

May 25, 2022

WHEREAS, the City of Dallas ("City") is the owner of a tract of land containing approximately 72,032 square feet of land ("Land") improved with a 34,109 square feet former hotel ("Improvements") located at 19373 Preston Road, being all of Lot 2A, Block 22/8736, Dallas, Collin County, Texas, (collectively the Land and Improvements comprise the "Premises"); and

WHEREAS, City recognizes the need to promote and address the needs of individuals and families experiencing homelessness; and

WHEREAS, City seeks to establish as a public purpose the promotion of programs, supportive services, living accommodations (temporary and may include permanent housing (bridge) units, with supportive services such as: counseling, mental health services, medical services, job training and related services to individuals and families experiencing homelessness ("City's public purpose"); and

WHEREAS, in accordance with Section 253.011 of the Texas Local Government Code, City is permitted to transfer an interest in real property to a qualifying 501(c)(3) non-profit organization without complying with governmental notice and bidding requirements set forth in Section 272.001(a) of the Local Government Code or other law provided the transferee will use the real property in a manner that promotes the public purpose of the City as set forth in an agreement that also provides that if the nonprofit at any time fails to use the real property for the specified public purpose, the real property will automatically revert to the City; and

WHEREAS, Family Gateway, Inc., a Texas nonprofit corporation, ("Family Gateway") is a validly existing non-profit organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code 1986, as amended, and which is currently serving the City's public purpose pursuant to that certain Cares - Emergency Solutions Grant Agreement For Property Management Services dated September 15, 2021 (the "Management Contract"); and

WHEREAS, Family Gateway, for and upon the termination or expiration of the Management Contract, has requested City transfer the Premises to Family Gateway for their use, operation and maintenance of the real property to serve the City's public purpose; and

WHEREAS, City recognizes the services provided by Family Gateway can promote and address the City's public purpose to serve community needs for individuals and families experiencing homelessness; and

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WHEREAS, for and in consideration of a qualifying Section 253.011 facility use agreement ("Agreement") between the parties that (i) requires the non-profit organization to use, operate, and maintain the Premises in a manner that promotes the City's public purpose, and (ii) provides that if the Section 501(c)(3) non-profit organization at any time fails to use the Premises in that manner, the City may terminate the Agreement and recover the Premises, after notice and opportunity to cure; and other salient terms as provided hereinbelow, the City is willing to transfer the Premises to Family Gateway; and

WHEREAS, Family Gateway is willing to accept the Premises, in "as is" condition subject to the Management Contract, to serve the City's public purpose and use, operate and maintain the Premises to provide programs, supportive services, temporary and may include, permanent housing (bridge) units, including Housing First rapid rehousing to families and individuals experiencing homelessness in the Dallas communities (the "Project").

Now, Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That the City hereby identifies the lack of programs, supportive services, living accommodations (temporary and permanent housing (bridge) units, counseling, mental health services, medical services, job training and related services to individuals and families experiencing homelessness.

SECTION 2. That the City hereby establishes as a public purpose the promotion and development of programs, supportive services, living accommodations (temporary and may include permanent housing (bridge) units, with supportive services such as: counseling, mental health services, medical services, job training and related services to individuals and families experiencing homelessness (hereinafter the "City's public purpose").

SECTION 3. That the City Manager, upon approval as to form by the City Attorney, is hereby authorized to execute a facility use agreement (the "Agreement") between Family Gateway, Inc., a Texas nonprofit corporation, or its successor and assigns, as user, hereinafter referred to as "Family Gateway", and the City of Dallas, as owner, hereinafter referred to as "City", for approximately 72,032 square feet of land improved with a 34,109 square foot former hotel located at 19373 Preston Road, Dallas, Collin County, Texas ("Premises") to be used as a facility to promote and address the needs for families and individuals experiencing homelessness and serve the City's public purpose.

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SECTION 4. Some of the special terms and conditions of the agreement are:

- a) The agreement is for a term of twenty years beginning July 1, 2023 and ending June 30, 2043.
- b) Family Gateway shall be granted two renewal options to extend the term of the agreement for additional ten-year periods by giving written notice of intent to extend within 120 days prior to the expiration of the then current term, provided, however City shall have the right to terminate the agreement as provided therein, after notice and opportunity to cure; and other salient terms as provided hereinbelow.
- c) For and in consideration of this agreement and in lieu of cash rent payments, Family Gateway, at its cost and expense, shall fundraise, design, construct necessary improvements, and use, operate, and maintain the premises, all in accordance with the agreement, to provide programs, supportive services, temporary and may include, permanent housing (bridge) units, including Housing First rapid rehousing to families and individuals experiencing homelessness ("Project"). No later than the expiration of the first year of the agreement, Family Gateway shall present to the Director of the Office of Homeless Solutions, commercially reasonable evidence of all funding reasonably anticipated to be necessary for completion of improvement to the premises.
- d) The Premises are to be used by Family Gateway to serve the City's for the public purpose through the Project, including but not limited to providing the services being provided by Family Gateway pursuant to that certain Cares-Emergency Solutions Grant Agreement For Property Management Services contract dated September 15, 2021 between the City and Family Gateway (the "Management Contract").
- e) Family Gateway shall receive and accept the Premises in its "AS-IS, WHERE IS, WITH ALL FAULTS" condition and basis.
- f) Family Gateway shall be responsible to secure a Certificate of Occupancy.
- g) Family Gateway shall meet or exceed annual performance measures and outcomes, as described in Exhibit A.

