

To Village of Cottage Grove Board of Trustees

From Rick Manthe and Larry Konopacki

Date April 30, 2020

Re Comfort Suites Development Agreement

This memo serves two purposes: 1) to convey our recommendation that the Comfort Suites Development Agreement (Agreement) is approvable in its current form; and 2) to explain why the Agreement is presently before the Village Board prior to the Developer receiving zoning approvals.

### **1. Development Agreement Recommendation.**

We have determined that the Agreement is approvable in its current form. Most importantly, the Agreement protects the Village's investment in the project through an assessment guarantee effective until the Village's grants have been recouped. The structure of the grants provides further protection. The up-front incentives are only awarded after the Developer has met certain planning and construction milestones. The post-development incentives are tied directly to the Developer's performance, meaning the Village will only pay the full amount of incentives if the development conforms to the Developer's promises. The Developer's financial obligations to fully reimburse the Village through property taxes are backed by a personal guarantee from Mr. Wagner. Also, the Developer will file a tax agreement under which the Developer must take actions consistent with keeping the property on the tax rolls in perpetuity. Given these protections and others, we have determined that the Agreement is approvable in its current form.

### **2. Explanation of Approval Process.**

Approval of the Agreement now would be atypical for the Village in that it would come before the Developer has obtained all of its required approvals. The Developer has requested approval now so that it can secure financing for the Development.

Despite being atypical, we still recommend approval of the Agreement in its current form. The Agreement contains conditions precedent delaying the effective date of the Agreement. The Agreement, and consequently the Village's obligations, will not become effective until the Developer satisfies all conditions precedent. One of those conditions is that the Developer obtain all necessary approvals from the Village. Further, the Developer must follow all conditions placed upon Village approvals. Thus, approving the Agreement at this point does not remove any other obligations of the Developer, and the Village will not incur any additional risk.