



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 6/28/2022

**REQUESTER:** Paul D'Andrea, Capital Projects Engineer

**PRESENTER:** Shawn O'Leary, Public Works Director

**ITEM TITLE:** CONSIDERATION OF ACCEPTANCE, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF REQUEST FOR AUTHORIZATION FOR PARTIAL RELEASE OF RETAINAGE, REDUCING RETAINAGE FROM 5% TO 2.5%, FOR PAYMENT PURSUANT TO CONTRACT K-2021-35 BETWEEN THE CITY OF NORMAN AND FLINTCO LLC, RELATING TO THE NORTH BASE COMPLEX PHASE 1 PROJECT.

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### **BACKGROUND:**

**Parks Maintenance Facility:** On October 13, 2015, the citizens of Norman voted to fund the Norman Forward Program with a limited term ½ percent sales tax increase for 15 years. This initiative included a number of high-priority projects outlined in the 2014 Library Master Plan Update, the 2009 Norman Parks and Recreation Master Plan and additional projects designed to provide recreational opportunities for Norman residents. One such project was the construction of the Griffin Park Sports Complex.

The Norman Forward Program includes a Maintenance Facility for the City of Norman Parks and Recreation Department. This facility was originally to be relocated from Reaves Park to Griffin Park; however, the City's plans now include the construction of a new Parks, and City Transit/Public Safety Maintenance Facility adjacent to the City's current Fleet Maintenance Facility at the North Base Complex, located at 1301 Da Vinci Street near the Norman Municipal Airport. The proposed multi-departmental facility is to provide maintenance for City Parks and Recreation vehicles and equipment, City Transit System buses, and Public Safety vehicles and equipment.

**Transit Maintenance Facility:** In August of 2018, University of Oklahoma officials advised City of Norman staff of their desire to transfer non-campus bus services in Norman to another operator by the end of the 2019 fiscal year. On July 1, 2019, operation of non-campus bus services in Norman were transferred from the University to the City.

On July 30, 2019, the City Council approved Contract K-1920-32, leasing a portion of University-owned property located at 510 Chesapeake, commonly referred to as the OU Transportation Operations Center, for office space, maintenance bays, and fleet storage, until December 31,

2019. On December 10, 2019, the City and the University extended that lease agreement until June 30, 2020. On April 28, 2020, the City and the University extended that lease agreement until December 31, 2020. The final amendment to this agreement concluded on January 31, 2022.

North Base Complex Design: On March 14, 2017, the Norman City Council approved Contract K-1617-114 between the City of Norman and PDG, LLC d.b.a. Planning Design Group, in the amount of \$761,000 for Professional Architectural Design Services for the Griffin Park Sports Complex.

Because PDG, LLC was performing the professional architectural design services for the Griffin Park Sports Complex, city staff recommended amending their contract to include design of the new Parks Maintenance Facility. These services were over and above those included in contract K-1617-114. Due to the desire to co-locate the Parks, City Transit and Public Safety Maintenance Facilities at the North Base Campus, staff further recommended including master planning and design of the City Transit and Public Safety Maintenance Facilities in the amended contract.

On August 27, 2019, the Norman City Council approved Amendment No. 1 to Contract K-1617-114 between the City of Norman and PDG, LLC d.b.a. Planning Design Group, in the amount of \$430,280 for additional Professional Architectural Design Services to add the City Park Maintenance Facility and Transit/Public Safety Maintenance Facility to the existing contract for the Griffin Park Sports Complex.

On April 14, 2020, the Norman City Council approved Amendment No. 3 to Contract K-1617-114 between the City of Norman and PDG, LLC d.b.a. Planning Design Group, in the amount of \$316,370 for additional Professional Architectural Design Services to provide for an increased project scope and to add bidding services and construction administration services for the City Park Maintenance Facility and Transit/Public Safety Maintenance Facility to the existing contract for the Griffin Park Sports Complex.

On September 8, 2020, the Norman City Council approved Amendment No. 5 to Contract K-1617-114 between the City of Norman and PDG, LLC d.b.a. Planning Design Group, in the amount of \$49,500 for additional architectural design services for the proposed City Parks and Transit/Public Safety Maintenance Facility to include proposed building and parking revisions, project phasing, renderings, and inclusion of federal third party contracting requirements needed for FTA Grant funding.

