



Legislation Text

File #: K-2021-93, **Version:** 1

CONTRACT K-2021-93: A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, THE NORMAN MUNICIPAL AUTHORITY, THE NORMAN TAX INCREMENT FINANCE AUTHORITY, AND COLUMBUS CORPORATION OF OKLAHOMA CITY, INC., FOR THE PURPOSE OF DEVELOPING A CONTRACTUAL RELATIONSHIP RELATED TO THE LEASE AND MANAGEMENT OF THE CITY'S MULTI-SPORT AND INDOOR AQUATIC FACILITY.

BACKGROUND: The original Norman Forward sales tax package approved by the voters in 2015 included a number of quality of life projects, including a multi-sport facility, envisioned to accommodate indoor sports including, but not limited to, basketball and volleyball, and an indoor aquatics facility. A total of \$22.5 million in Norman Forward sales tax was allocated to these projects. After exploring a number of locations for these facilities, City Council approved an agreement in November 2019 to locate these facilities in University North Park.

An ad hoc committee was appointed in June 2019 by Council for the Indoor Aquatic/Multi-Sport projects which worked closely with the project architect to develop plans for the facility. Like several other Norman Forward projects, the funding provided by the dedicated sales tax was insufficient to complete the facilities as envisioned by the Ad Hoc Committee.

Contract K-1920-82 and the 2019 Amended University North Park Tax Increment Finance District Project Plan ("UNP TIF", adopted by Ordinance O-1920-24) called for the Indoor Aquatic/Multi-Sport projects (the "Recreation Facility") to be located in University North Park and set forth the purchase price for up to 12 acres of land for the projects. It also allocated TIF funds for the purchase of the property and \$2.7 million for construction enhancement. Contract K-1920-82 set out timelines for site identification, purchase and construction, based on the best information available at the time. A referendum petition on Ordinance O-1920-24 was circulated which delayed the implementation of the Project Plan and Contract K-1920-82. Ultimately the referendum petition was challenged and after an Oklahoma Supreme Court ruling on June 15 2020, Ordinance O-1920-24 was implemented as adopted, which allowed Contract K-1920-82 to be implemented as well.

In the fall of 2019, Staff was approached by Ray Young, the father of National Basketball Association Atlanta Hawks player and Norman native Trae Young. Mr. Young expressed interest in partnering with the City to ensure the planned Multi-Sport facility would achieve the original vision of being an appropriate venue for both local league play, competitive league play, and as a tournament host. Trae Young grew up in Norman, playing in City leagues, and later, more competitive leagues in the metro area. He and his family are committed to giving back to the community and to furthering youth sports in Norman. Council approved Contract K-1920-139, a Memorandum of Understanding that established a long-term relationship with the Trae Young Foundation ("Young") related to the Multi-Sport facility. Specifically, the MOU gives Young an opportunity to provide input during all phases of project development, including operator selection. The MOU also sets forth certain financial contributions over multiple years, totaling \$4 million. According to the terms of the MOU, the

contribution was contingent on a successful General Obligation Bond referendum and location of the facility in University North Park.

At Council's direction in June 2020, a General Obligation Bond proposition was put before the voters in August 2020 that would have, among other things, provided an additional \$36 million for the Indoor Aquatic/Multi-Sport project. The proposition was not approved by the voters. Since that time, the Ad Hoc Committee has been working with the architect for the project to develop plans for a facility that would fit within the budget, including the \$2.7 million in TIF funds, for construction enhancement and a generous donation from The Young Family Foundation, which has remained committed to the project despite the failure of the General Obligation Bond election.

The Purchase and Sale Agreement for the future site of the Indoor Aquatic/Multi-Sport project was approved on December 1, 2020 (Contract K-2021-65). Approval of this agreement enabled the City to move forward with purchase of the property, platting, final design and ultimately bidding and construction of the project. After issuing a Request for Proposals for a third-party Operator of the Indoor Multi-Sport and Aquatic Facility, the City/Norman Municipal Authority received three proposals, two from in-state non-profit entities, and one from an out-of-state for-profit entity. After interviews of all three proposers, the Selection Committee recommended Columbus Corporation (d/b/a Santa Fe Family Life Center) as the Operator of the Indoor Aquatic and Multi-Sport Facility. Additional information about the selection process is attached.

