

Affiliate Review Committee

Carmel Christkindlmarkt, Inc.

April 16, 2025

Overview

Transition Review Process

Mayor Finkam identified CCI during transition as an opportunity for review given:

- The level of taxpayer investment that had been spent on the market was significant
- The potential lost opportunity to allocate this taxpayer investment to other city priorities
- It was clear a long-term strategy needed to be put in place for the sustainability of the Market in the coming years, while reducing taxpayer subsidies
- CCI's interactions with the City were inconsistent with its federal tax status as a Type I supporting organization (i.e., "organized and operated exclusively for the benefit of the City" and "operated, supervised or controlled by" the City pursuant to Code Section 509(a)(3))
- The City's need to ensure its support for the Market complied with state and local law, including ghost employment rules and event permitting standards
- City employees working on setup and tear down could be working on other City priorities if they were not assisting with the Market

Mayor Finkam's Focus Throughout 2024

- Recognize the Market's incredible history and legacy as a best-in-class event for the City, its residents, and its visitors
- Create transparency regarding the City's investment into CCI in terms of dollars and staff hours devoted to the Market
- Set expectations that CCI will work toward self sustainability without City taxpayer subsidies
- Begin a process of CCI's reimbursement to the City of expenses the City paid on CCI's behalf for the Market
- Ensure that CCI reflects good governance practices in compliance with its state nonprofit status and its federal tax status as a Type I supporting organization of the City
- Withdraw the City's staff and its contractors from day-to-day involvement in CCI's programming and activities
- Impose reforms to CCI's governance (Type I Supporting organization requirements) and financial relationship with the City and its taxpayers, while leaving operation of the Market and its programming and activities in the hands of CCI's executives and board of directors

Next Steps Taken

During 2024 and 2025, the City's team has been focused on the following:

- Comprehensive fiscal analysis
 - Net Assets and Cash on Hand
 - Complete P&L statements with multi year comparison
 - Valuation of City's investment (early years included)
 - Budget Adherence and variance analysis
 - Reserve fund adequacy for future Market sustainability
- Governance Structure review
 - Decision-making processes and transparency
 - Board management and effectiveness
 - Responsiveness to feedback and adaptation (consistent with a Type I supporting organization)
 - Long-term strategic planning

Governance Review

Federal Tax Exemption

Carmel Christkindlmarkt, Inc. (“CCI”) was incorporated on April 25, 2017 pursuant to the Indiana Nonprofit Corporation Act of 1991, as amended.

CCI submitted its Form 1023 application with the IRS (**Exhibit J**) and received its federal IRS determination letter on **July 28, 2017 (Exhibit M)**, confirming its status as **a public charity and Type I supporting organization, exempt from federal income tax under Sections 501(c)(3) and 509(a)(3)** of the Internal Revenue Code of 1986, as amended (the “Code”).

Federal Tax-Exempt Requirements

As a **public charity** and **Type I supporting organization**, exempt from federal income tax under Code Sections 501(c)(3) and 509(a)(3), CCI is subject to several federal tax requirements:

- **Prohibition Against Private Inurement:** CCI may not allow its net earnings to inure to the benefit of any individual (Code Section 501(c)(3)).
- **Organizational Test:** CCI must be organized exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the City of Carmel (Code Section 509(a)(3)(A)).
- **Operational Test:** CCI must engage solely in activities that support or benefit the City of Carmel (Treas. Reg. 1.509(a)-4(e)(1)).
- **Relationship Test:** CCI must be **operated, supervised or controlled by the City of Carmel**, as demonstrated by the Mayor's power to appoint at least a majority of CCI's directors (i.e., a "Parent-Subsidiary" relationship) (Treas. Reg. §1.509(a)-4(g)(1)).

