



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: K-1617-96

File ID: K-1617-96

Type: Contract

Status: Non-Consent Items

Version: 1

Reference: Item 25

In Control: City Council

Department: Legal Department

Cost:

File Created: 01/17/2017

File Name: Cedar Lake Estates HOA Dam Repair Contract

Final Action:

Title: CONTRACT K-1617-96: A CONTRACT BY AND BETWEEN THE NORMAN MUNICIPAL AUTHORITY AND CEDAR LAKE HOMEOWNERS ASSOCIATION TO PROVIDE ASSISTANCE IN COLLECTION OF MONTHLY ASSESSMENTS FROM PROPERTY OWNERS IN CEDAR LAKE ADDITION THROUGH THE CITY OF NORMAN UTILITY BILLING SYSTEM.

Notes: ACTION NEEDED: Acting as the Norman Municipal Authority, motion to approve or reject Contract K-1617-96 with Cedar Lake Home Owners Association; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

Agenda Date: 01/24/2017

Agenda Number: 25

Attachments: K-1617-96, Principal Spillway, Location map drain, Blanket Drain, Culvert Location

Project Manager: Leah Messner, Assistant City Attorney

Entered by: sencinias@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File K-1617-96

Body

BACKGROUND: The Cedar Lake Addition was platted in 1995. It is located along Cedar Lane Road between 24th Avenue SE and 36th Avenue SE, and it consists of 19 large single family lots. The streets in the subdivision are not dedicated City streets. The Norman Water Utility provides water services to the residences, but no City sewer or sanitation services are provided to the residences. The home sites are located around a five acre lake commonly called "Cedar Lake". The lake has a dam on the east side of the lake. The lake and dam structure have not been dedicated to, nor accepted by, the City. Cedar Lake dam is a privately owned and maintained structure. The water impounded due to the dam does function as a detention structure for the subdivision, and with new development, additional upstream storm water generated by those new developments passes through the Cedar Lake detention facility.

Cedar Lake Addition residents became concerned with the condition of the lake and the dam as those new developments have occurred around the addition. Out of that concern, the residents reached out to the

Oklahoma Water Resources Board (“OWRB”) and requested a site visit and assessment of the condition of the lake and dam. Currently, water goes over the dam spillway with every major rain. In addition, the dam began leaking in the Spring of 2016. The leakage resulted in a recommendation by OWRB to lower the water level of the lake. The CLHOA had 11 million gallons of water pumped out of the lake, and it remains at that low level. CLHOA desires to retain ownership of the lake once the repairs to the dam have been completed, but would be interested in the City taking over long term maintenance of the dam structure once it is repaired.

In order to repair the leakage issues, the CLHOA hired an engineer to develop repair plans. In addition, the CLHOA has received several bids from contractors for the repair work. The CLHOA expects the work to cost approximately \$72,000 based on the lowest bid received. CLHOA advises that the OWRB has reviewed the repair plans. The CLHOA hopes to schedule a vote of the property owners within the Addition in early 2017 to determine whether the property owners are willing to create a Special Assessment to fund the repairs. The CLHOA is also actively contacting local banks to secure a loan to fund the repairs that will be repaid with the assessment revenues.

Though CLHOA has taken on the primary responsibility for making the needed repairs at the expense of the residents, they have asked the City of Norman to consider an agreement whereby the City of Norman Utilities Customer Service Division will collect the assessments along with the resident’s water bills. CLHOA has stated that utilizing the City’s established utility bill process will enhance their ability to secure private financing to make improvements to the Cedar Lake Dam. The City would collect the assessments and remit them to the CLHOA, or their note-holder, on a schedule agreed to by both parties.

At the City Council Study Session of December 6, 2016, the Council was presented information regarding three neighborhoods having varying degrees of storm water issues: Cedar Lake Addition (repairs to a private dam); Summit Lakes (repairs to a private dam classified by OWRB as a “high hazard” dam); Vineyard (flooding and water impoundment issues). Council asked Staff to continue to work on these issues and bring back agreements as appropriate. There was also Council interest in developing a policy by which to consider such requests from neighborhoods or subdivisions.