Additionally, Staff, along with Norman Forward Project Manager ADG, issued a Request for Proposals for a Construction Manager At-Risk for this project. Construction Manager at Risk is a process where the Norman Municipal Authority (NMA, "Owner") will hire the Construction Manager to handle all of the biddings of the different sections of the work and all the subsequent construction activity for the project for a Guaranteed Maximum Price (GMP). The GMP is subsequently considered as an amendment to the CMaR contract after the most responsible bids are secured through the proper bidding procedures governing public projects. Project bids are sealed and opened consistent with the City's bidding policies. The GMP will also include all of the CMaR's profit on the project, which will be itemized in the amendment. A contract with the selected Construction Manager at Risk, GE Johnson Construction Company, is also on the NMA/Council's agenda for consideration.

DISCUSSION: Negotiations have been ongoing with Columbus/Santa Fe ("Operator") and have resulted in a proposed Memorandum of Understanding ("MOU"). The terms of the MOU were presented to the University North Park TIF Oversight Committee on January 19, 2021 and to the Norman Forward Citizen's Financial Oversight Board on January 25, 2021. Included in the MOU are important terms agreed on by the parties now, as well as reference to future terms that will be determined and included in a final Lease and Management Agreement. As has always been discussed, Operator is taking the financial risks associated with operating the facility. The MOU specifies that the Leased Premises, which includes the multi-sport and indoor aquatics space, will be used as such, and open and available to the public. Operator will operate, manage and maintain the Property at no cost to the City for a five (5) year term, with the possibility of renewal. The terms of renewal and termination will be worked out and more specifically set forth in the final Lease and Management Agreement.

During construction, Operator will work closely with the NMA/City, its architect, and its Construction Manager to ensure a coordinated design and construction process. Operator will attend Council/NMA meetings and meetings of other relevant Boards, Commissions, and Committees as necessary.

The City will own all assets, including any additions or modifications that Operator obtains permission to construct that cannot be removed without damage to the premises. If the lease expires or terminates, Operator will provide the City with any data related to users of the facility. The Operator may sublease the Leased Premises only upon written permission of the City Manager and only if any lessee complies with the contract provisions and the Facility maintains its intended purpose and use.

Exhibit A to the MOU sets forth the programming and services that the Operator intends to offer at the facility. The Operator will set forth times, types of classes and services offered within these categories and will work to obtain community and user input to determine what additional programs and services may be offered. The Operator will determine reasonable user fees, which must include a sliding scale fee schedule based on income levels, available user fee assistance, etc. This fee schedule will be reviewed and approved by the City Manager and the Operator will retain the fees to fund the management and operation of the Facility.

The Operator will be required to provide quarterly and annual reports that provide information about the services that were offered, the utilization of those services, financial reports, etc. The City has the right to audit the programs, services and financial records of the Operator or any tenant, as long as notice is provided at least 5 business days in advance and the audit does not interfere with operations. The Operator is required to follow both Federal law and City ordinances related to non-discrimination. Policies and procedures in keeping with First Amendment jurisprudence for governmental entities related to viewpoint discrimination must be adopted and implemented.

The Operator will be responsible for all routine maintenance and general repair costs of the facilities and equipment in or on the Leased Premises, provided that the City will be responsible for certain capital items (furniture, fixture or equipment valued at over \$5,000 with an expected life of more than one year). Additional details regarding attached fixtures such as the heating, ventilating and air conditioning systems; boilers; pumps, etc. that may be valued at less than \$5,000 but benefit the building as a whole will be included in the final Lease and Management Agreement.

The Operator will be required to maintain a variety of insurance related to its occupation and operation of the Facility and will be required to name the City of Norman as an additional insured. The Operator understands and has committed to collaborating with known potential user groups, including the Sooner Swim Club, Norman Public Schools, and the Norman Optimist Club to establish operational practices to meet the needs of the users. Meetings with these groups have already begun.

RECOMMENDATION: Adoption of the MOU allows the Operator to begin participating in design and construction conversations and will ensure a coordinated process between construction and operation. It is anticipated that the final Lease and Management Agreement will come forward to Council in the next few months. Staff recommends approval of Contract K-2021-93.