



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 11/26/2024

REQUESTER: Norman City Council

PRESENTER: Anthony Purinton, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONMENT OF RESOLUTION R-2425-53: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN DIRECTING STAFF TO TERMINATE CONTRACT K-2223-56, A SERVICE AND LEASE AGREEMENT WITH FOOD AND SHELTER, INC. FOR OPERATION OF AN EMERGENCY OVERNIGHT SHELTER, PURSUANT TO ITS TERMS.

BACKGROUND:

On October 11, 2022, the City of Norman entered into a contract with Food and Shelter, Inc. ("F&S") to operate an emergency overnight shelter on City-owned property, located at 109 W. Gray Street. The original term of the contract was only for the winter season, ending on March 31, 2023. Based upon feedback from City Council during the March 9, 2023, Oversight Committee, an amendment brought forward and approved by Council during its regular meeting on March 28th, 2023, which extended the contract an additional three months, with an end date of June 30, 2023. Another three-month extension was brought forward for Council consideration on its June 27th, 2023 regular meeting, but the proposed three-month extension was amended on the floor to make the contract's term indefinite on a month-to-month basis. This second amendment (as amended on the floor) was approved by Council.

During City Council's study session Meeting on May 21st, 2024, Council discussed several potential amendments to Contract K-2223-56 based upon findings by Shaakira Calnick, City Auditor, as a result of her ongoing audit of the contract. After that meeting, City staff attempted to negotiate a new contract with F&S to resolve the issues identified in the audit. After several months of attempted negotiation, City staff received notice from the F&S board stating that F&S rejected the draft contract, but would operate the shelter until another contractor is found.

Staff briefed City Council of the notice from F&S during a study session on September 24th, receiving direction to seek clarification of F&S's position and to continue searching for a new shelter contractor. On September 30th, City staff and Councilmembers Montoya, Dixon, and Grant met with the executive director and board members from F&S. F&S clarified that they would only agree to operate the shelter until a new contractor was found, but no later than March 31, 2025 (the end of the 2024-2025 winter season). Although F&S indicated it would consider entering into a new agreement with the City for the remainder of F&S's operation, Staff received notice on October 1st that F&S objected to certain contract terms as proposed in the draft

contract. Those provisions related to shelter security, the City's audit rights, the City's right to recoup funds found improper by future audits, and a requirement for F&S to have a dedicated bank account for project expenses.

At the subsequent City Council study session that same day, Staff presented F&S's objections to the proposed new contract language. City Council provided feedback indicating that the terms proposed by the City relating to security, audit rights, and recoupment were necessary for the continued operation of the shelter. Based on this feedback, Staff redrafted the proposed contract for F&S's review and consideration. Although F&S's board could not obtain a quorum to formally approve or deny the proposed contract before the City's next meeting, F&S's board president stated that he had made contact with each of F&S's board members one-on-one and that the board's position would likely be as follows:

"It was also clear there is no majority support to approve the revised contract you presented. Our board wishes to continue under the existing agreement we've been operating under since 2022 until a new operator can be found or until March 31, whichever comes sooner. I thought it appropriate to share this information with you now so you can plan accordingly."

Based on F&S's apparent refusal to enter into a new agreement and feedback from City Council during the October 1st study session, Staff prepared and presented a previous version of this resolution to Council at the October 8th Council meeting that would have allowed for a thirty (30) day notice of termination. Council passed an amendment extending the notice period to sixty (60) days and a second amendment was proposed regarding continued operation of the shelter after termination. Prior to a vote being taken on the second amendment, Council voted to table further discussion until October 22nd in order to get feedback from potential alternative operators. Since October 22nd, City Staff have successfully negotiated an Agreement with City Care Inc. (K-2425-58) that will be considered by City Council alongside this resolution on the November 26th City Council meeting.

DISCUSSION:

Contract K-2223-56 provides three means of contract termination. In particular, the contract allows the City to unilaterally terminate the agreement for any reason, without cause, upon a minimum of thirty (30) days' written notice. This version of resolution 2425-53 would direct staff to effectuate the termination of the current agreement with F&S, pursuant to the agreement's terms, by providing written notice that the contract will be terminated, effective January 15, 2025. This length of notice exceeds the minimum notice requirement and allows the shelter to continue operating until the new operator, City Care, assumes operations on January 15th.

RECOMMENDATION:

City Staff hereby presents R-2425-53 for consideration by City Council.