Federal Organizational and Operational Tests

Article II of CCI's Amended and Restated Articles of Incorporation ("Articles") (Exhibit A) provides that:

- CCI "is organized, and at all times thereafter will be operated, **exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the City of Carmel, Indiana.**"
- "Nothing in these Articles empowers the Corporation to engage in activities which are not in furtherance of the above-mentioned purposes, and **the Corporation may not operate to support or benefit organizations other than the City of Carmel, Indiana.**"

Article II of the Articles describes CCI's tax-exempt, charitable purposes for the benefit of the City of Carmel as follows:

- "The Corporation is a public benefit corporation organized and operated exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986," that is organized:
 - **"To conduct educational and cultural activities in Germanic culture through lectures, story-telling, discussions, musical performances, cultural presentations, and an annual Christkindlmarkt festival,** and in this manner providing instruction to the public on subjects that are useful to individuals and beneficial to the community, with the activities to be generally conducted by teachers, musicians, actors, and other knowledgeable and qualified individuals and open to the public free of charge, and shall take place in the **City of Carmel, Indiana."**

CCI's Commitments To The IRS In Its Form 1023

CCI's charitable purposes, as defined in Article II of its Articles, are also described verbatim in its Form 1023 federal tax exemption application ("Form 1023") submitted to the IRS on June 1, 2017 (**Exhibit J**):

- "To conduct educational and cultural activities in Germanic culture through lectures, story-telling, discussions, musical performances, cultural presentations, and an annual Christkindlmarkt festival, and in this manner providing instruction to the public on subjects that are useful to individuals and beneficial to the community, with the activities to be generally conducted by teachers, musicians, actors, and other knowledgeable and qualified individuals and be open to the public and shall take place in the City of Carmel, Indiana."
- "Notwithstanding the foregoing, [CCI] is organized, and at all times thereafter will be operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the City of Carmel. Nothing in [CCI's] Articles empowers [CCI] to engage in activities which are not in furtherance of the above-mentioned purposes, and [CCI] may not operate to support or benefit organizations other than the City of Carmel."
- CCI did not represent to the IRS that it would "own" the Market.

IRS Relationship (Control) Test

CCI is required by the IRS to be subject to the City of Carmel's supervision and control through various governance powers and rights held by the Mayor of the City of Carmel (the "Mayor"): **(Amended and Restated Bylaws (the "Bylaws"), Exhibit B)**

- **Directors appointed by Mayor.** "As provided in the Corporation's Articles of Incorporation, on behalf of the City of Carmel (the "Supported Organization"), the Mayor of the City of Carmel shall appoint all of the members of the Board of Directors." (Bylaws, Article I, Section 1.2)
- **Vacancies filled by Mayor.** "Any vacancy among the directors . . . shall be filled by the Mayor of the City of Carmel on behalf of the Supported Organization." (Bylaws, Article I, Section 1.3)
- **Directors removed by Mayor.** "Any director may be removed, with or without cause, by the Mayor of the City of Carmel on behalf of the Supported Organization by providing written notice of the removal to the director and the Chair or Secretary of the Corporation." (Bylaws, Article 1, Section 1.4)

State Law Governance Structure

- **Board of Directors (Exhibit B)**

- Minimum of 3 directors (Bylaws, Article 1, Section 1.2)
- Appointed by Mayor (removals by Mayor with or without cause and vacancies filled by Mayor) (Bylaws, Article I, Sections 1.2, 1.3, 1.4)
- Director terms of 2 years (Bylaws, Article I, Section 1.2)

- **Officers (Exhibit B)**

- Officers consist of a President and CEO, Chair, Vice Chair, Secretary and Treasurer (Bylaws, Article II, Sections 2.1)
- Elected by the Board (Board removes and fills vacancies) (Bylaws, Article II, Sections 2.2, 2.3, 2.4)
- Officer terms of 2 years (Bylaws, Article II, Section 2.2)

City of Carmel Controls

Other ways CCI is subject to the City of Carmel's **supervision and control: (Exhibit A)**

- Dissolution of Assets: In the event of a dissolution, all remaining assets must be distributed to the City of Carmel. (CCI Articles, Article VI, Section 6.4)
- By virtue of its Type I supporting organization status, CCI must be engaged solely in activities that support or benefit the City of Carmel. (CCI Articles, Article II)