On September 8, 2020, the Norman City Council approved Amendment No. 4 to Contract K-1516-110 between the City of Norman, Oklahoma, The Norman Municipal Authority, and ADG, P.C., in the amount of \$157,180 adding Construction Phase Services for the North Base Complex, Phase 1 Project to the scope of projects receiving program management services.

On October 13, 2020, the Norman City Council awarded contract K-2021-35 between the City of Norman, Oklahoma, and Flintco LLC, in the amount of \$8,648,000, for the construction of the City Park Maintenance Facility and the Transit/Public Safety Maintenance Facility.

On March 9, 2021, the Norman City Council approved Change Order No. 1 to Contract K-2021-35 between the City of Norman, Oklahoma, and Flintco LLC, in the amount of \$64,737.65 and

20 Calendar Days, for the construction of the City Park Maintenance Facility and the Transit/Public Safety Maintenance Facility.

On July 13, 2021, the Norman City Council approved Change Order No. 2 to Contract K-2021-35 between the City of Norman, Oklahoma, and Flintco LLC, in the amount of \$76,156.98 and 39 Calendar Days, for the construction of the City Park Maintenance Facility and the Transit/Public Safety Maintenance Facility.

On October 12, 2021, the Norman City Council approved Change Order No. 3 to Contract K-2021-35 between the City of Norman, Oklahoma, and Flintco LLC, in the amount of \$102,609.21 and 58 Calendar Days, for the construction of the City Park Maintenance Facility and the Transit/Public Safety Maintenance Facility.

On January 25, 2022, the Norman City Council approved Change Order No. 4 to Contract K-2021-35 between the City of Norman, Oklahoma, and Flintco LLC, in the amount of \$93,249.12 and 41 Calendar Days, for the construction of the City Park Maintenance Facility and the Transit/Public Safety Maintenance Facility.

On April 26, 2022, the Norman City Council approved Change Order No. 5 for the North Base Complex, Phase 1, Contract K-2021-35 with Flintco, LLC of Oklahoma City, Oklahoma in the amount of \$81,184.41 plus 14 additional calendar days, for the Base Bid and Bid Alternate No. 1.

## **DISCUSSION:**

Substantial completion of the contract for the North Base Phase 1 Project was issued on January 21, 2022. In conjunction with the substantial completion issuance, the project design consultant (PDG/GSB), the project construction manager (ADG), and City staff performed a final inspection of the completed facilities. From this final inspection and subsequent discoveries as the facility was put to use, the project team compiled a final punch list outlining any incomplete work or deficient items. Completion of these items is required for final acceptance of the project and release of withheld retainage.

Since that list was compiled, City staff have confirmed that the majority of the items on the punch list are complete. The remaining items require additional research from the City and the design consultant to determine an appropriate corrective action and therefore the contractor awaits further direction for those items before they can complete the work.

Based on the level of completion of the punch list, the contractor has requested a partial release of retainage for the work already completed. This requested release of retainage is not prescribed under these circumstances by the contract terms, so specific authorization is sought from City Council for the disbursement. City staff, having evaluated the circumstances, suggests that a reduction in the retainage from 5%, as required by the original contract, to 2.5% is appropriate based on the level of completion of the contract work. This reduction does not constitute final acceptance of the project, a waiver of any legal argument, and, per state statutes, is at the discretion of the City. If the City Council authorizes this reduction, the remaining 2.5% retainage will be withheld until all punch list items are complete.

If approved, the retainage withheld would be reduced from \$453,246.87 to \$226,623.43, based on the current contract amount. Release of the remaining portion of the retainage will accompany the Council agenda item for final acceptance of the project and final payment to be brought to Council, at a later date upon completion of remaining punch list items.

These funds are encumbered in the Fire/Transit Facility Project, Construction (Account 50193365-46101; Project BG0252).

**RECOMMENDATION:**

Staff recommends that the City Council authorize a reduction in retainage for Contract K-2021-35, with Flintco, LLC, for the North Base Complex Phase 1 Project, which would result in a reduction of retainage from 5% to 2.5% of the total contract amount.