



Legislation Text

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CONTRACT K-2021-99: A MEMORANDUM OF UNDERSTANDING FOR THE NORMAN FORWARD MULTI-SPORT AND INDOOR AQUATIC FACILITY BY AND BETWEEN THE CITY OF NORMAN, THE NORMAN MUNICIPAL AUTHORITY, THE NORMAN TAX INCREMENT FINANCE AUTHORITY, AND THE NORMAN REGIONAL HOSPITAL AUTHORITY FOR THE PURPOSE OF DEVELOPING A CONTRACTUAL RELATIONSHIP RELATED TO CONSTRUCTION FUNDING AND SEPARATE OPERATION OF THE SPORTS AND HUMAN PERFORMANCE CENTER.

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/Norman Tax Increment Finance Authority 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, adopted on November 26, 2019, 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 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 ("MOU") 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 the approval of a 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, the City 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. An MOU with Columbus Corporation is also presented for NMA/Council's consideration.

During the discussions about this facility, Norman Regional Health System ("NRHS") expressed an interest in participating in the facility by funding and operating a Sports and Human Performance Center (the "Center") within the facility. NRHS has engaged architects, who have been in communication with the NMA/City's architects for this project, to include the design of the Center within the Facility.

Contract K-2021-99 is an MOU setting forth certain obligations related to construction funding and separate operation of the Center within the Facility. Because this portion of the project was driven by NRHS and not the City, an RFP for these types of services was not prepared. As the NRHS is a public trust having the City of Norman as its sole beneficiary, a partnership between the City and NRHS such as this is recommended. Similar to the MOU with Columbus Corporation, a final Lease Agreement is contemplated that will set forth more terms related to the relationship in more specific detail.

Additionally, Staff, along with Project Management firm 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 ("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 presented for the Norman Municipal Authority/Council's consideration.

DISCUSSION: Discussions with NHRS have been ongoing and have resulted in a Memorandum of

Understanding ("MOU"). The terms of the MOU were presented to the Norman Forward Citizen's Financial Oversight Board on February 8, 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 Agreement. As has always been discussed, NRHS is bearing the costs of constructing its Center in exchange for a long term lease (15 years) to house it within the City/NMA's Multi-Sport/Aquatic Center. NRHS will participate in the planning and construction meetings and be available for other committee meetings if needed. They will fund all construction costs, as well as any design costs incurred by the City's architect that are attributable to the NRHS Leased Premises. Initially, the charge for pre-construction services under the City's contract with GE Johnson Construction is \$85,000, \$17,000 of which is attributable to the NRHS' Leased Premises. The MOU provides that the City will invoice NRHS upon approval of this MOU, and the NRHS will pay the City \$17,000 within 30 days of receipt of the invoice. NRHS will be using a third-party cost estimator to verify construction and design costs attributed to its portion of the project.

The City will ensure that the construction drawings included full build-out construction of the NRHS Leased Premises based on the plans completed by the NRHS architect in conjunction with the NMA/City's architect. Their portion of the project will be bid with the remainder of the construction and GE Johnson has agreed to account for the NRHS costs separately for tracking and invoicing purposes.

NRHS plans to provide a number of medical services related to sports performance and overall fitness in the Center, including orthopedic patient care, integrative health patient care, nutrition, physical therapy, athletic training, strength and conditioning, sports performance, recovery therapies, etc. The Center will not be open to the general public; it will be for the use of NRHS providers, patients, and clients, unless otherwise authorized by a NRHS representative. Because this will be a medical-based center, and NRHS is a "Covered Entity" under HIPAA, access to the center, except in an emergency, by the City, Operator or its agents will be prohibited without at least 24 hours' notice.

NRHS will be responsible for routine maintenance and general repair costs of their Leased Premises other than Capital Items that serve the entire Indoor Multi-Sport/Aquatic Center (furniture, fixtures, or equipment valued over \$5,000 with a useful life of more than 1 year). NRHS will be the exclusive healthcare partner of the Facility and will work with the City and the Operator to develop policies related to their partnership and sponsorship opportunities within the Facility. As the exclusive healthcare partner, NRHS may host health and wellness events in the facility, promote its activities, provide athletic training services for tournaments or other sporting events, etc. NRHS cannot use the Facility during or after hours of operation except on a first come, first serve basis, and such use cannot result in a reduction of previously scheduled programming or services.

NRHS will maintain insurance and name the City as an additional insured. They will also collaborate with the Operator as needed to support the various community partners in their use of the facility. Terms related to remedies on default, lease termination, and payments for its share of the construction costs will be included in the final Lease Agreement, which will be completed by the end of March 2021.

RECOMMENDATION: Adoption of the MOU allows the NRHS to begin participating in design and construction conversations and will ensure a collaborative process between construction and operation. Staff recommends approval of K-2021-99.