Key Issue: Ownership of the Market

- Beginning in **May of 2024**, the City reinforced to CCI that the **City must continue to own the Market**, while **CCI continues to operate the Market and be solely responsible for the charitable and educational programming at the Market**.
- **The City's ownership of the Market was essential. For example:**
 - If the City owns the Market, **ghost employment** risk concerns are minimal.
 - State law permits governmental employees to perform services for a charitable organization pursuant to a policy that has been issued by the executive officer of the government.
 - Mayor Brainard issued Executive Order 2007-2 which allows City employees to perform **no more than 75 hours** of community services in a calendar year.
 - In 2023, the Street Department committed almost **8,000 hours** in support of CCI and the Market.
 - 37 employees exceeded the 75-hour threshold.
 - Average number of hours was 131.
 - These same employees also supported other nonprofit events (e.g., Carmelfest, Farmers Market, etc.) which are **aggregated** in applying the 75-hour test.

Key Issue: Ownership of the Market

In standing firm on the “ownership” of the Market during the discussions with CCI, the Mayor was:

- **Ensuring compliance with Indiana's ghost employment laws**, both retroactively (during the Brainard administration) and going forward; and
- **Protecting the taxpayers' investment** in the Market by:
 - Protecting the City's historical investment of over **\$8.5M**; and
 - Ensuring that the Market remains in Carmel and cannot be moved to or duplicated in a competing City, using these taxpayer funded assets – Which is a requirement for CCI to maintain its status as a Type I Supporting Organization.

Governance Observations

- Upon review, the City observed that CCI lacked good governance practices, general corporate hygiene, and an understanding of its tax status, as illustrated by the following examples:
- As a Type I supporting organization, CCI may only make grants to the City (or at the direction of the City, make certain grants that directly support or benefit the City). However, CCI contemplated grantmaking to individuals and other nonprofit organizations:

- **2/22/24 Minutes, P. 2:**

- Goal: to eventually have leftover revenue go to area nonprofits as donation, or providing scholarships for exchange students. Trying to grow the charitable piece of the organization.

- This concept was continued in the Board Materials for the 4/25/24 board meeting (P. 11), which mentions “donating \$10K to a charitable organization that connects to our mission”:

- Successfully create a new concept for the premiere VIP day event engaging at least 10 sponsors raising at least \$150K and donating \$10K to a charitable organization that connects to our mission

Governance Observations

- Additional examples that CCI lacked good governance practices, general corporate hygiene, and an understanding of its tax status:
 - **2/22/24 Minutes, P. 2:** Proposing to increase CEO pay from \$125K with bonus “based upon net proceeds” to \$225K with bonus “based upon determined goals”

Restructuring Staff & Salaries

Maria

- Currently: Base Pay - \$125,000 w/bonus based upon net proceeds
 - Puts focus on performance and not necessarily mission or impact
 - New Proposal: Base Salary - \$225,000 w/bonus based upon determined goals
 - Determine what goals Maria is to be held accountable for, and what direction is the organization moving in
- 501(c)(3) organizations are prohibited from distributing net earnings to private individuals (see later slides)
 - **3/29/24 Minutes, (Exhibit K, P. 2):** “There has never been an Annual Meeting – What would this look like moving forward?”
 - Article I, Section 1.6 of CCI’s Bylaws (**Exhibit B**) requires CCI to have an annual meeting, stating “the Board of Directors shall meet during the first quarter of each year for the purpose of election of officers of the Corporation and consideration of any other business which may be brought before the meeting.”

Governance Priorities During 2024

- Throughout 2024, the City was reinforcing that CCI should become “independent” in the following respects:
 - CCI should hire independent legal counsel and accountants (so that it was no longer dependent upon the City Corporation Counsel and City’s financial consultant); and
 - CCI needed to create a plan for financial sustainability so that it was no longer dependent upon the City and could absorb its own operating expenses, to be reflected in an updated operations agreement with the City.
- The City did not request that CCI distance itself from the City by decreasing the City’s authority (as its supported organization) to appoint its board or the City’s right to exercise governance authority over CCI as reflected in CCI’s Articles and Bylaws.

