Character Plan. Moved by Vlassis to receive and file. Motion Carried 7-0.
- (B) [Resolution](#) of Necessity finding the Merle Hay Commercial Area Urban Renewal Area appropriate for designation as an economic development area. Moved by Vlassis to adopt. Motion Carried 7-0.
- (C) [Resolution](#) closing hearing on proposed Merle Hay Commercial Area Urban Renewal Plan and adopting same. ([Council Communication No. 08-397](#)) Moved by Vlassis to adopt. Motion Carried 7-0.
- (D) [First](#) consideration of ordinance above. Moved by Vlassis that this ordinance be considered and given first vote for passage. Motion Carried 7-0.
- (E) [Final](#) consideration of ordinance above, (waiver requested by applicant), requires six (6) votes. Moved by Vlassis that the rule requiring that an ordinance must be considered and voted on for passage at two (2) Council meetings prior to the meeting at which it is to be finally passed be suspended, that the ordinance be placed upon its final passage and that the ordinance do now pass, [#14,783](#). Motion Carried 7-0.

- (F) [Resolution](#) approving Urban Renewal Development Agreement with Merle Hay Mall Limited Partnership for redevelopment of a portion of Merle Hay Mall, 3850 Merle Hay Road. ([Council Communication No. 08-396](#)) Moved by Vlassis to adopt. Motion Carried 7-0.

Date: March 10, 2008

Roll Call Number: [08-431](#)

Action: [Regarding](#) preliminary terms of agreement with Merle Hay Mall for proposed redevelopment for use of proposed tax increment revenues. ([Council Communication No. 08-135](#)) Moved by Vlassis to receive and file the communication and to authorize the City Manager to negotiate a final development agreement with the owners of the Merle Hay Mall in general accordance with the communication. Motion Carried 7-0.

ANTICIPATED ACTIONS AND FUTURE COMMITMENTS:

- Completion of negotiations, final document preparation by City staff within the next six (6) weeks.
- Review of the proposed design and use of the tax increment revenues by the Urban Design Review Board at its May 21, 2013 meeting.

For more information on this and other agenda items, please call the City Clerk's Office at 515-283-4209 or visit the Clerk's Office on the first floor of City Hall, 400 Robert D. Ray Drive. Council agendas are available to the public at the City Clerk's Office on Thursday afternoon preceding Monday's Council meeting. Citizens can also request to receive meeting notices and agendas by email by calling the Clerk's Office or sending their request via email to cityclerk@dmgov.org.