

Memorandum



CITY OF DALLAS

DATE October 8, 2021

TO Honorable Mayor and Members of the City Council

SUBJECT **Proposed Lease Agreement with Refuge City of Dallas, Inc.**

This memo is in follow up to questions received during and after the October 4 Economic Development Committee briefing regarding the proposed lease of 12000 Greenville to Refuge City of Dallas, Inc.

The City Council item to consider this lease has been delayed from October 13 to October 27 to ensure that each council member has sufficient time to understand the project and receive answers to all questions from staff. We will be contacting each of your offices to offer individual meetings to discuss the project next week. Any questions that arise during those meetings will be addressed in a follow-up memo which will be circulated next week.

Was this project selected in conformance with city procurement policies?

Lease or sale of city owned land is not governed by City policies, but rather by state law. While there are various statutes that govern lease dispositions, leases are generally not subject to state notice and bidding requirements applicable to sales or land exchanges. Chapter 253 of the Texas Local Government Code provides various exceptions to both the notice and bidding requirements and the fair market value requirements imposed on most sale transactions. Section 253.011 specifically is an exception to the general fair market value requirements, and it provides for a conveyance of real property or an interest in real property (such as a lease) to qualified nonprofits in consideration for an agreement with the nonprofit to use the property in a manner that primarily promotes a public purpose of the municipality. The 253.011 agreement includes provisions to detail (i) the nonprofits' public purpose use obligations and (ii) the reversion of the real property to the municipality if the nonprofit at any time fails use the property in that manner. As such, Section 253.011, is a valuable sale or lease conveyance tool available to a municipality to secure qualified nonprofit entity commitment and agreement to serve an identified public purpose, arguably qualitatively equivalent to the real property interest value being provided by the municipality.

The City has previously utilized Section 253.011 to sell and lease real property to entities including H.I.S. BridgeBuilders (5210 Bexar Street for a mixed-use development including affordable housing), In the City for Good, Inc. (1502 Pennsylvania Avenue to establish a food pantry and community garden), Farmers Assisting Returning Military (606 and 700 S. Good Latimer for an urban farm development), the Dallas Symphony Association, Inc. (Morton H Meyerson Symphony Center), and EdCor Health Initiative (1900 Wheatland Road for an integrated health clinic, though the lease was not ultimately executed at EdCor's election).

How was this deal introduced to the city?

The City considered using Proposition J from the 2017 Bond to build permanent supportive housing at 12000 Greenville. Refuge was working with DISD to purchase land in South Dallas,

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and was introduced to Bonton Farms and began visioning a project to serve North Dallas and other areas of the city.

The City previously approved an option agreement with this developer. What is the status of that agreement?

City Council approved an option agreement for this site pursuant to the Community Inspired Redevelopment Demonstration program in June 2020 and extended the option in January 2021. The demonstration program requires that the developer secure all project financing and submit a final application by the end of the option period. However, Refuge City of Dallas, Inc. (Refuge) determined that this model would not work for their needs. Unlike a debt and equity financed project, Refuge is in process of fundraising the entire budget of the project in a debt-free model. The development team has determined that site control is necessary to carry out significant fundraising, as it will signal progress and viability to the philanthropic community.

Therefore, Refuge proposed to withdraw from the Community Inspired Redevelopment Demonstration Project program, and instead to move forward with a lease of the site pursuant to Section 253.011 of the Texas Local Government Code. This statute allows the City to lease to nonprofit developers in exchange for the nonprofit's use of the site to carry out a public purpose.

This new arrangement will accomplish several important things. First, it will give Refuge site control so that it can finalize the development plan, continue with fundraising, and begin site improvements. Next, the lease will contain specific deliverables and benchmarks to ensure that Refuge is making progress with the proposed development in furtherance of the public purpose served by the development. Failure to satisfy these requirements will result in termination of the lease, which mitigates risk to the city by allowing the city to easily regain site control if the development is unsuccessful.

Why is the lease term 40 years?

Per the city attorney's office, a 39- or 40-year term is a standard lease term for this type of project. The term allows the developer sufficient time to complete the public purpose that is the consideration for the lease.

Why are we not charging rent for the site? If rents were collected, would they go into the general fund or the DWU enterprise fund?

In accordance with Section 253.011 of the Texas Local Government Code, the City is permitted to lease real property to a 501(c)(3) nonprofit organization in consideration of a tenant's use of the real property in a manner that promotes a public purpose of the City. The lease sets forth a series of obligations for the tenant, including specific development and programmatic obligation and deadlines, that contractually obligate the tenant to fulfill the stated public purpose. If the tenant at any time fails to use the property for the specified public purpose, the City may terminate the lease.

If any rents were charged, those proceeds would be deposited into the DWU enterprise fund, not the city's general fund.

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Are there underwriting reports?