CCIs Actions

- However, throughout 2024, rather than focusing on the financial relationship between the City and CCI, and the continuing taxpayer subsidies, CCI focused on decreasing the governance “control” by the City and the Mayor’s ability to appoint its directors:
 - See CCI Board Minutes On 3/29/24 (**Exhibit K**)
 - “Board Appointment Structure (adding members not appointed by the City)”
 - “A 3/7 of Board appointments by the Mayor; 4/7 elected by the Board?”
 - “Preventing any one body from having too much authority over a Board.”
 - Key Points
 - Mayor Brainard held the power to appoint 100% of the board since it was formed.
 - CCI began attempts to decrease Mayor Finkam’s oversight and governance control immediately after Mayor Finkam introduced new levels of governance and financial accountability in the relationship between the City and CCI, including a requirement that CCI move towards financial self sustainability.
 - **This discussion in the 3/29/24 minutes is inconsistent with CCI's status as a Type I Supporting Organization, which requires that the City appoint at least a majority of its board.**
 - CCI’s legal counsel proposed a new set of Articles and Bylaws that reduced the City’s authority from appointing all of CCI’s directors to a majority of CCI’s directors on 6/11/24.
 - The City rejected CCI’s request to reduce the City’s authority to appoint all of CCI’s directors on 6/24/24, noting that Mayor Finkam would continue the same governance structure that Mayor Brainard had held since CCI was formed.

CCI's Legal Counsel's Input

- Ice Miller, CCI's legal counsel, has provided the following input:

Based upon the framework that the City has developed with CCI in regards to governance and the proposed terms for an updated Operations Agreement, Ice Miller is comfortable that the City's proposed framework in that Operations Agreement is consistent with CCI's mission and tax-exempt purposes.

If you have questions, please let me know.

Gina

Gina M. Giacone | Partner



- The operating agreement signed in October set the partnership on a new course of accountability and transparency and does not put the CCI's tax status at risk.

Financial Review

Financial Review

- The City provided taxpayer subsidies to CCI every year since it was formed, including financial contributions (in CCI's early years) and in-kind contributions (every year)
- The City identified an investment of over \$8.5M in the Market since 2017 (which was not reimbursed by CCI) primarily through labor hours and vendor contracts paid by the Streets Department:

Year	City's Contribution to CCI
2017	\$1,894,330
2018	\$1,398,757
2019	\$1,031,696
2020	No event due to COVID
2021	\$982,586
2022	\$1,172,806
2023	\$1,089,684
2024	\$775,654 (reflects CCI's reimbursement to City of \$284k for 3 contracts)



CCI Reports Growth In Revenues...

- Throughout 2024, CCI continued to report its growth in revenues to the public and City officials, as demonstrated in the report that it delivered to the City Council on May 20, 2024 (**Exhibit N, P. 95**).

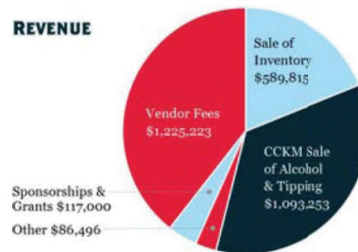
CCI's Presentation To City Council On 5/20/24

OUR FINANCIALS

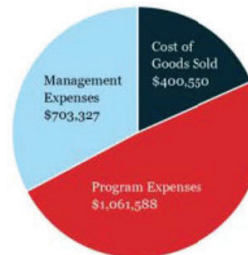
CARMEL CHRISTKINDLMARKT INC.

	2022	2023
Revenue		
Sponsorships & Grants	\$ 44,250	\$ 117,000
Vendor Fees	801,221	1,225,223
Sale of Inventory	383,352	589,815
CCKM Sale of Alcohol & Tipping	700,388	1,093,253
Other	74,419	86,496
Total Revenue	\$2,003,632	\$ 3,111,787
Expenses		
Cost of Goods Sold	\$ 344,955	\$ 400,550
Program Expenses	834,236	1,061,588
Management Expenses	498,469	703,327
Total Expenses	\$ 1,677,661	\$2,163,465
Total Revenue - Expenses	\$ 325,970	\$ 946,323

REVENUE



EXPENSES



2 Observations

- The “Total Revenue Less Expense” Calculation is incorrect: \$3,111,787 minus \$2,163,465 = \$946,322
- At the time this was presented, CCI had \$1,577,940 of cash on hand that was not disclosed on these financials

...but not escalation of cash on hand

- CCI reported revenue growth, but did not demonstrate the underlying escalation of net assets or cash on its balance sheet.
 - This is an important point because, during this same period, CCI was negotiating an operations agreement with the City and taking the position that it could not reimburse the City for expenses during 2024. (See Tax Returns at Exhibits C through I).

