

To: Board of County Commissioners
Penny Postoak Ferguson, County Manager

From: Peg Trent, Chief Counsel
Joe Connor, Assistant County Manager

Date: April 18, 2024

Re: (Item Added to the Agenda) Third Amendment to Commercial Real Estate Sales Contract for Homeless Services Center and Spending Authorization of Countywide Support Funds (CSF) from General Fund reserves.

Issue: (Item Added to the Agenda) Consider (1) approving the third amendment to the real estate purchase contract with MAA Krupa Lenexa, LLC for the properties located at 9461 Lenexa Drive, Lenexa, Kansas 66215, and 9471 Lenexa Drive, Lenexa, Kansas 66215, which extends the contract's original 270-day due diligence period an additional eight weeks to close on or about October 31, 2024 and includes payment of additional funds towards the franchise liquidation fee and (2) authorizing the reallocation and expenditure of Countywide Support Funds (CSF) from General Fund reserves in the amount of \$350,000 for the buyout of the hotel's franchise liquidation fee.

Suggested Motion: I move the Board approve the third amendment to the real estate purchase contract with MAA Krupa Lenexa, LLC for the properties located at 9461 Lenexa Drive, Lenexa, Kansas 66215, and 9471 Lenexa Drive, Lenexa, Kansas 66215 to extend the contract's original 270-day due diligence period an additional eight weeks, to close on or about October 31, 2024 and authorize the reallocation and expenditure of Countywide Support Funds (CSF) from General Fund reserves in the amount of \$350,000 for the buyout of the hotel's franchise liquidation fee.

Background: On December 14, 2023, the BOCC approved a real estate purchase contract with MAA Krupa Lenexa, LLC, to purchase the properties located at 9461 Lenexa Drive, Lenexa, Kansas 66215 and 9471 Lenexa Drive, Lenexa, Kansas 66215 for the purposes of developing a non-congregate, 24/7, year-round homeless services center.

The original purchase and sale agreement with MAA Krupa Lenexa LLC contained a 270-day review period, under which the county and/or its contractors would conduct all necessary due diligence activities, including obtaining a private appraisal, title review, evaluation of the environmental and property condition, exploring and obtaining approval of governmental authorities for the necessary special use permits for the intended use of the property and any changes in zoning, and negotiating a buyout of hotel franchise fees. The purchase agreement is contingent upon the successful completion of the necessary due diligence activities.

Most of these due diligence activities have begun and several are nearing completion; however, the liquidated damages associated with terminating the hotel franchise were higher than

anticipated upon review of the hotel franchise agreement, resulting in a total franchise fee buyout of \$500,000, which is an increase of \$350,000.

The recommendation of a successful proposer to become the owner/operator who will take possession of the facility at closing, manage daily operations, and provide 24/7 services has been delayed from the target date of April 1, 2024. United Community Services of Johnson County (UCS), under contract with the County, is managing the RFP process and now anticipates the recommendation about mid-May. The RFP review committee convened to score proposals and conduct interviews with finalists. The group requested additional information and clarification from proposers beyond the initial application and interview. Extensions in the RFP process is not uncommon, and the committee felt the additional information was essential in making the most informed decision possible. The delay in the recommendation of the proposer also delays the submittal of a Special Use Permit application to the City of Lenexa. The extension of the due diligence period allows time for the proposer to obtain the Special Use Permit.

The first amendment to the real estate contract was to extend the period for the payment of earnest money by 5 days and add an additional 10 days to receive a title commitment. The second amendment extended the period to negotiate a buyout of any franchise fees from 30 to 180 days.

Funding Overview: Funding for this request will be provided by the transfer of Countywide Support Funds (CSF) from General Fund reserves.

Alternatives: (1) Not approve the reallocation of Countywide Support Funds (CSF) for the buyout of the hotel franchise liquidated fees, terminate real estate contract, and lose non-refundable earnest money already allocated; (2) Not utilize CSF funding and locate other funding sources to complete the real estate sales contract.

Recommendation: Staff requests the Board authorizing the reallocation and expenditure of Countywide Support Funds (CSF) from the General Fund reserves in the amount of \$350,000 for the buyout of the hotel's franchise liquidation fee associated with the real estate purchase contract with MAA Krupa Lenexa, LLC, to purchase the properties located at 9461 Lenexa Drive, Lenexa, Kansas 66215 and 9471 Lenexa Drive, Lenexa, Kansas 66215 and to extend the due diligence period eight weeks, to close on or about October 31, 2024.

Purchasing Review: No approval needed; this item does not need Purchasing approval.

Budget Review: Budget and Financial Planning staff have reviewed and approved this item.

Legal Review: The Legal Department prepared the amendment and has reviewed and approved this item.