SECTION 4. (continued)

- h) City reserves and has the absolute right to terminate the agreement upon one hundred eighty (180) days written notice, upon default or reasonable cause for the City's repurposing of the premises to serve the City's public purpose. City may also terminate the agreement for Family Gateway's non-compliance with the terms of the agreement or Family Gateway's non-compliance with any federal, state or local code or regulation applicable to the Premises.
- i) The Family Gateway shall pay all taxes attributable to their use of the Premises during the agreement term.
- j) Family Gateway shall obtain and maintain in full force and effect insurance, including without limitation worker's compensation, liability and builders risk insurance, on the Premises in such form and amounts as City shall require.
- k) Family Gateway shall pay all charges and initial connection charges for electric, water, sewer, and gas to the Premises.
- l) Family Gateway shall be responsible for the installation, maintenance and expense of its own telephone, communication and security services to the Premises.
- m) Family Gateway shall pay all charges for sanitation and janitorial services to the Premises.
- n) Family Gateway shall be responsible for all improvements, repairs and maintenance to the Premises, at no cost to City. City shall be responsible for all structural, mechanical, and core systems functions maintenance, repairs, and replacements. City shall have a right of inspection to ensure compliance with Family Gateway's maintenance responsibilities set out in the agreement.
- o) Family Gateway shall be responsible for the installation, maintenance and expense of any outdoor signage.
- p) Family Gateway shall be responsible for the requirements issued by OEQ and ensuring that its operations and improvements do not result in noncompliance with any local, state, or federal law, including but not limited to TCEQ rules and regulations.

SECTION 4. (continued)

- q) Family Gateway shall participate in the local Homeless Management Information System ("HMIS") and provide a monthly Consolidated Annual Performance and Evaluation Report ("CAPER") generated from the HMIS data. The City shall have access and audit rights for the purpose of inspection and enforcement of the terms, conditions and restrictions of the agreement.
- r) Family Gateway shall not permit or allow any portion of the Premises to be used or occupied in any manner that is (1) contrary to any federal, state or local statute, rule, order, ordinance, requirement, or regulation applicable thereto, or (2) in any manner which would (i) violate any certificates of occupancy or permit affecting same, (ii) would threaten the structural integrity, utility, regulatory compliance, or value of then existing improvements, including but not limited to any structures, liners, fill, or any other materials used or constructed to obtain regulatory closure from the Texas Commission on Environmental Quality ("TCEQ") or another local, state, or federal environmental agency, (iii) cause the usefulness of the Premises to diminish, (iv) prevent the direct use of the Premises by all members of the public, as appropriate (v) constitute a public or private nuisance or waste, or (vi) would be immoral or obscene or create a threat to the health, safety, and welfare of the general public, or (3) for the sale or distribution of pornographic materials
- s) Family Gateway shall exercise reasonable efforts to comply with City's Good Faith Effort Plan.
- t) Family Gateway shall not assign, encumber, or convey the agreement or sublet the Premises or any part thereof without the prior written consent of City.
- u) All construction plans and specifications for any construction work in the Premises must be reviewed and accepted in writing by the Director of Office of Homeless Solutions or designee to allow review by construction experienced personnel in the Equipment and Building Services Department, prior to commencement of any work.
- v) At all times during the term of the agreement, Family Gateway will maintain its status as a non-profit organization exempt from federal taxation under Section 501(c)(3), Internal Revenue Code 1986, as amended.

SECTION 4. (continued)

- w) Option to Purchase: The Facility Use Agreement shall include a grant of an Option to Purchase from City to Family Gateway, Inc. The Option to Purchase, shall be exercisable by Family Gateway, Inc., at any time after the first year of the Facility Use Agreement, shall be subject to City Council approval, and provide for the conveyance of the Facility to Family Gateway, Inc., subject to and in accordance with the requirements of Texas Local Government Code 253.011 CONVEYANCE TO NONPROFIT CORPORATION FOR PUBLIC USE, or then applicable law providing for a conveyance to a non-profit for a public use.
- x) During the term of the agreement, the agreement shall be subject to the City's right of termination and a right of reentry in favor of the City enforcing the City's public purpose as further detailed in the agreement.
- y) The agreement will be subject to any and all covenants, conditions, reservation, restrictions, exceptions, easements, rights-of-way, mineral interest, mineral leases, or other instruments of record in the official real property records for the county where the Premises are located effective as to the Premises, or any part thereof, and any and all visible and apparent easements and encroachments, whether of record or not impacting the Premises.
- z) Within 6 months following the execution of the agreement, Family Gateway shall execute and provide evidence of a Good Neighbor Agreement to the surrounding community and the Director of the Office of Homeless Solutions.
- aa) The agreement will be subject to such other terms, conditions waivers and disclaimers as the City deems necessary, convenient or appropriate to serve the City's public purpose in compliance with Texas Local Government Code Section 253.011.

SECTION 5. That this contract is designated as Contract No. OHS-2022-00019342.

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SECTION 6. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so resolved.

APPROVED AS TO FORM:
Christopher J. Caso, City Attorney

BY



Assistant City Attorney