Fiscal Year End	Net Assets	Cash On Hand
12/31/18	\$609,675	\$385,267
3/31/19	\$502,930	\$181,835
3/31/20	\$690,772	\$315,205
3/31/21	\$555,840	\$174,807
3/31/22	\$869,979	\$575,258
3/31/23	\$1,197,567	\$749,941
3/31/24	\$1,998,447	\$1,577,940

CCI's Budget vs. Actual Financials for FYE 3/31/25

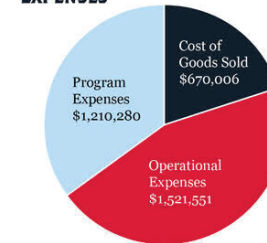
- Even with the City's ongoing support, CCI self reported that it experienced a revenue shortfall compared to its forecast for 2024
- This shortfall is attributable to the following:
 - Professional Fees (legal): \$176,230
 - Reimbursement of the City for direct expenses: \$284,443
 - Personnel related expenses grew by \$780,000
 - 5 bad weather days

OUR FINANCIALS

REVENUE



EXPENSES



CARMEL CHRISTKINDLMARKT INC. (CCI)

2024 Revenue*

Sponsorships & Grants	\$ 202,700
Vendor Fees	1,276,769
Sale of Inventory	773,568
CCI Sale of Alcohol & Tipping	1,036,648
Other	122,884
Total Revenue	\$ 3,412,569

2024 Expenses*

Cost of Goods Sold	\$ 670,006
Program Expenses	1,210,280
Operational Expenses	1,521,551
Total Expenses	\$ 3,401,837

Total Revenue - Expenses
(as of Feb 2025) \$ 10,732

Forecasted March Expenses
& Depreciation \$ 458,860

Total Revenue - Expenses
(Forecasted March 2025) \$ -\$448,128

*These numbers reflect financials from 04/01/24 - 02/28/25 with forecasts for the month of March. These numbers are not final numbers. Final number to be reported to the IRS will take place after the end of the fiscal year. The fiscal year ends 03/31/25.

HISTORICAL CCI FINANCIAL INFORMATION

	2021	2022	2023	2024*
CCI Revenue	\$1,076,682	\$2,005,250	\$3,111,789	\$3,412,569
Annual Revenue Increase	\$167,764	\$928,568	\$1,106,539	\$300,780
Annual Revenue Increase %	18%	86%	55%	10%
Average Revenue Annual Increase %	7%	27%	33%	29%
CCI Expenses	\$771,924	\$1,677,662	\$2,310,909	\$3,860,697
CCI Rev-Exp	\$304,758	\$327,588	\$800,880	-\$448,128

2024 Annual Revenue Increase

10%

*The 2024 loss represents an investment in CCI organizational infrastructure and growth, positioning the organization for continued success long into the future. In addition, CCI covered additional costs that were provided in-kind in prior years.



CCI's Reported Financials

- CCI provided a one page “Statement of Activity” (the “SOA”) to the City on **7/4/24** (**Exhibit R**) that reflected the following:
 - Only revenues and expenses, without a balance sheet to reflect CCI’s net assets or the escalation of cash on CCI’s balance sheet
 - Financials through **FYE 3/31/24**
 - **“Net revenue” of \$906,502.88**
- Compare CCI’s SOA, provided on **7/4/24**, to the following documents:
 - The net revenue on the SOA was less than CCI reported to the City Council on **5/20/24** (\$946,323 of “Total Revenues – Expenses”, **Exhibit N, P. 95**)
 - The net revenue on the SOA was higher than CCI reported to the IRS in its tax return for **FYE 3/31/24** (\$800,880 of “Revenue less expenses”, **Exhibit I, P. 1, Line 19**)
 - The net revenue on the SOA was higher than reflected in **P. 12** of CCI’s board packet for its board meeting on **4/25/24** (\$892,608 of “net annual revenue”)
- In sum, during a 4-month period in 2024, CCI presented four sets of financials for FYE 3/31/24 and all of them presented different information.

