



CITY OF NORMAN, OK CITY COUNCIL REGULAR MEETING

**Municipal Building, Council Chambers, 201 West Gray, Norman, OK 73069
Tuesday, July 11, 2023 at 6:30 PM**

AGENDA

It is the policy of the City of Norman that no person or groups of persons shall on the grounds of race, color, religion, ancestry, national origin, age, place of birth, sex, sexual orientation, gender identity or expression, familial status, marital status, including marriage to a person of the same sex, disability, retaliation, or genetic information, be excluded from participation in, be denied the benefits of, or otherwise subjected to discrimination in employment activities or in all programs, services, or activities administered by the City, its recipients, sub-recipients, and contractors. In the event of any comments, complaints, modifications, accommodations, alternative formats, and auxiliary aids and services regarding accessibility or inclusion, please contact the ADA Technician at 405-366-5424, Relay Service: 711. To better serve you, five (5) business days' advance notice is preferred.

CITY COUNCIL, NORMAN UTILITIES AUTHORITY, NORMAN MUNICIPAL AUTHORITY, AND NORMAN TAX INCREMENT FINANCE AUTHORITY

You are required to sign up in advance of the meeting on the City's webpage, by calling the City Clerk's Office (405-366-5406), or at the Council Chambers prior to the start of the meeting with your name, ward, and item you wish to speak to including whether you are a proponent or opponent. When the time comes for public comments, the Clerk will call your name and you can make your way to the podium. Comments may be limited on items of higher interest, if so, the Mayor will announce that at the beginning of the meeting. Participants may speak one time only up to 3 minutes per person per item. There will be no yielding of time to another person. Sign up does not guarantee you will get to speak if the allotted time for that item has already been exhausted. If there is time remaining after those registered to speak have spoken, persons not previously signed up may have the opportunity to speak. Comments received must be limited to the motion on the floor only.

CALL TO ORDER

ROLL CALL

PLEDGE OF ALLEGIANCE

Swearing In

1. ADMINISTERING THE OATH OF OFFICE TO AND SEATING OF COUNCILMEMBER-ELECT MICHAEL NASH, WARD 5.

AWARDS AND PRESENTATIONS

2. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2324-17: RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, COMMENDING AND RECOGNIZING CITY OF NORMAN EMPLOYEES WHO HAVE RECEIVED RECOGNITION OR PRESENTED AWARDS BY OUTSIDE ORGANIZATIONS IN CONNECTIONS WITH THEIR DUTIES AT THE CITY OF NORMAN.

PROCLAMATIONS

3. CONSIDERATION OF ACKNOWLEDGING RECEIPT, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF PROCLAMATION P-2324-2: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE MONTH OF JULY, 2023, AS WATER'S WORTH IT™ MONTH IN THE CITY OF NORMAN

COUNCIL ANNOUNCEMENTS

CONSENT DOCKET

This item is placed on the agenda so that the City Council, by unanimous consent, can designate those routine agenda items that they wish to be approved or acknowledged by one motion. If any item proposed does not meet with approval of all Councilmembers, that item will be heard in regular order. Staff recommends that Item 4 through Item 40 be placed on the consent docket.

Appointments

4. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE MAYOR'S APPOINTMENT OF COUNCILMEMBER PEACOCK AS MAYOR PRO TEM.
5. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE APPOINTMENT OF MAYOR HEIKKILA AS REPRESENTATIVE AND COUNCILMEMBER SCHUELER ALTERNATE REPRESENTATIVE TO THE OKLAHOMA MUNICIPAL LEAGUE BOARD OF DIRECTORS.
6. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE APPOINTMENT OF MAYOR HEIKKILA AS REPRESENTATIVE AND COUNCILMEMBER HOLMAN ALTERNATE REPRESENTATIVE TO THE ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS BOARD OF DIRECTORS.
7. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE MAYOR'S APPOINTMENT OF COUNCILMEMBER FOREMAN TO SERVE ON THE BOARD OF TRUSTEES FOR THE CITY OF NORMAN RETIREMENT SYSTEM.

8. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE MAYOR'S APPOINTMENTS AS FOLLOWS:

BICYCLE ADVISORY COMMITTEE

TERM: 07-11-23 TO 02-13-26: PAUL WARREN, WARD 7

LIBRARY BOARD

TERM: 07-11-23 TO 05-01-26: LAURA DOUGHTY, WARD 8

First Reading Ordinance

9. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-39 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF THE CODE OF THE CITY OF NORMAN SO AS TO REMOVE THE WEST HALF OF LOT FIFTEEN (15) AND THE WEST SEVEN AND ONE-HALF FEET (7-1/2') OF THE EAST HALF OF LOT FIFTEEN (15), IN BLOCK ONE (1), LESS AND EXCEPT THE WEST FIFTEEN FEET (15') OF LOT FIFTEEN (15), OF LINCOLN ADDITION, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, FROM THE R-3, MULTI-FAMILY DWELLING DISTRICT AND PLACE THE SAME IN THE R-1, SINGLE FAMILY DWELLING DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (485 COLLEGE AVE)
10. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-46 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF THE CODE OF THE CITY OF NORMAN SO AS TO GRANT SPECIAL USE FOR A PUBLIC UTILITY IN THE A-2, RURAL AGRICULTURAL DISTRICT FOR PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION NINE (9), TOWNSHIP NINE (9) NORTH, RANGE THREE (3) WEST OF THE INDIAN MERIDIAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (SOUTHWEST CORNER OF 48TH AVENUE N.W. AND WEST FRANKLIN ROAD)

Reports/Communications

11. CONSIDERATION OF SUBMISSION, ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR REJECTION OF RECEIPT OF THE CITY MANAGER'S CONTRACT AND CHANGE ORDER REPORT AND DIRECTING THE FILING THEREOF.

Request for Payment

12. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF PAYMENT OF FYE 2024 DUES ASSESSMENT IN THE AMOUNT OF \$65,000 TO THE OKLAHOMA MUNICIPAL LEAGUE FOR THE PERIOD OF JULY 1, 2023, THROUGH JUNE 30, 2024.

13. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF SPECIAL CLAIM SC-2324-1: SUBMITTED BY WOODSTOCK CONDOMINIUM OWNERS ASSOCIATION IN THE AGREED AMOUNT OF \$25,000 FOR DAMAGE TO A PARKING LOT AT 1932 EAST LINDSEY STREET AS A RESULT OF A WATER MAIN BREAK ON JULY 24, 2022.

Easement

14. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF EASEMENT E-2324-2: A PERMANENT UTILITY EASEMENT GRANTED BY THE CITY OF NORMAN TO OKLAHOMA GAS AND ELECTRIC COMPANY FOR THE NORTH BASE PHASE 2 VEHICLE WASH FACILITY PROJECT.

15. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CROSS ACCESS EASEMENT E-2324-5: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND CATHERINE H. PETERSEN AND LESTER E. R. DOTY TO PROVIDE ACCESS FOR BOTH PARTIES TO THE DRIVE LOCATED BETWEEN 320 EAST COMANCHE STREET AND 314 EAST COMANCHE STREET.

Encroachment

16. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONSENT TO ENCROACH EN-2223-3: FOR LOT 30, BLOCK 4, VINTAGE CREEK ADDITION, SECTION 1, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA. (512 LEGACY COURT)

Certificate of Survey

17. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF NORMAN RURAL CERTIFICATE OF SURVEY COS-2223-5: FOR THE AMENDED RULE'S EMERALD SPRINGS ADDITION (GENERALLY LOCATED ON THE SOUTH SIDE OF FRANKLIN ROAD AND APPROXIMATELY 1/3 MILE EAST OF 12th AVENUE NW.)

Certificate of Plat Correction

18. CONSIDERATION FOR APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CERTIFICATE OF PLAT CORRECTION CPC-2324-1: FOR SHOPS AT TECUMSEH.

