

County of Milwaukee
Interoffice Communication

Date: September 6, 2013

To: Supervisor Gerry Broderick, Chairman, Committee on Parks, Energy and Environment

From: Josh Fudge, Fiscal and Budget Administrator

Subject: Due Diligence Report for Lease Agreement with Summit Educational Association, Inc. (Summit) at Kosciuszko Community Center - UPDATE

Background

In 2006, the Department of Parks, Recreation, and Culture (Parks) agreed to lease a portion of the Kosciuszko Community Center to Summit to provide educational programming, mentoring and one-on-one tutoring to Milwaukee children. A one-year lease was signed in August 2011. An amendment to extend the agreement through July 2013 was agreed in November 2012. Parks is requesting authority to enter into a long-term lease with Summit.

Review & Analysis

The Department of Administration - Fiscal Affairs (DAS), Corporation Counsel, Risk Management, and Community Business Development Partners have reviewed the draft proposal.

The terms of the proposed agreement are substantively similar to the terms of the 2011 lease and 2012 extension.

Per the terms of the proposed agreement, Summit would lease 4,684 square feet (approximately 10% of the space at the facility) of the Kosciuszko Community Center for a term of five (5) years concluding on August 31, 2018, with no provision for extension. The agreement may be terminated by the County if Summit breaches the agreement and continues to breach for 30 days after notification by the County. Summit would pay the County an annual sum of \$23,000 for rent. Summit would also pay the County 6% of the cost of the utilities for the facility, increasing 1% annually to a maximum of 10%. Based on the actual utility cost the past three years, the annual reimbursement is expected to be approximately \$2,500 to \$4,000. Additionally, Summit would contribute \$1,500 (increasing by \$100 each year of the term) to a dedicated fund for the purpose of maintaining and enhancing the leased premises. The fund would be jointly controlled by Summit and Parks. Upon termination of the lease, the County would receive any remaining funds in the account.

Summit would only be able to use the center during their normal operating hours (9:00 a.m. to 8:00 p.m. Monday through Friday and 9:00 a.m. to 2:00 p.m. Saturdays during the academic year). The center manager would have the authority to allow

Summit to occasionally use the facility outside the regularly scheduled programming hours.

Summit would also be responsible for necessary repairs and replacements for most items in the area covered by the lease, to the extent they are caused by activities of Summit. This includes, but is not limited to lighting, doors, hardware, windows, and fixtures.

Applicable portions of the requirements of MCGO 32.88(4) are listed below:

Letter of Full Disclosure

Summit provided a letter outlining their intention to comply with the provisions of MCGO 32.88 and attached the required documentation.

Cash Flow Projections

Summit provided monthly income/expense statements for the period of March 2011 to March 2013. Since Summit's activity under the proposed contract is the same as their activity at Kosciuszko Community Center in the last seven years, DAS believes that the submitted income/expense statements are reasonable cash flow projections for future years. The financial information shows that Summit registered an operating loss of \$9,307 in Calendar Year 2011. Donations and other revenue covered 97% of expenditures. In 2012, Summit achieved an operating loss of \$2,104. Through the first three months of 2013, Summit's revenues have exceeded expenditures by \$33,517. It should be noted that Summit's main source of revenue (private donations) varies greatly throughout the year. In response to the small losses of the past two years, Summit has added an additional fundraising event and reduced the amount of anticipated revenue from their annual campaign. DAS has reviewed Summit's proposed budget for 2013 (which includes revenues \$16,865 in excess of expenditures). The budget appears to be reasonably accurate. The financial data provided shows no significant risk of potential failure to meet the financial terms of the proposed agreement.

County Operating Budget Impact

The County would receive approximately \$27,500 annually per the terms of the agreement. This includes \$23,000 in rent and \$4,500 to cover utilities for the portion of the facility leased to Summit.

Debt Management

According to Summit's audited financial statements as of December 31, 2011 (the most recent available), Summit holds no debt and has no long term liabilities.