CCI's Reported Financials

- The City's financial consultant confirmed "CCI employs the cash basis of accounting for IRS reporting purposes (Form 990), so the cash values on its 3/31/2024 bank statement and tax return should have been identical, absent any reconciling items. [We are] unaware of any reconciling items, such as outstanding checks or deposits in transit, on that date."
- On P. 12 of the CCI board packet for the meeting on **4/25/24**, CCI had a cash balance of \$1,577,939.73 as of April 1, 2024, with board packet referring to "tapping into the over \$1M in cash reserves."

April 1, 2024 - Start of Fiscal Year Cash Balance: **\$1,577,939.73**

On the far right is if we just "rinse and repeat" what we did in 2023 on the revenue side but increase our expenses with the NFP recommended salaries and other special projects.. We would be short (\$159,518) which would just be a matter of tapping into the over \$1M in cash reserves.

Compensation Observations

- **4/25/24** Memo from CCI Board Chair to CCI Board with cc: to CEO (**Exhibit Q**): The CCI “Board of Directors met in executive session in August 2022 to discuss the bonus structure and approve the budget for FY2023. There were no minutes taken during this meeting.”
 - Memo references emails between Dan McFeely (Board Chair) and Maria Rosenfeld relating to her compensation
 - As an example: **Exhibit T**
 - Memo further includes emails from Mayor Brainard, approving the bonus structure
 - Bonus structure is based upon CCI’s “net revenues”
 - As an example: **Exhibit U**
 - CEO was directly involved in the communications and decision making regarding her compensation

Compensation Observations

- On 4/25/24, the CCI board met in executive session (without noting attendees, quorum or recusal of CEO) and approved the following actions (**Exhibit L**):

The Board met in executive session following the conclusion of the form board meeting.

In this session, the compensation for the President and CEO was discussed. The board approved the following:

President/CEO compensation will be adjusted to \$226,100 as recommended in the compensation analysis by NFP. This rate of pay is to be effective 4/1/23 which will require a lump sum retroactive payment of approximately \$97,350 (\$226,100-\$128,750). This lump sum payment will be made instead of the bonus structure used in the prior year.

For FY2025, the base pay will be \$226,100 plus benefits with the opportunity for an additional 10% of base pay based on the achievement of goals as determined jointly with the Board.

This structure was unanimously approved.

The meeting was adjourned at 5:30 pm

Chronology Of CCI CEO Compensation

- Following is a chronology of CEO compensation from CCI's tax returns (**Exhibits C through I**) and CCI Summary of CEO Compensation (**Exhibit S**):

Fiscal Year End	CEO Compensation	Payable To
12/31/18	\$173,333	M2M Consulting, LLC
3/31/19	\$0	
3/31/20	\$160,000	M2M Consulting, LLC
3/31/21	\$126,667	M2M Consulting, LLC
3/31/22	\$160,000	M2M Consulting, LLC
3/31/23	\$98,731	Maria Rosenfeld
3/31/24	\$208,360	Maria Rosenfeld
4/1/24 – 1/31/25	\$286,921	Maria Rosenfeld

Peer Comparisons For CCI CEO Compensation

Position	Organization	Annual Compensation	Annual Revenues	Net Assets	# of Employees
CEO	CCI	\$248,710*	\$2,605,616	\$1,998,447	9
President/CEO	Great American Songbook Foundation	\$86,924	\$2,079,593	\$8,029,345	7
CEO/President	Hamilton County Tourism	\$140,584	\$8,188,898	\$4,969,287	24
Director of Parks & Recreation	Carmel Clay Parks & Recreation	\$206,000	\$25M (Annual Budget)	N/A	77 FT 402 PT
CEO	The Center for the Performing Arts	\$260,772	\$9,163,052	\$12,598,856	103

* Reflecting 4/25/24 Board Minutes with \$226,100 salary plus 10% bonus opportunity (See **Exhibit L**).