Contracts

19. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF AMENDMENT 2 TO CONTRACT K-1617-103: WITH EST, INC. FOR SUPPLEMENTAL FINAL DESIGN ENGINEERING SERVICES ON THE CEDAR LANE ROAD PROJECT FROM BLACK LOCUST COURT TO 36TH AVENUE EAST IN THE AMOUNT OF \$81,045 FOR THE 2019 BOND PROJECT AND BUDGET APPROPRIATION AS OUTLINED IN THE STAFF REPORT.
20. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF FINAL ACCEPTANCE OF CONTRACT K-2122-92: BY AND BETWEEN THE NORMAN MUNICIPAL AUTHORITY AND CROSSLAND CONSTRUCTION COMPANY, INC. AND FINAL PAYMENT IN THE AMOUNT OF \$20,000 FOR THE NEW SANITATION OFFICE BUILDING.
21. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CHANGE ORDER NO. 2 TO CONTRACT K-2223-2: BY AND BETWEEN THE CITY OF NORMAN AND NASH CONSTRUCTION COMPANY DECREASING THE CONTRACT AMOUNT BY \$1,858.87 FOR A REVISED AMOUNT OF \$1,299,392.63 AND FINAL ACCEPTANCE AND FINAL PAYMENT IN THE AMOUNT OF \$64,969.63 FOR THE URBAN CONCRETE, FYE 2023 LOCATIONS, BID 2 PROJECT.
22. CONSIDERATION OF APPROVAL, ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-3: A PROJECT MAINTENANCE, FINANCING, AND RIGHT-OF-WAY AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION FOR PROJECT TAP3-7981(004)TP, STATE JOB 37981(04), TO PROVIDE TWO MILES OF MULTIMODAL PATH ALONG STATE HIGHWAY 9 BETWEEN 48th AVENUE SE AND 72nd AVENUE SE AND RESOLUTION R-2324-3 WITH CAPITAL FUND BALANCE APPROPRIATION OF \$529,492 AS OUTLINED IN THE STAFF REPORT.
23. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-9: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THUNDERBIRD CLUBHOUSE BOARD, INC., IN THE AMOUNT OF \$50,000 FOR THE COORDINATION OF ACTIVITIES FOR THE OK504 NORMAN/CLEVELAND COUNTY CONTINUUM OF CARE.
24. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-10 BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY, WILDLIFE SERVICES DIVISION IN THE AMOUNT OF \$20,000 FOR CONTROL OF AQUATIC RODENT SERVICES THROUGH JUNE 30, 2024 AS OUTLINED IN THE STAFF REPORT.

25. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-11: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NEIGHBORHOOD ALLIANCE, INC. IN THE AMOUNT OF \$100,000 FOR THE NORMAN NEIGHBORS ACTIVITIES.
26. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-12: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NEIGHBORHOOD ALLIANCE, INC. IN THE AMOUNT OF \$73,137 FOR THE STRONG NEIGHBORHOODS INITIATIVE PROGRAM.
27. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-13: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND METROPOLITAN FAIR HOUSING, INC. IN THE AMOUNT OF \$30,000 FOR THE FAIR HOUSING ACTIVITIES.
28. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-14: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NORMAN AFFORDABLE HOUSING CORPORATION, INC. IN THE AMOUNT OF \$100,000 FOR THE ACQUISITION OF PROPERTY FOR AFFORDABLE HOUSING.
29. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-15: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND ROSE ROCK HABITAT FOR HUMANITY, INC. IN THE AMOUNT OF \$40,000 FOR THE ACQUISITION OF PROPERTY FOR AFFORDABLE HOUSING.
30. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-18, A CONTRACT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY, THE OKLAHOMA WATER RESOURCES BOARD AND THE U.S. GEOLOGICAL SURVEY IN THE AMOUNT OF \$6,500 TO PROVIDE FOR CANADIAN RIVER WATER QUALITY AND WATER QUANTITY MONITORING.
31. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-19: BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND BIOSTAR E LIGHT JV, LLC., IN AN AMOUNT NOT TO EXCEED \$160,000 FOR TAX ASSISTANCE SERVICES.
32. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF COMPENSATION AGREEMENT K-2324-20 AND EASEMENT E-2324-1: CONVEYING A TRANSMISSION LINE EASEMENT, AND PROVIDING FOR COMPENSATION FOR SAID EASEMENT, FROM THE CITY OF NORMAN TO NEXT ERA ENERGY TRANSMISSION SOUTHWEST, LLC AT PROPERTY LOCATED AT NW CORNER OF FRANKLIN ROAD AND 12TH AVE NE, FOR NEXT ERA'S MINCO-PLEASANT VALLEY-DRAPER TRANSMISSION LINE PROJECT.

33. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF CONTRACT K-2324-21: FOR LEASE OF PROPERTY BY THE CITY OF NORMAN TO NEXT ERA ENERGY TRANSMISSION SOUTHWEST, LLC FOR PROPERTY LOCATED AT NW CORNER OF FRANKLIN ROAD AND 12TH AVE NE, FOR NEXT ERA'S USE AS A MATERIALS LAY-DOWN YARD RELATING TO ITS MINCO-PLEASANT VALLEY-DRAPER TRANSMISSION LINE PROJECT.
34. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-22: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NORMAN ARTS COUNCIL FOR THE PROMOTION OF ARTS PROGRAMS TO FURTHER CONVENTION AND TOURISM DEVELOPMENT FOR THE CITY, AND TO PROVIDE 25% OF THE NORMAN TRANSIENT GUEST ROOM TAX FOR SAID SERVICES.
35. CONSIDERATION OF AWARDED, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF K-2324-23: BETWEEN THE NORMAN VISITORS AND CONVENTION BUREAU AND THE CITY OF NORMAN FOR THE PURPOSE OF ENCOURAGING, PROMOTING, AND FOSTERING CONVENTION AND TOURISM DEVELOPMENT IN THE CITY.
36. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-24: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND PROJECTIONE LLC dba PROJECT ONE STUDIO IN THE AMOUNT OF \$89,000 FOR THE DESIGN AND CREATION OF A SCULPTURE TO BE PLACED AT THE GRIFFIN PARK FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND.
37. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-25: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND SKUNK CONTROL IN THE AMOUNT OF \$100,000 FOR THE DESIGN AND CREATION OF A SCULPTURE TO BE PLACED AT THE NORMAN SENIOR WELLNESS CENTER FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND.
38. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-26: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND TYLER FUQUA CREATIONS IN THE AMOUNT OF \$62,000 FOR THE DESIGN AND CREATION OF A SCULPTURE TO BE PLACED AT THE REAVES PARK FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND.

Resolutions

39. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2324-14: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AND NORMAN MUNICIPAL AUTHORITY, APPROPRIATING \$32,778 FROM THE WESTWOOD FUND BALANCE FOR A LEAK REPAIR AT THE WESTWOOD FAMILY AQUATIC CENTER.

40. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF RESOLUTION R-2324-16: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AUTHORIZING THE CITY ATTORNEY TO RETAIN CERTAIN OUTSIDE COUNSEL DURING FISCAL YEAR ENDING JUNE 30, 2024 IN A CUMULATIVE AMOUNT NOT TO EXCEED \$215,000 , TO PROVIDE LEGAL SERVICES TO AND ON BEHALF OF THE CITY WHEN REPRESENTATION BY THE CITY ATTORNEY'S OFFICE MAY CONSTITUTE A CONFLICT OF INTEREST, WHEN A PARTICULAR SUBJECT MATTER OR CASE REQUIRES ADDITIONAL EXPERTISE, OR WHEN NECESSITATED BY WORKLOAD DEMANDS.

NON-CONSENT ITEMS

41. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-44 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF CHAPTER 36 OF THE CODE OF THE CITY OF NORMAN SO AS TO REMOVE PART OF LOT THREE (3) AND ALL OF LOTS FOUR (4), FIVE (5), AND SIX (6), IN BLOCK SIXTY-NINE (69) OF LARSH'S FIRST ADDITION, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, FROM THE CCFBC, CENTER CITY FORM-BASED CODE, AND PLACE SAME IN THE CCPUD, CENTER CITY PLANNED UNIT DEVELOPMENT; AND PROVIDING FOR THE SEVERABILITY THEREOF. (101 W. SYMMES STREET)

42. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF PRELIMINARY PLAT PP-2223-7: FOR THE DOMERICA ADDITION (GENERALLY LOCATED AT 3360 SOUTH CLASSEN BOULEVARD (APPROXIMATELY ONE-HALF MILE SOUTH OF STATE HIGHWAY NO. 9 ON THE WEST SIDE OF CLASSEN BOULEVARD)).

43. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-52 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 12-526 OF THE NORMAN CODE OF ORDINANCES, INCREASING THE NUMBER OF VOTING BOARD MEMBERS OF THE RECIPIENT ENTITY OF CONVENTION AND TOURISM DEVELOPMENT FUNDS FROM THIRTEEN TO NINETEEN TO ALLOW ADDITIONAL BOARD MEMBERS REPRESENTATIVE OF THE SPORTS INDUSTRY AND SPORTS COMMUNITY; PROVIDING FOR THE SEVERABILITY THEREOF.

44. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF ORDINANCE O-2223-53 UPON SECOND AND FINAL READING: AN ORDINANCE GRANTING TO ONE GAS, INC., ACTING BY AND THROUGH ITS OKLAHOMA NATURAL GAS COMPANY DIVISION, AND ITS SUCCESSORS AND ASSIGNS, FOR A PERIOD OF TWENTY-FIVE (25) YEARS FROM APPROVAL AND ACCEPTANCE OF THIS ORDINANCE, A NON-EXCLUSIVE FRANCHISE AND RIGHT TO ENTER THE PUBLIC WAYS TO INSTALL, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM WITHIN, ALONG, ACROSS, OVER AND UNDER THE PUBLIC WAYS OF THE CITY OF NORMAN, OKLAHOMA FOR THE TRANSPORTATION, DISTRIBUTION AND/OR SALE OF GAS TO CONSUMERS AND THE PUBLIC GENERALLY IN THE CITY; DEFINING THE WORDS AND PHRASES THEREIN; PROVIDING FOR ASSIGNMENT, SALE OR LEASE OF THE FRANCHISE; PROVIDING THAT THE CITY MAY ENACT AN ORDINANCE CHARGING PERSONS TRANSPORTING GAS THROUGH GRANTEE'S DISTRIBUTION SYSTEM A FEE ON THE CALCULATED VALUE OF SUCH TRANSPORTED GAS; PROVIDING FOR USE AND REPAIR OF THE PUBLIC WAYS; PROVIDING FOR REGULATION OF SERVICE; ESTABLISHING DEPTH OF PIPELINES; ESTABLISHING RIGHTS AND DUTIES IN THE MOVEMENT AND ALTERATION OF PIPELINES; PROVIDING FOR INDEMNIFICATION OF THE CITY OF NORMAN; PROVIDING FOR GRANTEE'S RULES AND REGULATIONS; PROVIDING FOR INSPECTION OF GRANTEE'S RECORDS; REQUIRING GRANTEE TO PAY A FRANCHISE FEE; ESTABLISHING GRANTOR'S OPTION TO PURCHASE; PROVIDING FOR CONDITIONS OF THE FRANCHISE; PROVIDING FOR CONSTRUCTION OF THIS ORDINANCE UPON THE INVALIDITY OF ANY PART THEREOF; PROVIDING FOR THE SUBMISSION OF THIS ORDINANCE TO AN ELECTION OF THE QUALIFIED VOTERS OF THE CITY; PROVIDING FOR ACCEPTANCE OF THIS FRANCHISE BY GRANTEE AND BOTH AN EFFECTIVE AND AN OPERATIVE DATE THEREOF AND DECLARING AN EMERGENCY; REPEALING ALL OTHER ORDINANCES DIRECTLY IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

45. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2324-15: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF A SPECIAL ELECTION TO BE HELD ON SEPTEMBER 12, 2023.

46. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF ORDINANCE O-2223-54 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA REPEALING ARTICLE 2-111-2, ART IN PUBLIC PLACES PROGRAM, AND PROVIDING FOR THE SEVERABILITY THEREOF.

MISCELLANEOUS COMMENTS

This is an opportunity for citizens to address City Council. Due to Open Meeting Act regulations, Council is not able to participate in discussion during miscellaneous comments. Remarks should be directed to the Council as a whole and limited to three minutes or less.

ADJOURNMENT

File Attachments for Item:

1. ADMINISTERING THE OATH OF OFFICE TO AND SEATING OF
COUNCILMEMBER-ELECT MICHAEL NASH, WARD 5.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Brenda Hall, City Clerk

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: ADMINISTERING THE OATH OF OFFICE TO AND SEATING OF
COUNCILMEMBER-ELECT MICHAEL NASH, WARD 5.

File Attachments for Item:

2. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2324-17: RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, COMMENDING AND RECOGNIZING CITY OF NORMAN EMPLOYEES WHO HAVE RECEIVED RECOGNITION OR PRESENTED AWARDS BY OUTSIDE ORGANIZATIONS IN CONNECTIONS WITH THEIR DUTIES AT THE CITY OF NORMAN.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Mayor Heikkila

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2324-17: RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, COMMENDING AND RECOGNIZING CITY OF NORMAN EMPLOYEES WHO HAVE RECEIVED RECOGNITION OR PRESENTED AWARDS BY OUTSIDE ORGANIZATIONS IN CONNECTIONS WITH THEIR DUTIES AT THE CITY OF NORMAN.

Resolution

R-2324-17

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, COMMENDING AND RECOGNIZING CITY OF NORMAN EMPLOYEES WHO HAVE RECEIVED RECOGNITION OR PRESENTED AWARDS BY OUTSIDE ORGANIZATIONS IN CONNECTIONS WITH THEIR DUTIES AT THE CITY OF NORMAN.

- § 1. WHEREAS, it is the responsibility of the City of Norman to maintain the welfare and safety of the citizens of Norman, employees do so through their qualifications, efforts and expertise on a daily basis; and
- § 2. WHEREAS, employees are often recognized or receive award from outside agencies or organizations for their expertise and/or participation in specific events throughout the year; and
- § 3. WHEREAS, City Council would like to highlight those recognitions and awards by resolution on an annual basis so that the community is made aware of the exemplary service and dedication of the City of Norman staff; and
- § 4. WHEREAS, Janita Hatley, Code Compliance Inspector, was name the "*Oklahoma Code Enforcement Officer of the Year*" by the Oklahoma Code Enforcement Association, for her exemplary service in studying and advancing the science and practice of Code Enforcement through training and education ultimately leading to certification and Janita is the first Code Enforcement Officer to have received this honor twice; and
- § 5. WHEREAS, Steven Hardeman, Water Reclamation Program Manager, was presented the "*Lifetime Achievement Award*" from the Oklahoma Water Environment Association, in recognition of his 39 years of membership and exceptional service over many years in advancing the organization's mission to provide leadership, engage water professionals and leverage knowledge to support clean and safe water solutions for today and future generations; and
- § 6. WHEREAS, Taylor Johnson, Transit and Parking Program Manager, was selected as the "*Transit Professional of the Year*" by the Oklahoma Transit Association, for demonstrating exemplary leadership qualities, effectively assisting the Norman community to accomplish goals, creating collaborative partnerships, and promoting best practices in the transit system; and
- § 7. WHEREAS, Cindy Robins, Deputy Court Administrator, was selected as *President of the Oklahoma Municipal Court Clerks Association*, which strives to provide professional education to its members and facilitate the exchange of knowledge and experience among municipal court clerks in Oklahoma; and
- § 8. WHEREAS, Bret Scovill, Sanitation Program Manager, was presented the "*Lifetime Achievement Award*" from the Keep Oklahoma Beautiful Campaign for his visionary leadership in to developing projects such as the Household Hazardous Waste Facility and upward of 70 solid waste management operations for the communities across Oklahoma.



Resolution R-2324-17
Page 2

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 9. Do hereby recognize, applaud, commend, and extend sincere appreciation to the City Employees who have been recognized and/or received awards as they exemplify the City of Norman mission statement "Working Together to Deliver Exceptional Service" and thank them for their service to the community and citizens of Norman.

PASSED AND ADOPTED this 11th day of July, 2023.

Mayor

ATTEST:

City Clerk

File Attachments for Item:

3. CONSIDERATION OF ACKNOWLEDGING RECEIPT, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF PROCLAMATION P-2324-2: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE MONTH OF JULY, 2023, AS WATER'S WORTH IT™ MONTH IN THE CITY OF NORMAN



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Brenda Hall, City Clerk

PRESENTER: Larry Heikkila, Mayor

ITEM TITLE: CONSIDERATION OF ACKNOWLEDGING RECEIPT, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF PROCLAMATION P-2324-2: A PROCLAMATION OF THE MAYOR OF THE CITY OF NORMAN, OKLAHOMA, PROCLAIMING THE MONTH OF JULY, 2023, AS WATER'S WORTH IT™ MONTH IN THE CITY OF NORMAN

Proclamation

P-2324-2

A PROCLAMATION OF THE MAYOR OF THE CITY OF
NORMAN, OKLAHOMA, PROCLAIMING THE MONTH OF
JULY, 2023, AS WATER'S WORTH IT™ MONTH IN THE
CITY OF NORMAN.

- § 1. WHEREAS, WATER'S WORTH IT™ Month is being promoted by the Environmental Control Advisory Board to help increase community awareness of Norman's most precious natural resource; and
- § 2. WHEREAS, WATER'S WORTH IT™ is a campaign by the Water Environment Federation to help answer questions about how our actions, attitudes, and the things we most value are closely connected with water; and
- § 3. WHEREAS, WATER'S WORTH IT™ Month is one of the many ways to help promote the protection of Norman's water by increasing educational efforts by including educational posts on various social media and electronic platforms, information in newspapers and literature showing citizens how to conserve and protect water; and
- § 4. WHEREAS, WATER'S WORTH our respect, communities are built on water; and.
- § 5. WHEREAS, WATER'S WORTH our effort, clean water is everyone's responsibility; and
- § 6. WHEREAS, WATER'S WORTH our health, water is life; and
- § 7. WHEREAS, WATER'S WORTH our future, dealing with an aging infrastructure; and
- § 8. WHEREAS, WATER'S WORTH our passion as we find solutions for the 21st Century; and
- § 9. WHEREAS, the protection and conservation of Norman's water improves the quality of life by having a cleaner and more abundant supply of water now and in the future and reduces the cost of water and wastewater treatment.

NOW, THEREFORE, I, MAYOR OF THE CITY OF NORMAN, OKLAHOMA:

- § 10. Do hereby proclaim the month of July, 2023, as WATER'S WORTH IT™ Month and call upon all citizens and civic organizations to become knowledgeable and acquaint themselves with the problems involved in maintaining safe water.

