



City of Norman, OK

Municipal Building Council
Chambers
201 West Gray Street
Norman, OK 73069

Text File

File Number: K-1213-149

Agenda Date: 1/22/2013

Version: 1

Status: Consent Item

In Control: City Council

File Type: Contract

Title

CONTRACT NO. K-1213-149: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND LA BAGUETTE, INC., IN THE AMOUNT OF \$100 PER YEAR FOR THE LEASE OF CITY PROPERTY (RIGHT-OF-WAY) LOCATED AT 2100 WEST MAIN STREET.

Body

BACKGROUND: La Baguette, Inc. is currently in the process of remodeling a building at 2100 W. Main Street. La Baguette, Inc. plans to open a new La Baguette Restaurant at this location.

The remodeling plans include the installation of a patio on the northwest corner of the restaurant. As designed, the patio encroaches one hundred square feet into the sight triangle and right-of-way.

DISCUSSION: The Department of Public Works, the Department of Utilities, and the Planning Department have reviewed the proposed plans. Each department is comfortable with locating the patio within City of Norman Right-of-Way so long as La Baguette, Inc. agrees to follow certain conditions contained within the proposed Revocable License.

Prior to drafting the license, the City Attorney's Office reviewed previous agreements between the City of Norman and Coach's Brewhouse and 329 Partners LLC. These entities both lease Right-of-Way from the City of Norman to use as patio space for their restaurants (Coach's Brewhouse, In the Raw Sushi, and Blackbird Gastropub). In addition, the attached agreement is very similar to the agreement recently approved by City Council for the patio at the entrance of Fountain View Addition.

The attached license allows La Baguette, Inc. to build and locate the proposed patio within the sight triangle. However, it reserves the City's right, or the right of others that have City permission, to locate, relocate, or construct utilities within the area where the patio is located. In addition, under the terms of the license, the City shall incur no liability for any damages to the patio caused by any utility work.

La Baguette, Inc., the licensee, also agrees to pay an annual license fee of \$100 for use of the Right-of-Way. This fee is consistent with the fees paid by 329 Partners LLC for use of the City Right-of-Way in front of In the Raw Sushi and Blackbird Gastropub. All three agreements charge \$1.00/square foot. The licensee also must agree to use the Right-of-Way exclusively for the patio consistent with the plans that have been submitted. Any deviation from the approved plans may be grounds for revocation of the license.

In the license, the City reserves the right to inspect the patio. If the licensee fails to maintain it in a safe, sanitary, and sightly condition, the City may require the licensee to make repairs, or if the licensee fails to do so, the City may make repairs and charge those costs to the licensee. The licensee is also to comply with any applicable state or federal laws. The licensee agrees to indemnify, defend, and hold the City of Norman harmless for any actions of any nature arising out of any failure by licensee to satisfy, its obligations under this license; arising out of any accident or other occurrence whatsoever causing injury, including death, resulting from the use, occupancy or condition of the Right-of-Way and patio by licensee; and arising out of any mechanic's lien or other lien, tax, assessment or charge of any kind.

Lastly, the license may be terminated for any reason at any time by either party by serving thirty days' written notice of termination upon the other party. Upon the termination of this license, licensee shall surrender to City the possession of the Right-of-Way and shall remove the patio and restore the Right-of-Way to substantially the state in which it was prior to the construction of the patio. If the licensee

fails within thirty (30) days to make such removal or restoration, then City may remove the patio and restore the Right-of-Way to substantially the state it was in prior to construction of the patio, and the licensee shall reimburse City for the cost so incurred. If the licensee fails to remove the Improvements, and the City is required to remove the improvements, the City may take and hold the Improvements as its sole property.

RECOMMENDATION: If City Council wishes to allow the location of this patio within the right-of-way and sight triangle, Staff recommends the execution of the attached license in order to preserve the interests of the City and other franchise holders.