At the City Council Study Session of January 3, 2017, the Council was presented more specific information about a proposed Agreement with the Cedar Lake Addition Homeowners Association. Council also was presented policy information contained in the City’s Storm Water Master Plan relative to inventory, inspection and future maintenance of dams located in the Norman City limits. Even though Council expressed a desire to continue to solidify a policy regarding dams located in the Norman City limits, the Council requested that Staff bring the Cedar Lake Agreement forward for formal consideration at the January 24, 2017 City Council meeting.

DISCUSSION: The Cedar Lake Subdivision dam repair project will be performed by a private contractor, using funding secured by Cedar Lake Home Owners’ Association (“CLHOA”), and the dam and detention facility (the lake) will remain a private facility of the subdivision. The City will not be contributing funding to the project. However CLHOA proposes City participation through assistance in collection of assessments monthly through the utility billing system. As noted above, utilizing the City’s monthly utility billing collection mechanism will enhance the CLHOA’s ability to secure private financing for the repair project.

The proposed Agreement requires CLHOA to seek the approval of the property owners within the Addition for the assessment. Once approved, CLHOA will complete the repairs according to their approved engineering plans that are incorporated into the proposed Agreement. Once the repairs are completed to the satisfaction of CLHOA and the OWRB, and a final cost figure for the repairs and any financing costs has been determined, the assessment figure will be adjusted accordingly. At this time, the property owners within the Cedar Lake Addition may pay their assessments at the time the repairs or completed, or will have up to five years to repay their assessments.

The proposed Agreement establishes that the Norman Municipal Authority will collect the outstanding assessments monthly via the City’s utility billing program. The proposed Agreement establishes a fee of one dollar (\$1) per month per utility customer to cover the additional cost of administering the collection and remittance of CLHOA assessments over the term of the assessment. The monitoring and billing of the CLHOA assessment through the City’s utility billing system will require individualized attention to each account on a

monthly basis. This approach is similar to what the Utilities Customer Service Division has administered when lift stations have been utilized by private developers to effectuate a sewer solution for a particular subdivision. Staff has included a clause in the Agreement between the CLHOA and the City allowing the City to shut off water to individual property owners if they became delinquent on their assessment payments. In addition, the Agreement has a place for each property owner to sign the Agreement individually to acknowledge their acceptance, and that of their successors and assigns, of the risk of water disconnection due to nonpayment.

Once the NMA begins collecting the assessments, the NMA will remit the collected funds on a quarterly or annual basis to the CLHOA or their loan holder.

In addition to the above discussed terms of the proposed Agreement, the Agreement is contingent upon legal documentation that the CLHOA has taken all steps necessary under their Declaration of Covenants to implement the assessment or each property owner of the platted lots will be required to be a signatory to the Agreement. In addition to the option to discontinue water service as a penalty for non-payment, the CLHOA may place a lien on the subject property for the outstanding assessment amount. The CLHOA agrees to indemnify and hold harmless the NMA against any cause of action connected with the proposed Agreement, and the City is not responsible for the enforcement of any related property liens or non-payment of Cedar Lake resident's assessments, beyond water utility service penalties.

RECOMMENDATION: As noted, above, the Agreement on the Agenda proposes City participation in the Cedar Lake Subdivision dam repair project through assistance in collection of CLHOA assessments monthly through the utility billing system. The cost to the City of this assistance will be compensated at the rate of one dollar per month per utility bill. This arrangement is similar to that used for subdivision lift station assessments..

If Council is willing to enter into such a public/private partnership, Staff recommends approval of the proposed Agreement, K-1617-96 contingent upon the approval of the Special Assessment by the property owners within the Cedar Lake Addition.