PASSED AND APPROVED this 11th day of July, 2023.

Mayor

ATTEST:

City Clerk



File Attachments for Item:

4. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE MAYOR'S APPOINTMENT OF COUNCILMEMBER PEACOCK AS MAYOR PRO TEM.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Brenda Hall, City Clerk

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE MAYOR'S APPOINTMENT OF COUNCILMEMBER PEACOCK AS MAYOR PRO TEM.

File Attachments for Item:

5. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE APPOINTMENT OF MAYOR HEIKKILA AS REPRESENTATIVE AND COUNCILMEMBER SCHUELER ALTERNATE REPRESENTATIVE TO THE OKLAHOMA MUNICIPAL LEAGUE BOARD OF DIRECTORS.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Brenda Hall, City Clerk

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE APPOINTMENT OF MAYOR HEIKKILA AS REPRESENTATIVE AND COUNCILMEMBER SCHUELER ALTERNATE REPRESENTATIVE TO THE OKLAHOMA MUNICIPAL LEAGUE BOARD OF DIRECTORS.

File Attachments for Item:

6. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE APPOINTMENT OF MAYOR HEIKKILA AS REPRESENTATIVE AND COUNCILMEMBER HOLMAN ALTERNATE REPRESENTATIVE TO THE ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS BOARD OF DIRECTORS.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Brenda Hall, City Clerk

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE APPOINTMENT OF MAYOR HEIKKILA AS REPRESENTATIVE AND COUNCILMEMBER HOLMAN ALTERNATE REPRESENTATIVE TO THE ASSOCIATION OF CENTRAL OKLAHOMA GOVERNMENTS BOARD OF DIRECTORS.

File Attachments for Item:

7. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE MAYOR'S APPOINTMENT OF COUNCILMEMBER FOREMAN TO SERVE ON THE BOARD OF TRUSTEES FOR THE CITY OF NORMAN RETIREMENT SYSTEM.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Brenda Hall, City Clerk

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE MAYOR'S APPOINTMENT OF COUNCILMEMBER FOREMAN TO SERVE ON THE BOARD OF TRUSTEES FOR THE CITY OF NORMAN RETIREMENT SYSTEM.

File Attachments for Item:

8. CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE MAYOR'S APPOINTMENTS AS FOLLOWS:

BICYCLE ADVISORY COMMITTEE

TERM: 07-11-23 TO 02-13-26: PAUL WARREN, WARD 7

LIBRARY BOARD

TERM: 07-11-23 TO 05-01-26: LAURA DOUGHTY, WARD 8



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Mayor Heikkila

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: CONSIDERATION OF ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF THE MAYOR'S APPOINTMENTS AS FOLLOWS:

BICYCLE ADVISORY COMMITTEE

TERM: 07-11-23 TO 02-13-26: PAUL WARREN, WARD 7

LIBRARY BOARD

TERM: 07-11-23 TO 05-01-26: LAURA DOUGHTY, WARD 8

Paul Warren will fill the unexpired vacancy left by Sarah Shanks who has resigned and Laura Doughty will replace Tim Mauldin who has served more than three terms.

File Attachments for Item:

9. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-39 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF THE CODE OF THE CITY OF NORMAN SO AS TO REMOVE THE WEST HALF OF LOT FIFTEEN (15) AND THE WEST SEVEN AND ONE-HALF FEET (7-1/2') OF THE EAST HALF OF LOT FIFTEEN (15), IN BLOCK ONE (1), LESS AND EXCEPT THE WEST FIFTEEN FEET (15') OF LOT FIFTEEN (15), OF LINCOLN ADDITION, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, FROM THE R-3, MULTI-FAMILY DWELLING DISTRICT AND PLACE THE SAME IN THE R-1, SINGLE FAMILY DWELLING DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (485 COLLEGE AVE)



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Stephen Teel

PRESENTER: Jane Hudson, Director of Planning & Community Development

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-39 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF THE CODE OF THE CITY OF NORMAN SO AS TO REMOVE THE WEST HALF OF LOT FIFTEEN (15) AND THE WEST SEVEN AND ONE-HALF FEET (7-1/2') OF THE EAST HALF OF LOT FIFTEEN (15), IN BLOCK ONE (1), LESS AND EXCEPT THE WEST FIFTEEN FEET (15') OF LOT FIFTEEN (15), OF LINCOLN ADDITION, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, FROM THE R-3, MULTI-FAMILY DWELLING DISTRICT AND PLACE THE SAME IN THE R-1, SINGLE FAMILY DWELLING DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF. (485 COLLEGE AVE)

SYNOPSIS: The applicant, Stephen Teel, submitted an application to rezone the subject lot at 485 College from R-3, Multi-Family Dwelling District, to R-1, Single Family Dwelling District. The applicant owns this lot and the abutting lot located at 490 Elm Avenue; they share rear property lines. The applicant proposes a Lot Line Adjustment between the two lots. However, to proceed with a Lot Line Adjustment request between the two properties, the properties must carry the same zoning district designation. The subject lot is approximately 8,937 square feet; the applicant plans to take approximately 1,300 square feet from the subject lot and include it in the lot area for 490 Elm Avenue. Even with the removal of 1,300 square feet from the subject lot, it will still meet the minimum requirement of 6,000 square feet per lot for the R-1 District. The applicant chose to downzone this subject lot from R-3 to R-1 so that both properties will have R-1, Single Family Dwelling District. In addition, R-1 is the primary zoning designation for the adjacent properties in the neighborhood.

ANALYSIS:

This parcel is located in the Core Area of Norman, north of The Hillel Student Center. The Library (restaurant) and a duplex/office use are directly across College Avenue from the subject lot. Core Norman is densely populated, with a mix of architectural styles within several zoning designations. In this area of Norman, the R-3, Multi-Family Dwelling District, can contain a variety of housing types including single-family homes, duplexes, townhomes, apartment houses and apartment complexes. The existing structures on this lot were built circa 1935, prior to the adoption of the original Zoning Ordinance. The subject lot was zoned R-3, Multi-Family Dwelling

District, with the adoption of Ordinance No. O-884 on July 13, 1954. On June 14, 2016, the remainder of this block of College Avenue, north of this property, was downzoned from R-3 to R-1, at the request of the majority of the property owners; for unknown reasons this lot was not included in that downzoning request. As noted earlier in this report, this parcel was included in the expansion of the Chautauqua Historic District as a result of a request made by a majority of the property owners.

The applicant recently began renovation of the subject property to accommodate anticipated uses for the structures and the property. The applicant understands that interior renovations to the structures are allowed but preservation of the exterior of the existing structures is required. The applicant also understands that any exterior alterations to the structures or modifications to the property must adhere to the *Historic Preservation Guidelines*, which may require review and approval through the Historic District Commission.

ALTERNATIVES/ISSUES:

IMPACTS

This request to downzone is an uncommon one. In most cases, a rezoning application request is to allow for an increase in residential density or to change the zoning to allow commercial or industrial uses. However, in this case, the applicant made this request to downzone from R-3 to R-1 to allow the adjustment of the rear lot line between the two lots to accommodate plans for the overall development of both lots.

To develop a lot in R-1, the required lot area must be a minimum of 6,000 square feet. With the removal of 1,300 square feet from this lot, it still meets the lot size requirement for R-1. The required setbacks for the main dwelling unit are as follows: 25' front, 5' side and 20' rear, which the existing house will still meet with the Lot Line Adjustment. Additionally, R-1 has a maximum 40% coverage for structures and an overall maximum 65% impervious surface coverage. The existing structures comprise 2,134 square feet or cover 24% of the lot, while the 1,100 square feet of paving/concrete is 12% of the lot resulting in an overall coverage of 36%, well below the maximum allowed. This property and associated structures meet the R-1 zoning regulations.

The applicant is in the process of converting what was the accessory dwelling unit into a workshop. The applicant gutted the interior of the accessory dwelling unit and removed the electric meter. This leaves one single-family dwelling unit located at the front of the property, which meets the standards of the R-1, Single Family Dwelling District.

There are no anticipated negative impacts to the surrounding neighborhood as the applicant will have similar uses as seen in the adjacent residential neighborhood.

OTHER AGENCY COMMENTS:

PARK BOARD: This application does not go to the Parks Board as it is an existing building on platted property.

PUBLIC WORKS: The subject property is platted as part of the Lincoln Addition. City water and sewer are already connected to the site.

PREDEVELOPMENT: This application does not require a Predevelopment meeting.

CONCLUSION: Staff forwards this request for R-1, Single Family Dwelling District, with Ordinance No. O-2223-39 to the City Council.

At their June 8, 2023 meeting, the Planning Commission unanimously recommended approval of Ordinance No. O-2223-39, by a vote of 5-0.

