



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 05/23/2023

REQUESTER: Jason Olsen, Director of Parks and Recreation

PRESENTER: Kathryn Walker, City Attorney

ITEM TITLE: CONSIDERATION OF ACCEPTANCE, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF K-2223-130: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND HEALTHY LIVING CENTER NORMAN, L.L.C. FOR THE PURPOSE OF PROVIDING FOR THE LEASE AND MANAGEMENT OF THE CITY'S ADULT WELLNESS AND EDUCATION CENTER TO BE LOCATED AT 602 NORTH FINDLAY AVENUE AND BUDGET APPROPRIATION AS OUTLINED IN THE STAFF REPORT.

BACKGROUND:

Norman voters approved the Norman Forward Quality of Life Projects Sales Tax of 2015, which provided a one-half (1/2) percent sales tax dedicated to fund several quality-of-life projects, including a Senior Wellness Facility (the "Facility"). The City approved a contract with Frankfurt-Short-Bruza Associates ("FSB") in August 2019 for the design of the facility. Initially, FSB was developing designs for a facility within the \$7.6 million Norman Forward amended allocation; with proposed additional phases to be added should funding become available in the future. On October 29, 2020, Council allocated an additional \$4.8 million towards the Facility project with funds that were freed up after the City received federal Coronavirus Aid, Relief and Economic Security Act reimbursements for other unrelated previously budgeted expenses.

After the increase in funding, the City approved an amendment to FSB's contract to accommodate the design and construction of the facility in a single phase on an approximately 4.7-acre site in the southeast corner of the Norman Regional Hospital System's Porter Avenue Wellness Village Campus. In November 2020, Staff released a Request for Proposals related to the facility's operation. Interviews were later conducted, and the City proceeded with negotiations with Healthy Living & Fitness, Inc., an operator of one of the City of Oklahoma City's Senior Wellness Centers.

Council approved a Memorandum of Understanding with Healthy Living & Fitness, Inc. on April 13, 2021, to develop a contractual relationship related to the operation of the Senior Wellness Facility. Since then, Healthy Living representatives have participated in the Norman Forward Senior Center Ad Hoc Advisory Group meetings, and have been in ongoing negotiations with the City for a final lease and management agreement.

DISCUSSION:

Contract K-2223-130 is the lease and management agreement between the City and Healthy Living Center Norman, LLC; a Limited Liability Corporation created by Healthy Living & Fitness, Incorporated for the operation of the Norman facility. The facility will be used as a Senior Wellness Center and be open and available to the public.

The Operator will operate, manage and maintain the Property for a five (5) year term, with the possibility of up to three (3) additional five-year terms. Because the "Adult Wellness and Education Center (AWE)" is not anticipated to be a revenue generator in the same way as Young Family Athletic Center, a subsidy from the City is provided under the contract. The subsidy in the first 5-year term will not exceed \$125,000 annually, representing the current annual Senior Recreation Center budget, minus personnel who will be moved to other functions once the facility opens. The types of subsidized assistance anticipated during the first five years of operation are as follows:

- Utility Assistance: The City will cover a specified portion of the utility costs at a decreasing rate over the first three (3) years of operation. (100% the first year, 60% the second year, 30% the third year).
- Janitorial Services: The City will provide janitorial services during the first three (3) years of operation.
- Lawn and Landscaping Services: The City will provide all lawn and landscaping services during the first five (5) years of operation
- Pool Maintenance: The City will provide all pool maintenance during the first five (5) years of operation.

Additionally, to assist with start-up expenses, the City will provide \$100,000 within 30 days of the execution of this agreement by both parties. This amount is recommended to be appropriated from General Fund balance in Fiscal Year 2023. 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).

The agreement may be terminated for failure to perform any duty or obligation under the agreement by providing 60 days written notice. Within the first 30 days, the defaulting party will have the opportunity to correct the default. It may also be terminated at either party's discretion upon 120 days prior written notice to the non-terminating party.

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

Exhibit B of the Agreement sets forth the programming and services 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. Per the agreement, the facility will be open to members at least 65 hours a week, excluding weeks with federal holidays, and operating hours will include at least four consecutive hours on one weekend day.

The Operator will determine reasonable user fees, including a sliding scale fee schedule based on income levels, available user fee assistance, etc. The initial fee schedule is attached to the Agreement as Exhibit C. Fees may be increased a maximum of two times each calendar year. Any changes to the fee schedule will be presented to the Board of Parks Commissioners, and its recommendation on the proposed changes will be provided to the City Manager for his or her review and approval. The Operator will retain all membership 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 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 five 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 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.

Approval of this contract signifies an important step towards opening the Adult Wellness and Education Center later this year. With an agreement in place, Healthy Living can start marketing the AWE Center, building its membership base and preparing for opening day. This agreement was previously reviewed in draft form by the Norman Forward Senior Center Ad Hoc Advisory Group and the Norman Forward Citizen's Financial Oversight Board.

RECOMMENDATION No. 1:

Staff recommends approval of K-2223-130.

RECOMMENDATION No. 2:

Staff recommends appropriation of \$100,000 from General Fund Balance (Account 10-29000) to Senior Citizen Center Rentals & Leases-Other Rentals (Account 10770323-44599).