No, there are no underwriting reports for this project. The Office of Economic Development and Department of Housing and Neighborhood Revitalization submit projects for financial underwriting when a developer is seeking incentives. In those instances, the underwriting report helps verify the need for gap financing for the project. Under the Debt free model, Refuge is not looking at gap financing. It is anticipated that Refuge may make application for available funding from city sources including recovery and equity funds, and the appropriate application and procedures, including any competitive procurements, will be followed.

Why is site control necessary for the developer to secure financing? Please explain how the proposed ground lease, which is cancelable if fundraising goals aren't meant, gives Refuge Dallas the "greater site control" it desires, or gives funders any more comfort, than the original purchase option does?

Site control in the form of an approved lease signals to the philanthropic community that the developer and city are both committed to the project's success and shows potential donors that the developer has the approvals necessary to move the project forward. The lease gives donors assurance that all city council approvals have been received, as opposed to an option which is contingent upon a future council approval. Per Refuge, donors are already committed, but are waiting on the lease approval to finalize the donations.

Were others offered the opportunity to develop this site? Are there any other projects ripe for this site?

Since acquiring the site in 2016, DWU has received three inquiries about developing the property. There were two internal inquiries: Dallas Animal Services investigated the site for a possible city use in January 2019 and Office of Homeless Solutions looked at the site in March 2019. The Refuge project (and its predecessor project in partnership with Bonton Farms) is the only external inquiry received regarding the site.

When did the City acquire the site?

Acquisition of the site by Dallas Water Utilities was authorized by Council on February 24, 2016.

What is the MVA classification of the property?

12000 Greenville is an unclassified site under the MVA, since it does not have a current residential use. The surrounding residential parcels are classified as C (south), E (west), H (north), and G (east). The property lies at the confluence of strong and weak residential markets.

What populations will the project serve?

This project will serve the entire community. It will provide community assets opportunities to share spaces and serve with dignity those in crisis, including but not limited to victims of domestic violence and sex trafficking, persons impacted by incarceration, and unsheltered residents.

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Have staff talked to the Continuum of Care (CoC) about this project and how it aligns with the CoC's goals? Does it align with our plans for homelessness solutions?

Broad conversations have happened between staff and the MDHA Chair, Peter Brodsky with more in-depth discussions to follow. The goals of this project do align with those of the CoC's to reduce and end homelessness through appropriate pathways to housing. This project focuses on those who are in crisis, which is not relegated solely to the unsheltered but does provide avenues to housing for them as the program fits their needs.

This path to housing for our unsheltered residents also aligns with the goals of the Office of Homeless Solutions (OHS), to decrease homelessness through immediate and long-term efforts via rapid rehousing and the development of longer-term affordable housing, wrap around services, and other initiatives.

Over the next several weeks, MDHA leadership will organize meetings between Refuge and CoC board members to ensure that each board member is fully briefed on the proposed project. Refuge has worked with CoC's in the other cities in which it has developed similar projects and will do the same in Dallas.

Will local nonprofits have the opportunity to partner with the developer on this project?

Yes. Refuge's vision is to create a collaborative model by partnering with local businesses and nonprofits in order to make a collective impact on those living on their campus as well as the broader community. The Dallas nonprofit community will be welcomed by Refuge in the delivery of the essential, wrap around services needed by those coming out of crisis situations.

Does the City of Atlanta provide funding to the Atlanta project?

Yes

What is the annual operating budget for Refuge and its parent organization? How much does this entity raise nationally each year? Has the entity ever missed fundraising goals?

City of Refuge Atlanta has an annual operating budget of \$10,000,000. Per Refuge, the entity has never missed a fundraising goal. Refuge is a 501c3 nonprofit with a separate board and local leadership. Refuge will be finalizing an operational budget over the next few months.

Has staff reviewed the financials for the entity? Have we reviewed the current financing commitments?

If Refuge applies for city incentives, the entity will undergo the normal financial vetting associated with the relevant incentive program application. At this time, no financial assistance has been requested and so no such financial review has occurred. The tenant's ability to carry out the project is secured via lease benchmarks. If the tenant does not have the capacity to satisfy the lease benchmarks, the city may terminate the lease.

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Will Refuge exclude participants based on faith? Will persons served be required to participate in religious events?

Refuge will welcome and serve all people regardless of religious affiliation or lack thereof. Participation in religious events will not be a condition of participation in any other program or activity.

Should you have any questions or need other information, please contact me at eric.anthony.johnson@dallascityhall.com or Kimberly Bizer Tolbert, Chief of Staff at k.bizortolbert@dallascityhall.com. We look forward to visiting with you next week to discuss any concerns or address any remaining questions.



Dr. Eric Anthony Johnson
Chief of Economic Development & Neighborhood Services

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Mark Swann, City Auditor
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