O-2223-39

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF THE CODE OF THE CITY OF NORMAN SO AS TO REMOVE THE WEST HALF OF LOT FIFTEEN (15) AND THE WEST SEVEN AND ONE-HALF FEET (7-1/2') OF THE EAST HALF OF LOT FIFTEEN (15), IN BLOCK ONE (1), LESS AND EXCEPT THE WEST FIFTEEN FEET (15') OF LOT FIFTEEN (15), OF LINCOLN ADDITION, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, FROM THE R-3, MULTI-FAMILY DWELLING DISTRICT AND PLACE THE SAME IN THE R-1, SINGLE FAMILY DWELLING DISTRICT, OF SAID CITY; AND PROVIDING FOR THE SEVERABILITY THEREOF.
(485 College Avenue)

- § 1. WHEREAS, Stephen Teel has made application to have the property described below removed from the R-3, Multi-Family Dwelling District, and to have the same placed in the R-1, Single Family Dwelling District; and
- § 2. WHEREAS, said application has been referred to the Planning Commission of said City and said body has, after conducting a public hearing as required by law, considered the same and recommended that the same should be granted and an ordinance adopted to effect and accomplish such rezoning; and
- § 3. WHEREAS, the City Council of the City of Norman, Oklahoma, has thereafter considered said application and has determined that said application should be granted and an ordinance adopted to effect and accomplish such rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 4. That Section 36-201 of the Code of the City of Norman, Oklahoma, is hereby amended so as to remove the following described property from the R-3, Multi-Family Dwelling District, and to place the same in the R-1, Single Family Dwelling District, to wit:

The West Half of Lot Fifteen (15) and the West Seven and One-Half Feet (7-1/2') of the East Half of Lot Fifteen (15), in Block One (1), LESS AND EXCEPT the West Fifteen feet (15') of Lot Fifteen (15), of LINCOLN ADDITION to Norman, Cleveland County, Oklahoma, according to the recorded plat thereof.

Containing 8,937.5 sq. ft., more or less.

Ordinance No. O-2223-39

Page 2

§ 5. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

ADOPTED this _____ day of

NOT ADOPTED this _____ day of

_____, 2023.

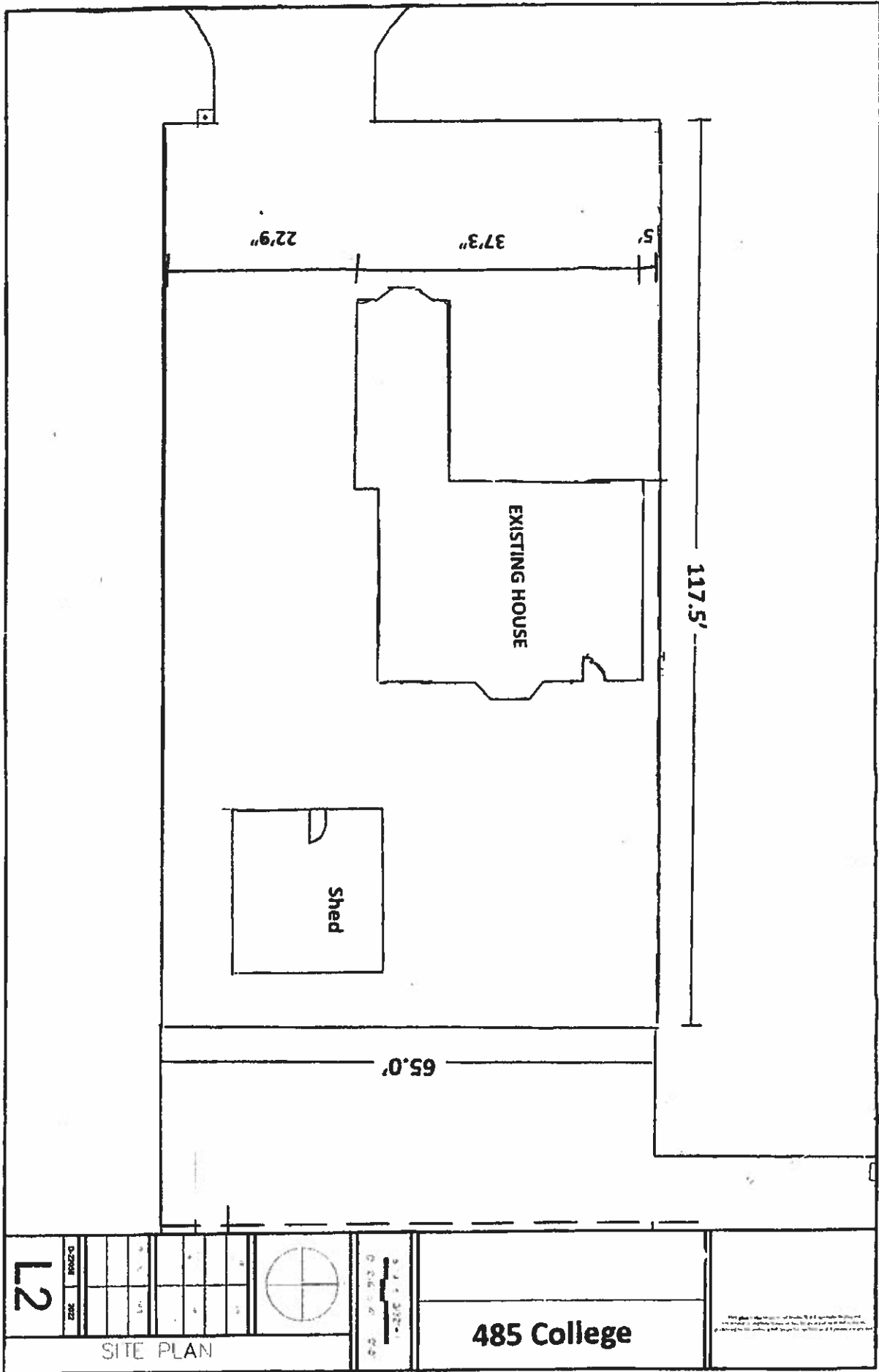
_____, 2023.

(Mayor)

(Mayor)

ATTEST:

(City Clerk)



ORDINANCE NO. O-2223-39

ITEM NO. 8

STAFF REPORT**GENERAL INFORMATION**

APPLICANT	Stephen Teel
REQUESTED ACTION	Rezoning to R-1, Single Family Dwelling District (retaining Historic District Overlay)
EXISTING ZONING	R-3, Multi-Family Dwelling District with Historic District Overlay
SURROUNDING ZONING	North: R-1, Single Family Dwelling District East: R-1, Single Family Dwelling District South: R-3, Multi-Family Dwelling District with Special Use for Church, Temple or Other Place of Worship West: R-3, Multi-Family Dwelling District with Special Use for 2-Person Office
LOCATION	485 College Avenue, in the Chautauqua Historic District
SIZE	8,937.5 sq. ft. more or less
PURPOSE	Single Family Dwelling
EXISTING LAND USE	Single-family house and an accessory building
SURROUNDING LAND USE	North: Single Family Dwelling East: Single Family Dwelling South: Religious Student Center West: Duplex, Office and Restaurant/Bar
LAND USE PLAN DESIGNATION	Low Density Residential

SYNOPSIS: The applicant, Stephen Teel, submitted an application to rezone the subject lot at 485 College from R-3, Multi-Family Dwelling District, to R-1, Single Family Dwelling District. The applicant owns this lot and the abutting lot located at 490 Elm Avenue; they share rear property lines. The applicant proposes a Lot Line Adjustment between the two lots. However, to proceed with a Lot Line Adjustment request between the two properties, the properties

must carry the same zoning district designation. The subject lot is approximately 8,937 square feet; the applicant plans to take approximately 1,300 square feet from the subject lot and include it in the lot area for 490 Elm Avenue. Even with the removal of 1,300 square feet from the subject lot, it will still meet the minimum requirement of 6,000 square feet per lot for the R-1 District. The applicant chose to downzone this subject lot from R-3 to R-1 so that both properties will have R-1, Single Family Dwelling District. In addition, R-1 is the primary zoning designation for the adjacent properties in the neighborhood.

ANALYSIS:

This parcel is located in the Core Area of Norman, north of The Hillel Student Center. The Library (restaurant) and a duplex/office use are directly across College Avenue from the subject lot. Core Norman is densely populated, with a mix of architectural styles within several zoning designations. In this area of Norman, the R-3, Multi-Family Dwelling District, can contain a variety of housing types including single-family homes, duplexes, townhomes, apartment houses and apartment complexes. The existing structures on this lot were built circa 1935, prior to the adoption of the original Zoning Ordinance. The subject lot was zoned R-3, Multi-Family Dwelling District, with the adoption of Ordinance No. O-884 on July 13, 1954. On June 14, 2016, the remainder of this block of College Avenue, north of this property, was downzoned from R-3 to R-1, at the request of the majority of the property owners; for unknown reasons this lot was not included in that downzoning request. As noted earlier in this report, this parcel was included in the expansion of the Chautauqua Historic District as a result of a request made by a majority of the property owners.