Compensation Observations

- During 2024, CCI shared a report with the City that it received from a compensation consultant, establishing new compensation levels for all employees during 2024 (**Exhibit O**).
- The report did not address the seasonal nature of the staff positions or responsibilities:
 - During 2024, the Market was open for 29 days.
 - There was no indication that the peers that were used for comparison purposes operated seasonally like CCI vs. year-round programming and activities.
- The report was prospective only, and did not provide an opinion on the total 2024 compensation to the CEO, including the retroactive bonus of \$97,350 (**Exhibit L**), resulting in compensation of \$286,921 for 4/1/24 – 1/31/25.
- P. 2 of the Report noted that the consultant selected survey data for peers that aligned with key criteria, including “Revenue: \$4.7M”
 - Compare: CCI’s Annual Revenue Per Tax Return For FYE 3/31/24: \$2,605,616 (**Exhibit I, P. 1, Line 12**).

Compensation Observations

- The 2024 salary increases reflected the following (**Exhibit O, P. 4**):
 - 75.61% increase for President & CEO
 - Between 38.89% and 39.13% increase for four other employees

Executive Position (Base Compensation)	2024 Current Base	2024 Recommended Base	Increase \$/%
Director of Sponsorship	\$82,000	\$82,000	No Change
VP of Operations	\$80,000	\$111,300	\$31,300/ 39.13%
VP of Internal Operations	\$80,000	\$111,300	\$31,300/ 39.13%
VP of Communications	\$90,000	\$125,000	\$35,000/ 38.89%
VP of Cultural Programs	\$80,000	\$111,300	\$31,300/ 39.13%
President & CEO	\$128,750	\$226,100	\$97,350/ 75.61%
Total Cost:	\$226,250		

Compensation Observations

- Leading into 2024, CCI paid bonuses to its CEO as a percentage of its net earnings or revenues from the Market.
 - This can jeopardize tax exemption in some circumstances under federal law.
 - See 3/29/24 Minutes (**Exhibit K**): “Net earnings and how they affect Maria’s payment structure? Will be changed with bonus structure, and should not be a concern going forward.”
 - Dan McFeely confirmed that bonuses were “percentages based upon net revenues generated by [the Market]” on July 19, 2022 (**Exhibit P**):

Maria K. Murphy currently has an annual salary of \$125,000 plus bonus as authorized by the CCHS board president Dan McFeely.

Percentages based on net revenues generated by the 2022 Christkindlmarkt:

0% of net revenues: between \$0 - \$100,000

2% bonus of net revenues: between \$100,000 - \$200,000

5% bonus of net revenues: between \$200,000 - \$300,000

9% bonus of all net revenues: above \$400,000

Please contact me if you need further clarification regarding the bonus structure.

Otherwise, please contact WorkSmart Systems (317/585-7870) for additional details on her base pay structure.

Thank you,



Dan McFeely
President
Carmel Christkindlmarkt

Compensation Observations

- CCI Board Chair confirmed in a memo dated 4/25/24 (**Exhibit Q**) that previous bonuses were based upon net revenues and were approved by prior Mayor Brainard:

Approvals of Bonus Paid in 2023

The amount was presented to Mayor Brainard for approval via e-mail. His response is below:

From: Brainard, James C <JBrainard@carmel.in.gov>

Sent: Saturday, April 1, 2023 2:36 PM

To: McFeely, Daniel P <dmcfeely@carmel.in.gov>

Subject: Re: End of Fiscal Year/Bonus

Perfect, the bonus works, plenty of incentive and justifiable to anyone challenges it.

- The City identified this as a risk during 2024 and CCI changed its reporting position on its tax return for FYE 3/31/24 (2025 Form 990, **Exhibit I, P. 31**):

Schedule J, Part I, Line 5

The President of Carmel Christkindlmarkt, Inc. ("CCI") was paid a bonus based upon achieving a certain revenue target. The bonus was equal to a percentage of net revenues. The board of directors of CCI determined that the bonus when added to the other compensation paid to the President was reasonable and necessary and in compliance with CCI's Executive Compensation and Intermediate Sanctions Policy. The board of directors of CCI also determined in 2024 to cease paying a bonus based upon net revenues, and restructured the bonus payment to be a specific dollar amount based upon achievement of certain goals and targets and which when combined with base salary and benefits was viewed to be reasonable and necessary in light of the comparables reviewed by the board of directors.

