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January 6, 2016

**JOINT COMMISSIONER/LEGAL SERVICES & PROCUREMENT
SERVICES REPORT – 2016-02**

TO: Mayor Van Bynen and Members of Council

SUBJECT: Response to Deputation from Sabrina's Pizzeria Bar and Grill
RFP 2014-04, Leased Space Opportunities Food and Beverage

ORIGIN: Manager, Procurement Services

RECOMMENDATION:

THAT Joint Commissioner/Legal Services and Procurement Services Report – 2016-02 dated January 6, 2016 regarding staff response to Council deputation by Sabrina's Pizzeria Bar and Grill regarding RFP 2014-04, Leased Space Opportunities Food and Beverage be received.

COMMENTS

At the Council meeting of December 14, 2015 a deputation was made on behalf of Sabrina's Pizzeria Bar and Grill with respect to their restaurant lease agreement at the Magna Centre. This report will provide some background and outline the provisions of the 2014 RFP for leased space at both the Magna Centre and Ray Twinney Complex and the subsequent agreement made between the Town and the Vendor.

RFP 2014-04, Leased Space Opportunities Food and Beverage and Other Various Business Opportunities Available at the Magna Centre and Ray Twinney Recreation Complex was released in February 2014 with a closing date of March 4, 2014. This RFP invited proposals for A) the Magna Centre Food and Beverage Space (a coffee kiosk), B) the Magna Centre General Leased Space (a restaurant type facility) and C) the Ray Twinney Complex – General Leased Space (a concession stand and storage area).

Contained within the RFP was wording with respect to the Contract Term:

"The start date of the Contract is negotiable, but should not be any later than September, 2014. Any agreement resulting from this Request for Proposal shall be in effect for a period up to five (5) years with the option period of up to five years. Proponents are to submit their preferred contract term in their proposal submission which, if the Proponent is short-listed, may be subject to negotiation with the Owner. Furthermore, the Owner shall not be obligated in any manner to any Proponent whatsoever until a written agreement has been duly executed relating to an approved proposal."

In addition, the RFP contained our standard Negotiation clause which states:

“On completion of the evaluation process prior to execution of the Proponent’s Contract, negotiations may be undertaken with the highest evaluated Proponent to refine the details of the Contract for all or portions of the proposed services in the RFP. Negotiations may take the form of adding deleting or modifying requirements.”

During the evaluation of this proposal, the Evaluation team was concerned with the Vendor’s past performance review record and did not want to commit to an initial long term lease with this Vendor based on their past performance. The RFP document permits Town staff to consider past performance records in consideration of award of the contract. The Evaluation team believed it was in the Town’s best interest, based on their past performance to offer the Proponent a two (2) year initial agreement with three (3) – one (1) year options. This term was agreed to by the Proponent in an email prior to the execution of the lease agreement and by the Vendor by virtue of signing the lease agreement based on this term.

The agreement dated June 1, 2014 and signed by the Town and Sabrina’s Pizzeria Bar and Grill contained a further Term clause as follows:

“Tenant shall have and hold the Premises for and during a period of time which shall be, unless sooner terminated pursuant to the other provisions of the Original Lease or the Landlord’s RFP, the period of time which shall commence on June 1, 2014 and shall expire on May 31, 2016 (the “Term”). The Term may be extended for three one-year extensions upon agreement of both parties.”

In summary, the Town had the authority to amend the duration of the RFP as set out above which was agreed to by the Proponent in the agreement. A cover letter with a copy of the executed contract bid sent to the Proponent in 2014 further identified the fact that the term of contract was for two years with an option of three one year options at the discretion of the Town.

BUSINESS PLAN AND STRATEGIC PLAN LINKAGES

This report links to Newmarket’s key strategic directions in being Well Equipped and Managed by implementing policies and processes that reflect sound and accountable governance.

CONSULTATION

Consultation has taken place with Legal, Recreation & Culture and Procurement Services departments.

HUMAN RESOURCE CONSIDERATIONS

None.

BUDGET IMPACT

Operating Budget (Current and Future)

None.

Capital Budget

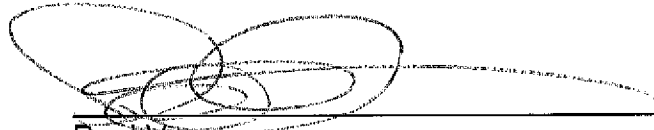
None

CONTACT


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