The applicant recently began renovation of the subject property to accommodate anticipated uses for the structures and the property. The applicant understands that interior renovations to the structures are allowed but preservation of the exterior of the existing structures is required. The applicant also understands that any exterior alterations to the structures or modifications to the property must adhere to the *Historic Preservation Guidelines*, which may require review and approval through the Historic District Commission.

ALTERNATIVES/ISSUES:

IMPACTS

This request to downzone is an uncommon one. In most cases, a rezoning application request is to allow for an increase in residential density or to change the zoning to allow commercial or industrial uses. However, in this case, the applicant made this request to downzone from R-3 to R-1 to allow the adjustment of the rear lot line between the two lots to accommodate plans for the overall development of both lots.

To develop a lot in R-1, the required lot area must be a minimum of 6,000 square feet. With the removal of 1,300 square feet from this lot, it still meets the lot size requirement for R-1. The required setbacks for the main dwelling unit are as follows: 25' front, 5' side and 20' rear, which the existing house will still meet with the Lot Line Adjustment. Additionally, R-1 has a maximum 40% coverage for structures and an overall maximum 65% impervious surface coverage. The existing structures comprise 2,134 square feet or cover 24% of the lot, while the 1,100 square feet of paving/concrete is 12% of the lot resulting in an overall coverage of 36%, well below the maximum allowed. This property and associated structures meet the R-1 zoning regulations.

The applicant is in the process of converting what was the accessory dwelling unit into a workshop. The applicant gutted the interior of the accessory dwelling unit and removed the

electric meter. This leaves one single-family dwelling unit located at the front of the property which meets the standards of the R-1, Single Family Dwelling District.

There are no anticipated negative impacts to the surrounding neighborhood as the applicant will have similar uses as seen in the adjacent residential neighborhood.

OTHER AGENCY COMMENTS:

PARK BOARD: This application does not go to the Parks Board as it is an existing building on platted property.

PUBLIC WORKS: The subject property is platted as part of the Lincoln Addition. City water and sewer are already connected to the site.

PREDEVELOPMENT: This application does not require a Predevelopment meeting.

CONCLUSION: Staff forwards this request for R-1, Single Family Dwelling District, with Ordinance No. O-2223-39 to the Planning Commission for a recommendation to City Council.



CITY OF NORMAN, OK PLANNING COMMISSION MEETING

Municipal Building, Council Chambers, 201 West Gray, Norman, OK 73069
Thursday, June 08, 2023 at 6:30 PM

MINUTES

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 8th day of June, 2023.

Notice and agenda of the meeting were posted at the Norman Municipal Building and online at <https://norman-ok.municodemeetings.com> at least twenty-four hours prior to the beginning of the meeting.

* * *

Secretary Michael Jablonski called the meeting to order at 6:35 p.m.

ROLL CALL

PRESENT

Cameron Brewer
Liz McKown
Michael Jablonski
Steven McDaniel
Jim Griffith

ABSENT

Douglas McClure
Erica Bird
Kevan Parker
Maria Kindel

A quorum was present.

STAFF PRESENT

Jane Hudson, Planning Director
Lora Hoggatt, Planning Services Manager
Anais Starr, Planner II
Zach Abell, Planner I
Roné Tromble, Admin. Tech. IV
Beth Muckala, Assistant City Attorney
David Riesland, Transportation Engineer
Todd McLellan, Development Engineer
Jack Burdett, Subdivision Development Coordinator
Bryce Holland, Multimedia Specialist

*

Rezoning to R-1

8. Consideration of Approval, Acceptance, Rejection, Amendment, and/or Postponement of Ordinance No. O-2223-39: Stephen Teel requests rezoning from R-3, Multi-Family Dwelling District, to R-1, Single Family Dwelling District, for property located at 485 College Avenue.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. Site Plan

PRESENTATION BY STAFF: Ms. Starr reviewed the staff report, a copy of which is filed with the minutes.

Mr. Brewer asked if the existing house is a contributing structure within the historic district. Ms. Starr said it is.

PRESENTATION BY THE APPLICANT: The applicant, Stephen Teel, was available to answer questions, but did not make a presentation.

PUBLIC PARTICIPATION: None

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

Mr. Brewer commented his concerns would be with what modifications may occur to the house, but there are pretty tight restrictions and guidelines what you can do in the Historic Districts.

Motion made by Griffith, Seconded by McDaniel, to recommend approval of Ordinance No. O-2223-39 to City Council.

Voting Yea: Brewer, McDaniel, McKown, Jablonski, Griffith

The motion to recommend approval of Ordinance No. O-2223-39 to City Council passed by a vote of 5-0.

*

File Attachments for Item:

10. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-46 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF THE CODE OF THE CITY OF NORMAN SO AS TO GRANT SPECIAL USE FOR A PUBLIC UTILITY IN THE A-2, RURAL AGRICULTURAL DISTRICT FOR PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION NINE (9), TOWNSHIP NINE (9) NORTH, RANGE THREE (3) WEST OF THE INDIAN MERIDIAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (SOUTHWEST CORNER OF 48TH AVENUE N.W. AND WEST FRANKLIN ROAD)



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: David Box

PRESENTER: Jane Hudson, Director of Planning & Community Development

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-46 UPON FIRST READING BY TITLE: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF THE CODE OF THE CITY OF NORMAN SO AS TO GRANT SPECIAL USE FOR A PUBLIC UTILITY IN THE A-2, RURAL AGRICULTURAL DISTRICT FOR PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION NINE (9), TOWNSHIP NINE (9) NORTH, RANGE THREE (3) WEST OF THE INDIAN MERIDIAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (SOUTHWEST CORNER OF 48TH AVENUE N.W. AND WEST FRANKLIN ROAD)

SYNOPSIS: Williams, Box, Forshee & Bullard, P.C., on behalf of the Applicant/Land Owner Oklahoma Gas and Electric, is requesting Special Use for a Public Utility to allow for the development of an electric substation. The base zoning of A-2, Rural Agricultural District, will remain. The property will contain approximately 40 acres.

HISTORY: In April of 2017, Planning staff was directed to update/amend the existing Zoning Ordinance to establish a policy for all municipal projects and public utilities to properly zone the proposed development with a Special Use request. In order for the City to have the greatest flexibility to locate municipal projects and other public facilities in appropriate locations throughout the City, staff prepared a Zoning Code amendment that allows "municipal uses, public buildings and public utilities" in all zoning districts as a Special Use.

The Special Use designation provides Planning Commission and City Council the opportunity to ensure that municipal uses, public buildings and public utilities are in the proper location and enables the approval of special conditions that provide protection for surrounding property owners. At the same time, this review process allows approval of variances to specific regulations that best promote the health, safety and general welfare for the community and still meet the needs of the community to provide adequate services to the citizens. This policy to have all public utilities projects presented to Planning Commission and City Council gives staff the opportunity to present the project for approval as well as public notice of such future development.

ZONING ORDINANCE CITATION: A Special Use request shall be reviewed and evaluated on the following criteria according to Sec. 36-560, Special Uses:

1. Conformance with applicable regulations and standards established by the Zoning Regulations.

2. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development, and access and circulation features.
3. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use. (NOTE: Throughout this Section, "Permitted Use" means any use authorized as a matter of right under the applicable zoning district.)
4. Modifications to the site plan which would result in increased compatibility, or would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals, and general welfare.
5. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed "Special Use" and other uses authorized and anticipated in the area, considering existing zoning and land uses in the area.
6. That any conditions applicable to approval are the minimum necessary to minimize potentially unfavorable impacts on nearby uses and to ensure compatibility of the proposed "Special Use" with existing or permitted uses in the surrounding area.

EXISTING ZONING: The existing zoning for the subject property is A-2, Rural Agricultural District. This would remain the base zoning for the property. Typical allowed uses in this district include single-family homes, agricultural uses such as the farming of crops or raising of farm animals, medical marijuana grower, and accessory uses, such as barns/sheds.

ANALYSIS:

SITE PLAN: The proposed site plan for the property shows two access points off W. Franklin Rd. These access points lead to a drive that extends around the perimeter of the substation development. A detention area is proposed for the southwest corner of the 40-acre tract.

The property currently has approximately 60-acres. The applicant submitted a Norman Rural Certificate of Survey for the July 13 Planning Commission meeting. These two applications will go to Council as companion items.

The applicant submitted the attached "fence panel" proposal in response to the Planning Commission recommendation to adequately screen the facility.

IMPACTS: It is anticipated the City's streets have available capacity to accommodate what little traffic demand this site will generate.

OTHER AGENCY COMMENTS:

PARK BOARD: N/A for this item.

GREENBELT COMMISSION: The rezoning application does not require a Greenbelt Commission meeting. The forthcoming Norman Certificate of Survey will go to the June Greenbelt Commission meeting.

ENGINEERING: The applicant submitted an application for a Norman Rural Certificate of Survey for the property; this will create a 40-acre tract, which will contain this development, and leave the remaining 20-acres as a separate tract. The drive approaches will be constructed to City standards.