Legal Liability

Summit provided a letter from its Vice President and Legal Consultant stating that Summit has no outstanding legal liability or known issues.

Financial Reporting Systems

Summit retains a CPA to manage their monthly financials. A separate accounting firm is retained to perform an annual audit.

Right-To-Audit Provisions

Summit stated in their letter of full disclosure that Milwaukee County may audit its records pertaining to any lease agreement Summit maintains with the County. Section 11 of the proposed agreement also states that the County may audit Summit's records pursuant to MCGO 56.30(6)(e).

Project Feasibility

No feasibility study was conducted. Summit has successfully utilized the Kosciuszko Community Center to provide educational services for local children and families. DAS believes that Summit's record for the past seven (7) years demonstrates that the proposed lease is feasible.

Key Factors for Success

The venture will continue to be successful if Summit is able to raise sufficient funds and provide high quality tutoring and mentoring services for local youth.

Governance Structure and Procedures

Summit is a 501(c)(3) non-profit corporation in the State of Wisconsin. It is governed by a 12 member Board of Directors. The current President of the Board of Directors is Ruth McGwire. Day-to-day operations are managed by Executive Director Matt Smyczek. Summit also provided their bylaws, articles of incorporation, and policy and procedure handbook. DAS has reviewed these documents and no areas of potential concern were identified.

Public Policy Impacts

Approval of the lease and successful programming by Summit would lead to an increased level of education of children in Milwaukee, a higher probability of completing high school education, and increased opportunities for lifelong success.

Employee/Labor Relations Impacts

Summit states that they are not involved in any labor contracts. Certain employees of the Parks Department will likely need to devote staff time to ensuring that the County is fulfilling the terms of the agreement. A need for additional County staff is not anticipated.

Environmental Concerns

No potential environmental concerns have been identified.

Tax Consequences

Summit is a 501(c)(3) non-profit organization.

Capital Management

Summit does not maintain a capital budget. Per the terms of the proposed agreement, the County is responsible for capital repairs to the facility. The proposed use of the facility is not expected to increase the need for Capital Improvements.

Conflict of Interest/Ethics

Summit has stated they are aware of the Milwaukee County Ethics Code and to their knowledge no potential conflicts of interest exist.

Performance Measurements

Summit uses a variety of performance measures to track the achievement of students and the effectiveness of their programs.

Org Chart / Mission Statement

Summit provided an organizational chart. Their mission statement is:

“Established in 1990, Summit is a public non-profit corporation that works with inner-city families to establish high goals for the educational excellence and character development of their children. We treat each student with "A. V.I.P." service, that is, we focus on "Academics" and "Virtues" by means of "Individual Attention," with a great deal of support given to the "Parents," who are the primary educators. Summit fosters relationships between dedicated mentors, children, and their parents to encourage the child's intellectual, cultural, and moral growth through tutoring, recreation, and personal friendship.”

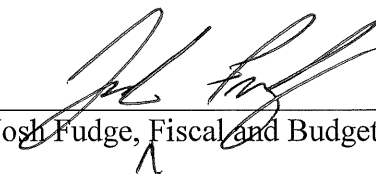
Name of Bank to Determine Single or Combined Reporting

Summit maintains financial accounts at Associated Bank, N.A, 200 N. Adams St, Green Bay, WI, 54307-9097.

Recommendation

Upon review of the available information, DAS recommends approval of the proposed lease, with the following recommendation:

1. The Office of the Comptroller is in the process of determining if general obligation bonds (bonds) were used to finance improvements for the Kosciuszko Park Community Center. In order to ensure that there are no liabilities related to the proposed lease and any potential outstanding bonds, DAS recommends that any final agreement be made contingent upon the inclusion of the Comptroller’s review and recommendations.



 Josh Fudge, Fiscal and Budget Administrator

cc: Chris Abele, County Executive
Supervisor Marina Dimitrijevic, Chair, County Board of Supervisors
Amber Moreen, Chief of Staff, County Executive's Office
Kelly Bablitch, Chief of Staff, County Board of Supervisors
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