

CITY COUNCIL CONFERENCE MINUTES

February 22, 2011

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in a conference at 5:30 p.m. in the Municipal Building Conference Room on the 22nd day of February, 2011, and notice and agenda of the meeting were posted at the Municipal Building at 201 West Gray, and the Norman Public Library at 225 North Webster 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Butler, Cubberley, Dillingham, Ezzell, Griffith, Kovach, Quinn, Mayor Rosenthal

ABSENT: None

Item 1, being:

CHANGE ORDER NO. ONE TO CONTRACT NO. K-0910-34: WITH WALTERS-MORGAN CONSTRUCTION, INC., INCREASING THE CONTRACT AMOUNT BY \$65,185.29 AND EXTENDING THE CONTRACT 54 CALENDAR DAYS FOR THE LIFT STATION D REHABILITATION PROJECT.

Mr. Mark Daniels, Utilities Engineer, said on August 25, 2009, the Norman Utilities Authority (NUA) approved Contract No. K-0910-34 in the amount of \$5,480,000, with Walters-Morgan Construction, Inc., of Manhattan, Kansas, for the Lift Station D Rehabilitation Project. Work began September 28, 2009, and was scheduled to be complete March 30, 2011. The new equalization basin, with temporary pumping facilities, is in service and the existing lift station is being rehabilitated at this time; the project is approximately 75% completed.

Mr. Daniels said the proposed Change Order No. One will increase the contract by \$65,185.28, and extend the contract time by 54-calendar days for a new completion date of May 23, 2011. He said Change Order No. One will authorize eight (8) scope of work modifications to include:

<u>Description</u>	<u>Change in Contract Amount</u>	<u>Change in Contract Time Calendar Days</u>
1. Second year of maintenance bond	\$ 18,700.85	0
2. Openings in floor for screen channel access	\$ 959.98	0
3. Deduct existing loading dock modifications	(\$ 4,712.36)	0
4. Add site grading modifications	\$ 24,103.38	5
5. Loading dock and generator pad modifications	\$ 31,401.85	19
6. Magmeter diaphragm seals	(\$ 12,980.10)	0
7. New aluminum siding	\$ 7,711.68	2
8. Time extension for adverse weather	\$ 0.00	28
o Total Recommended Change Order	\$ 65,185.28	54
o Original Contractual Value and Time	\$5,840,000.00	548
o Revised Contractual Value and Time	\$5,905,185.28	602

Items submitted for the record

1. Change Order No. One to K-0910-34

Item 2, being:

CHANGE ORDER NO. ONE TO CONTRACT NO. K-1011-03: WITH CENTRAL CONTRACTING SERVICES INC., DECREASING THE CONTRACT AMOUNT BY \$17,682 FOR THE LINDSEY STREET WIDENING FROM JENKINS AVENUE TO THE BURLINGTON NORTHERN SANTA FE RAILROAD (BNSF) WATER AND SEWER LINE RELOCATION PROJECT.

Mr. Shawn O'Leary, Director of Public Works, said Council approved Contract No. K-1011-03 on August 10, 2010, to Central Contracting Services, Inc., in the amount of \$634,160 and a notice-to-proceed was issued on September 13, 2010. This contract provided for the relocation of City-owned water and sewer lines along Lindsey Street between Lincoln Avenue and the Burlington Northern Santa Fe (BNSF) Railroad. These utilities, and many other privately owned utilities, are being relocated as a requirement to achieve federal funding in conjunction with the widening of Lindsey Street through this corridor, which was approved for bond funding by Norman voters in March 2005.

Mr. O'Leary said the proposed Change Order No. One to Contract No. K-1011-03 represents the final closeout of the contract which was substantially completed by the contractor in January 2011 as specified by the contract. He said this is a unit price contract and it is common for a project of this type to have a number of under-runs and over-runs of contract items such as PVC pipeline, fittings, backfill, etc.

Two new work items were added due to unforeseen circumstances and involved conflicts between the City's existing underground fiber optic communication cable and the relocated water and sewer pipelines. Mr. O'Leary said when Central Contracting Services, Inc., proceeded to bore the relocated sanitary sewer main under Bishop Creek on the south side of Lindsey Street, the City's fiber optic cable was severed. It was determined the engineering plans for the water and sewer relocation project were found to be in error regarding the location of the fiber optic cable. Therefore, the contractor filed a delay claim in the amount of \$11,315.34 and City Staff reviewed and found it to be reasonable and in compliance with the contract.

The second conflict occurred between the City's fiber optic communication cable and the relocated City water main. Mr. O'Leary said due to multiple utilities in this corridor, the relocated water main was designed to be placed above the City's fiber optic cable in the same general trench, but was found in the field to be more shallow than expected. Central Contracting Services, Inc., was required to excavate very carefully in order to avoid cutting the fiber optic cable, which resulted in project delays. The contractor filed a delay claim in the amount of \$37,911.55 and City Staff reviewed the delay claim and found it to be reasonable and in compliance with the contract.

Mr. O'Leary said City Staff from multiple departments has reviewed this matter extensively and concluded that the conflict between utilities is a combination of issues to include, very crowded utility corridor, field locates of existing utilities are inaccurate, and errors in the plans.

Mr. O'Leary said despite the additional items of work, Change Order No. One to Contract No. K-1011-03 decreases the total contract amount by \$17,682.88, for a total contract amount of \$616,477.12 and authorizes a final contract payment Central Contracting Services, Inc., in the amount of \$67,667.10.