TRAFFIC: The intersection of 48th Ave. N.W. and Franklin Road is a future signalized intersection as more development occurs in the area. Depending on the distance from the easternmost driveway to the intersection of Franklin/48th, the applicant may need to request a variance for spacing from the intersection. Depending on the distance between the two driveways, the applicant may also need a variance to the driveway spacing requirements in the Engineering Design Criteria. If needed, this process will be done with the Norman Rural Certificate of Survey application.

PREDEVELOPMENT: PD23-21, May 25, 2023

After discussion with the applicant, the neighbors understood the project and the scope but still had concerns about traffic increasing, access, impact on property values, and aesthetics. They asked multiple times to consider relocating the substation or the possibility of placing a fence that would help mitigate the visual impact of the development. The applicant explained how the location was thoroughly determined by soil quality studies, so it cannot be relocated. However, they will consider an alternative fence that improves the aesthetics.

CONCLUSION: Staff forwards this request for Special Use for a Public Utility with Ordinance No. O-2223-46 to the City Council.

At their meeting of June 8, 2023, the Planning Commission unanimously recommended adoption of Ordinance No. O-2223-46, with the recommendation for panels on the fence, by a vote of 5-0.

O-2223-46

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF THE CODE OF THE CITY OF NORMAN SO AS TO GRANT SPECIAL USE FOR A PUBLIC UTILITY IN THE A-2, RURAL AGRICULTURAL DISTRICT FOR PART OF THE NORTHEAST QUARTER (NE/4) OF SECTION NINE (9), TOWNSHIP NINE (9) NORTH, RANGE THREE (3) WEST OF THE INDIAN MERIDIAN, CLEVELAND COUNTY, OKLAHOMA; AND PROVIDING FOR THE SEVERABILITY THEREOF. (Southwest corner of 48th Avenue N.W. and West Franklin Road)

- § 1. WHEREAS, Williams, Box, Forshee & Bullard, P.C., on behalf of the Applicant, has made application to have Special Use for a Public Utility on the property described below in the A-2, Rural Agricultural District; and
- § 2. WHEREAS, said application has been referred to the Planning Commission of said City and said body has, after conducting a public hearing as required by law, considered the same and recommended that the same should be granted and an ordinance adopted to effect and accomplish such rezoning; and
- § 3. WHEREAS, the City Council of the City of Norman, Oklahoma, has thereafter considered said application and has determined that said application should be granted and an ordinance adopted to effect and accomplish such rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 4. That Section 36-201 of the Code of the City of Norman, Oklahoma, is hereby amended so as to grant Special Use for a Public Utility in the A-2, Rural Agricultural District, for the following described property, to wit:

A Part of the Northeast Quarter (NE/4) of Section Nine (9), Township Nine (9) North, Range Three (3) West of the Indian Meridian, Cleveland County, Oklahoma, more particularly described as follows:

COMMENCING at a PK Nail w/ "CA 2390" Shiner for the Northeast Corner of the Northeast Quarter of Section 9-T9N-R3W; THENCE S 00°31'25" E (Along Section Line) a distance of 33.00 feet; THENCE S 89°39'33" W, a distance of 33.00 feet to a 1/2" Iron Pin w/ "LS 1522 Carroll" Cap for the POINT OF BEGINNING; THENCE S 00°31'25" E, a distance of 959.89 feet to a 1/2" Iron

Ordinance No. O-2223-46

Page 2

Pin w/ "LS 1522 Carroll" Cap; THENCE S 89°39'33" W, a distance of 1721.87 feet to a 1/2" Iron Pin w/ "LS 1522 Carroll" Cap; THENCE N 00°31'25" W, a distance of 959.89 feet to a 1/2" Iron Pin w/ "LS 1522 Carroll" Cap; THENCE N 89°39'33" E, a distance of 1721.87 feet to a 1/2" Iron Pin w/ "LS 1522 Carroll" Cap to the POINT OF BEGINNING.

Also Described as The East Forty (40) Acres of The North Sixty (60) Acres of the NE/4 Of Section Nine (9), Township Nine (9) North, Range Three (3) West. Said Tract Contains 40 acres or 1,742,400 square feet, more or less.

§ 5. Further, pursuant to the provisions of Section 36-560 of the Code of the City of Norman, as amended, the following conditions are hereby attached to the zoning of the tract:

- a. The site shall be developed in accordance with the Site Plan, and supporting documentation submitted by the applicant and approved by the Planning Commission on June 8, 2023.
- b. The site should also be enclosed by an opaque panel fence.

§ 6. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

ADOPTED this _____ day of

NOT ADOPTED this _____ day of

_____, 2023.

_____, 2023.

(Mayor)_____
(Mayor)

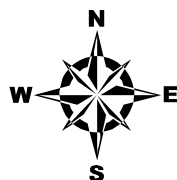
ATTEST:

(City Clerk)

Location Map



Map Produced by the City of Norman
Geographic Information System.
The City of Norman assumes no
responsibility for errors or omissions
in the information presented.



May 3, 2023

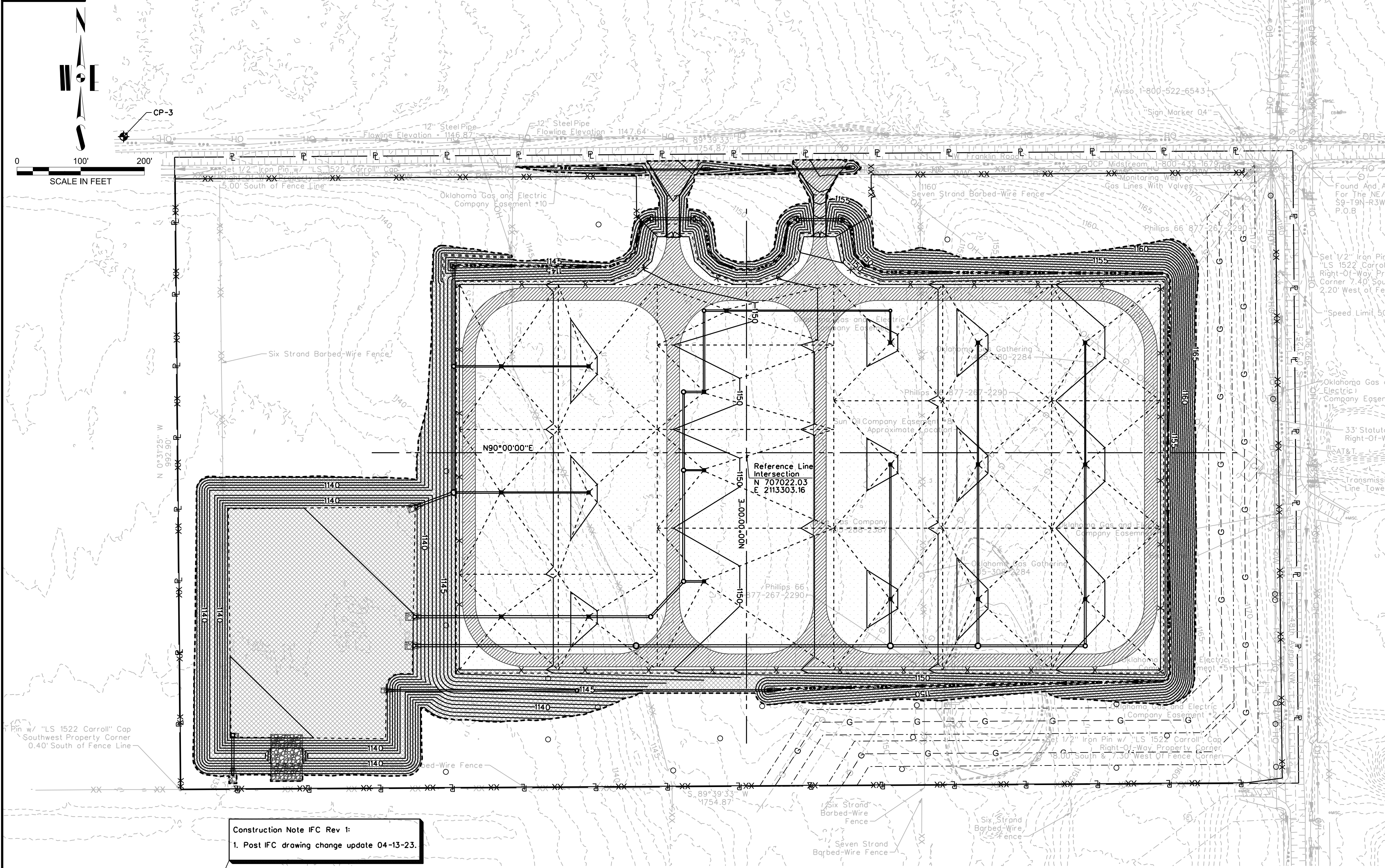
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Subject Tract

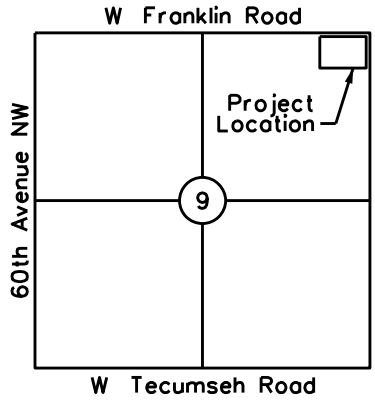


Zoning



Construction Notes:

- See General Note 5 for contour lines definition. FINISHED GRADE DOES NOT INCLUDE 4 INCH LAYER OF OF NO. 57 CRUSHED ROCK.
- Difficulties obtaining a satisfactory proof-roll may occur. In lieu of overexcavation and replacement of the unstable soils, the unstable subgrade may be stabilized using ODOT Type A Crushed Rock underlain by a layer of Tensar TX7 geogrid (or equivalent). It is estimated that 9 to 12 inches of Type A crushed rock to be required in this scenario, but actual thickness shall be determined at the time of construction.



