



Legislation Text

File #: 20-783, Version: 1

CITY COUNCIL AGENDA ITEM

Memo Date: November 3, 2020
Agenda Date: November 17, 2020
Prepared By: Matthew Fuhrer, Assistant City Manager
Through: Stockton Whitten, City Manager
Requested Action:

Award RFP-21-02-COC to Family Promise of Brevard, Inc. and authorize the City Manager to further negotiate a long-term Lease Agreement for the use of the 114 First Street property (former fire station #1).

BACKGROUND:

At the June 10th regular City Council meeting City Council directed staff to negotiate a long-term lease of the old fire station #1 located at 114 First Street with Family Promise of Brevard, Inc. Since that meeting staff has been working with representatives of Family Promise of Brevard to develop a mutually agreeable lease agreement. While working on the details of the Agreement representatives of Family Promise of Brevard, Inc. were working simultaneously to conduct the necessary assessments of the facility to gain an understanding of their commitment. It was anticipated that staff would be returning an Agreement for City Council consideration at the September 23rd regular City Council meeting.

On Friday September 11th 2020, the Florida Court of Appeals 2nd District issued an opinion that raises questions regarding the City's ability to directly negotiate a lease for the former fire station with Family Promise of Brevard, Inc. The opinion, while not yet final due to motions for rehearing filed by the parties to the litigation, concludes that previous guidance of the Florida Attorney General regarding the process to dispose of or lease real property within a Community Redevelopment Agency incorrectly stated that property acquired prior to the creation of a CRA was not subject to the request for proposal process required in section 163.380(3)(a), Florida Statutes. The former fire station #1, while owned by the City of Cocoa, is located within the Cocoa Community Redevelopment Area.

At the regular meeting of City Council on September 23rd City Council approved the publication of an RFP for the real property located at 114 First Street with a list of criteria. On Monday October 12th the City of Cocoa's Purchasing Division release RFP# 21-02-COC (114 First Street Lease) on Vendorlink for proposals related to a long-term lease of City owned property located at 114 First Street (former fire station #1). Proposals were due on or before November 12th 2020. One (1) proposal was received.

Family Promise of Brevard, Inc. submitted a proposal for the long-term lease to locate their operations within the City of Cocoa and provide their services to Cocoa residents and the larger

Brevard area. Family Promise of Brevard Inc. offers three focus areas of programming that includes homeless prevention, shelter and stabilization.

Services to be Offered

- A day location for homeless families in the program
- A meeting place for case management of its programs and for partner agency collaboration
- Storage of family belongings and donations for families moving into housing
- Weekly life skills classes
- Kitchen, laundry and showering facilities for its shelter program enrollees
- A play area for children of program-enrolled families

The proposal identifies numerous improvements to the facility structure and outdoor fenced area to accommodate their programming in excess of \$200,000 of costs.

Identified Improvements to be Made

- Continuous maintenance of the facilities and grounds
- Renovation and interior buildout
- Replacement of the roof
- Replacement of the HVAC system
- Development of an outdoor children's play area

Material Modifications to the form Lease Agreement

- Article 3- Term of Agreement.
 - Form Lease Agreement 20 years, proposed 25 years.
- Section 7.8- City Remediation Contribution
 - New- The City will contribute the amount it previously budgeted to demolish the Premises (\$19,600.00). The City did not budget for this expense in prior years, but it was proposed at \$19,600 as part of the FY 2021 Budget Priorities Workshop in May of 2020 (Attached).
- Article 15- Termination for Convenience by City
 - The Renovation Cost Reimbursement, which would require the City to pay Family Promise a prorated amount for the cost of their renovations should the City decide to terminate the Lease early for convenience, i.e., to use the property for another municipal purpose and not due to a violation of the lease by Family Promise, will be calculated using the fair market value of in-kind donations and not the actual cash amounts. Although the exact amount of expected in-kind donations is unknown to the City, it is staff's understanding that Family Promise intends to accept a significant

amount of in-kind donations to perform renovations. This modification would greatly increase the City's financial obligations in the event of a termination for convenience and would require the City to pay costs that Family Promise did not incur out-of-pocket for the renovations.

- Article 12- Sale or Transfer by the City, Offers to Purchase
 - Family Promise of Brevard Inc. shall have the first right of refusal if the City offers the property for sale
 - If an offer is made by a third-party, Family Promise of Brevard Inc. shall have the ability to match the offer.
 - If Family Promise of Brevard accepts the offer to purchase, the City would be required to credit the purchase price in the amount of the then-current Renovation Cost Reimbursement.
 - If Family Promise declined to purchase the property, any sale or transfer of the property to a third party would be deemed a termination for convenience by the City, triggering the City's requirement to pay the Renovation Cost Reimbursement.
- Section 26.1 Assignment or Sublease by Tenant
 - Family Promise may sub-let a portion of the Premises to another charitable or non-profit organization and may charge the sub-tenant a pro rata share of the rent, maintenance expenses, common area maintenance and utilities attributable to the sub-leased space. City consent is required but shall not be unreasonably withheld.

The Bid Award and Lease Agreement may be approved by City Council as submitted. However, staff recommends that further negotiations be authorized so that modifications can be made, particularly regarding the Renovation Cost Reimbursement and Subletting obligations to gain a better understanding of potential future financial obligations. Further, proper Exhibits must be prepared and the property description corrected. The final lease agreement would be returned to the City Council for approval based on mutual agreement by both parties.

STRATEGIC PLAN CONNECTION:

BUDGETARY IMPACT:

Budgeted	No
If not budgeted, is amendment/transfer attached?	No

Potential Fiscal Year 2021 Impact- \$19,600.00 due upon issuance of Certificate of Occupancy. In the event of the required Renovation Cost Reimbursement, it is unknown what the future financial obligation to the City would be as the costs of renovation and termination timing are unknown at this time. City Staff will return to City Council, for any necessary Budget Amendments needed.

PREVIOUS ACTION:

At the regular City Council meeting of June 12th City Council directed staff to negotiate a long-term lease with Family Promise of Brevard and return the Agreement for City Council consideration.

At the regular City Council meeting of September 23rd City Council directed staff to publish an RFP for a minimum 30-day period with a list of criteria.

RECOMMENDED MOTION:

Award RFP-21-02-COC to Family Promise of Brevard, Inc. and authorize the City Manager to further negotiate a long-term Lease Agreement for the use of the 114 First Street property (former fire station #1).