CCI's Financials

- The CCI board has been tasked with addressing CCI's revenue shortfall. Strategies may include a combination of expense reductions (personnel, direct costs, etc.) and revenue enhancement (sponsorship, vendors, food/beverage, days of operation).
- If CCI does not reduce its expenses, it currently appears CCI may need to access its line of credit to pay bills in early Q4 until revenue starts coming in from the Market later the same quarter.

Summary

Summary of Review

- The CCI team grew an idea into an incredible, award-winning market. This is the result of a great vision by Mayor Brainard, and a strong partnership between City leadership (elected and staff) and CCI leadership, staff and volunteers. The Market continues to be a highly anticipated community event and strong economic development tool.
- Even though the market has achieved significant growth and stature, the City believes improvement is necessary, noting the themes it identified in its review of Promote Carmel/All Things Carmel continued in its review of the CCI documents:
 - CCI was tightly managed by the Mayor's office, both directly by Mayor Brainard and through Dan McFeely's dual positions as a City contractor while also serving as President of CCI (from 2019 through 2023).
 - CCI was formed by the City's Corporation Counsel with ongoing legal support until Mayor Finkam required it to receive independent legal support in 2024.
 - Instances in which CCI's board did not comply with its Bylaws (e.g., no annual meeting), did not keep detailed minutes (e.g., without attendees or quorum), no record CEO recused from own compensation process, and process relied upon direct input from Mayor Brainard.
 - Financial reporting provided to the IRS, City Council and Mayor's office was not consistent with different numbers reported across varying reports, even when reporting on identical time periods.
 - Key financial metrics (i.e., net assets and cash on hand) were not provided to City Council and Mayor Finkam as cash balances grew, even during City's negotiation with CCI regarding a new operations agreement in 2024.
- Note: The City reviewed the documents that were provided by CCI to the ARC Committee, but did not conduct a forensic audit of the governance or financial materials.

Key Operational Achievements

- The City and CCI executed a new operations agreement in October 2024. As a result of this agreement:
 - CCI reimbursed the City, for the first time in its history, for expenses of \$284K.
 - The City's direct subsidy to CCI decreased, thereby protecting Carmel taxpayers.
 - The City and CCI have developed a framework for a comprehensive operations agreement for 2025 and future years.
- The City protected its valuable intellectual property relating to the Market and reinforced the expectation that CCI will not support any new event that could compete with, or dilute the value of, the taxpayers' Market.
- The City set expectations regarding CCI's status as a Type I supporting organization and its adherence to good governance principles and a culture of corporate compliance.

Ensuring Ongoing Success

The City is committed to ensuring the Market's success for years to come through the following strategies:

- Continue to collaborate through uncomfortable change
- Modify operations agreement to reflect CCIs reduced reliance on City subsidies over time, working in conjunction with City Council during budget period
- Continue to refine and evaluate tracking of City teams' time worked. All departments are now tracking their Market related expenses and report those to the CFO weekly, and those reports are then provided to the CCI Executive Director.
 - The bulk of the work has been borne by the Street Department which uses CityWorks and meticulously tracks expenses.

Ensuring Ongoing Success (continued)

- Request CCI board:
 - Review 2025 staffing levels for CCI – i.e., year-round FTEs vs. seasonal labor and use of contractors
 - Review compensation plan for full-time employees
 - Review corporate sponsorship program and tiered benefits packages, and consider additional partnership opportunities such as hotel packages that bundle market experience
 - Evaluate effectiveness of premium event
 - Implement annual vendor, visitor and volunteer experience surveys
 - Implement off-site parking options to reduce traffic issues
 - Develop a long-term, phased growth strategy to expand based on proven success
 - Consider alternate strategies for lost revenue such as severe weather days

THANK YOU

Thank you to the following partners for working collaboratively and cooperatively to create a best-in-class governance structure and transparent operation.

- CCI volunteer board
- CCI leadership and staff
- City leadership
- City Council and Affiliate Review Committee
- Ice Miller
- Faegre Drinker