Items submitted for the record

1. Change Order No. One. to Contract K-1011-03

Item 3, being:

DISCUSSION REGARDING PROPOSED AMENDMENTS REGULATING SOLICITING, PEDDLING, AND TEMPORARY FOOD SALES.

Ms. Leah Messner, Assistant City Attorney, provided background information regarding soliciting and peddling within the City of Norman and said an ordinance was adopted in 1985 and later amended in 1991. She said currently applicants must apply for a permit with the City Clerk's Office; providing name(s), address, photo, tag number, and a description of the business. Ms. Messner said the current fee is \$150 for a three (3) day permit and the City Manager may extend the permit to 45 days. She said similar ordinances have come under first amendment challenges and cities may regulate soliciting, but officials can not arbitrarily choose which groups may or may not solicit in Norman.

Ms. Messner said the City Council Oversight Committee (OC) reviewed 19 other cities in Oklahoma and surrounding states and found the average permit duration is six (6) months to one (1) year. The permit fees ranged from \$25 to \$500 and several cities require a bond to be posted. Oklahoma City (OKC) requires a criminal history report from Oklahoma State Bureau of Investigation (OSBI).

Ms. Messner said the City Council Oversight Committee (OC) discussed soliciting and peddling permits several times from May 2010, to January 2011. She said amendments proposed by the OC consist of removing the ability of the City Manager to extend the permit term an additional 45 days and new requirements to include:

- Current OSBI report for each applicant/person and date of report must be within 30 days;
- \$10,000 bond payable to City to recover damages from any wrongful, fraudulent, or illegal conduct or secure payment of sales tax;
- Proof of general liability and workers compensation insurance; and
- Applicants convicted of a felony shall go before a Review Board made up of members from the Norman Police Department (NPD), City Attorney's Office, and City Clerk.

Types of permits proposed by the OC include:

- Soliciting/Peddling (i.e., door-to-door or mobile):
 - 30 or 60 day permit available
 - 30 day permit = \$100, each additional seller = \$50
 - 60 day permit = \$200, each additional seller = \$100
- Outdoor Vending (i.e., fixed location):
 - 30 day term, maximum of six (6) months in calendar year
 - 30 day permit = \$500 and can renew each month for \$500

Ms. Messner provided a brief overview of the current temporary food sales and said the Oklahoma Department of Health is in the process of revising standards for mobile and temporary food vendors. Highlights of proposed language include: vehicle-mounted, readily moveable, and does not stay in one place longer than 12 hours; required to return to commissary daily to dispose of waste water, refill with fresh water, and service mobile unit; and name of business and State Health Department license number shall be clearly visible on outside of unit.

The current temporary food sales ordinance allows the City Clerk's Office to issue a 14 day permit that can be renewed but the Zoning Code requires that temporary structures remain in one location no longer than six (6) months and the temporary building has to be masonry.

Ms. Messner said the OC proposed temporary food sales amendments to align with the Oklahoma Department of Health as follows:

- Permit options – *fixed* or *mobile*
- Permit term options – 30 day or 180 day
- 30 day permit = \$50 fee and 180 day permit = \$250 fee
- Application requirements – name, address, proof of county health license, sales tax ID, and proof of insurance - unless applicant is already operating a brick and mortar business in Norman
- Applicant must have permission of property owner

Additional requirements for *mobile* vendors include:

- May not stop for longer than three hours at single location (single location includes shared parking lot)
- May not sell within right-of-way except for brief stop for point of sale

Councilmember Cubberley asked the purpose of the three-hour rule and Ms. Messner said the OC felt the vehicle should not be at any particular location longer than three hours because it would accommodate breakfast and/or lunch hour sales. Councilmember Cubberley asked about game day or promotional events where mobile vendors stay at a particular location longer than three hours and asked if three hours was a reasonable amount of time. He said “lunch hour” mobile trucks/vendors are one thing, but there are many other types of mobile trucks/vendors. Councilmember Dillingham said the OC felt the issue of mobile vendors not becoming a nuisance in residential neighborhoods needed to be addressed and felt the three hour rule was enough time to get “in and out” for breakfast and/or lunch.

Councilmember Dillingham suggested adding a sub-category under *mobile* vendors stating whether or not the vendor would be setting up for a special event. Ms. Brenda Hall, City Clerk, said all vendors attached to a Special Event permit, i.e., Medieval Fair, May Fair, Norman Day, etc., would not have to get a mobile vendors permit. She said vendors at “grand opening” scenarios are typically giving away food and/or drinks rather than selling; therefore they would not be required to get a temporary food sales permit. Ms. Hall said University of Oklahoma (OU) Game Day mobile vendors would fall under the new mobile vendor requirements and obtain a temporary food sales permit. She said Council may consider issuing OU Game Day mobile vendors a one time, \$50, 30 day permit that would be good for all six (6) OU home game days.

Council suggested adding verbiage, “...Sponsored events that are not open to the general public and/or only charge a nominal fee do not need a mobile vendor’s license...”. Staff will work on suggested language prior to Council consideration.

Items submitted for the record

1. PowerPoint Presentation entitled “Proposed Amendments to Chapter 13: Ordinance Regulating Soliciting, Peddling, and Temporary Food Sales,” dated February 22, 2011
2. City Council Oversight Committee Minutes dated May 12, 2010, August 4, 2010, October 13, 2010, December 1, 2010, and January 5, 2011

The meeting adjourned at 5:57 p.m.

ATTEST:

City Clerk

Mayor