Site Location
NE 1/4, Sec 9
T-9N, R-3W, I.M.
Cleveland County, Oklahoma

Control Point Table				
Point	Description	Northing	Easting	Elevation
1*	1/2" Iron Pin w/ "Control" Cap	707414.7170	2114683.5207	1193.789
2*	1/2" Iron Pin w/ "Control" Cap	704814.4110	211466.7249	1153.529
3	1/2" Iron Pin w/ "Control" Cap	707518.1380	2112325.8661	1140.679

* Outside limits of drawing.

Reference Drawings:

- D-327581 Demolition Plan
- D-327582 Fence and Drive Plan
- D-327583 Grading Plan - Sheet One
- D-327584 Grading Plan - Sheet Two
- D-327585 Grading Section Views - Sheet One
- D-327586 Grading Section Views - Sheet Two
- D-327587 Detention Basin Plan
- D-327588 Driveway Plans and Profiles
- D-327589 Grading & Drainage Details - Sheet One
- D-327590 Grading & Drainage Details - Sheet Two
- D-327591 Erosion and Sediment Control Plan
- D-327592 Erosion and Sediment Control Details
- D-327593 Culvert End Section Details

Abbreviations

BCY	Bank Cubic Yard
BVCE	Beginning Vertical Curve Elevation
BVCS	Beginning Vertical Curve Station
CL	Center Line
CHDPE	Corrugated High-density Polyethylene
CCY	Compacted Cubic Yard
Const.	Construction
CY	Cubic Yard
Dia.	Diameter
E	East/Easting
Exist.	Existing
EG	Existing Grade
EL	Elevation
EVCE	End Vertical Curve Elevation
EVCS	End Vertical Curve Station
FG	Finished Grade
Galv.	Galvanized
ID	Inside Diameter
Invt	Invert Elevation
KV	Curve Coefficient
L	Left
LF	Linear Feet
Max.	Maximum
Min.	Minimum
N	North/Northing
OD	Outside Diameter
ODOT	Oklahoma Department of Transportation
PGL	Profile Grade Line
PVC	Polyvinyl chloride
PVI	Point of Vertical Intersection
Prop.	Proposed
R	Radius/Right
RCP	Reinforced Concrete Pipe
S	South
SF	Square Foot
STA	Station
SY	Stormwater Pollution Prevention Plan
SWPPP	Stormwater Pollution Prevention Plan
TG	Top of Gate Elevation
Typ.	Typical
Var.	Varies
W	West

General Notes:

- Contractor shall be responsible for all layout and all elevation control for the project.
- All dimensions are indicated in feet (') unless noted otherwise.
- Existing features and boundaries shown on these drawings are based on survey drawings provided by:
Bearing Tree Land Surveying LLC
100 Broadway Exit
Oklahoma City, Oklahoma 73116
405-605-1081
- Coordinates shown on these drawings are NAD83 Oklahoma State Plane, South Zone (Grid) for horizontal control and NAVD83 for vertical control.
- Proposed contours and elevations (EL) shown on the Site Work drawings represent the finished grade (FG) defined as the top of all proposed materials EXCLUDING No. 57 Crushed Rock and Sod.
- Underground facilities, structures, and utilities have been plotted from available surveys and records; therefore, their locations must be considered approximate only. It is possible there may be others, the existence of which are presently not known or shown. It is the Contractor's responsibility to determine their existence and exact location and to avoid damage thereto. All existing utilities without elevation data shall be assumed to have an unknown elevation.
- Contractor shall notify utility locator a minimum of 72 hours prior to any excavation activities.
- Contractor shall notify the public works utilities department a minimum of 15 working days in advance of any necessary utility outages.
- It shall be the responsibility of the Contractor to coordinate all necessary utility relocations with the appropriate utility company.
- Unless noted otherwise, all existing facilities are to remain undisturbed and used in place. The Contractor shall take precautions necessary to prevent damage. The Contractor shall repair and/or replace, at his/her expense, all existing facilities damaged during construction activities. Existing facilities noted for removal shall be removed and disposed of off-site at the Contractor's expense. All excess material resulting from earthwork operations shall be disposed of at the Contractor's expense. Method of disposal of material and location shall be approved by the Owner.
- Construction shall comply with all applicable codes per the governing municipality.
- Contractor shall be responsible for all local permits for all construction activity including those required by the Oklahoma Department of Environmental Quality for all construction activity.
- Contractor shall comply with all terms and conditions set forth in the National Pollutant Discharge Elimination System (NPDES) permit established for the site at all times.
- Contractor shall be responsible for maintaining all best management practices (BMPs) of the SWPPP for the construction activities associated with this project.
- Contractor shall confine all construction activities to within the earthwork limits or as directed by OGC&E.
- Contractor shall protect all exposed cut and fill slopes. Contractor shall install erosion control BMPs as soon as possible to protect exposed embankment from erosion during all stages of construction.

Earthwork Notes:

- The proposed design is based on geotechnical recommendations based on the condition of the site during the time of geotechnical investigation. Contractor shall take into account the condition of the site prior to starting construction activities. Contractor shall notify owner and engineer if conditions deviate from what was described in the geotechnical report.
- Geotechnical Report provided by Terracon. See "Subsurface Information for the OGC&E Norman Hills Substation" Norman, Oklahoma, Project No. 13987, January 2022 for soil boring logs.
- Erosion control measures shall be in place prior to commencing earthwork activities and shall be maintained for the duration of construction activities in accordance with the SWPPP.
- Contractor shall clear, grub, and strip area defined by earthwork limits to remove all vegetation, root zone soils, trees, and other unsuitable materials. Removal depths shall be determined at the time of construction by a representative of the Geotechnical Engineer.
- After stripping the surface materials and completing required cuts for grading, but prior to placing new fill, the subgrade shall be proof-rolled to locate soft areas. A geotechnical engineer or a qualified senior technician shall observe each site to confirm that the site has been effectively stripped of unsuitable materials. They shall also monitor proof-rolling procedure to evaluate and approve the stability of the exposed subgrade materials. Proof-rolling can be performed with a rubber-tired construction vehicle weighing at least 25 tons, such as a loaded scraper or tandem-axle dump truck. If proof-rolling is not practical, the subgrade shall be evaluated by a geotechnical engineer using other methods.
- Unstable soils identified by proof-rolling or evaluation shall be scarified, moisture conditioned and compacted, or removed and replaced full-depth with new cohesive low volume change fill. The appropriate method of improvement, if required, would depend on factors such as schedule, weather, the size of the area to be improved, and the nature of the instability. Performing site grading operations during warm, dry periods would help to reduce the amount of subgrade treatment required. After proof-rolling and improving any unstable soils, and just prior to placing fill, the top 8 inches of the subgrade should be scarified, moisture conditioned and compacted per the requirements in this drawing.
- Fill shall consist of material specified in the approved fill table on this drawing.
- Provide uniform slope between indicated elevations so that areas slope to drain and no storm water is ponded on site both during and after construction.
- All cut and fill slopes shall be 4:1 (horizontal:vertical) unless noted otherwise on the plans.
- All flows that are disturbed by construction activities shall be repaired to match flowlines prior to disturbance.
- On the western portion of the substation site, it is estimated the native soils will experience 2 to 3 inches of time-dependent consolidation settlement in areas where 5 feet of new fill will be placed and 4 to 5 inches of time-dependent consolidation settlement in areas where 10 feet of new fill will be placed. It is estimated 90% of primary consolidation settlement will occur within 2 to 3 years. On-going grading maintenance will be required during this time to maintain the proposed grading design elevations.

Construction Note IFC Rev 1:
1. Post IFC drawing change update 04-13-23.

Estimated Earthwork Quantities (For Reference Only)				
Description	Quantity	Units	Description	Quantity
Clearing & Grubbing	117,138	SY	Fence Removal	5,556
Stripping (9" Assumed Depth)	29,284	BCY	Substation Fence w/ Line Curb (OG&E Standard A689)	3,519
Over-Excavation (12" Assumed Depth)	39,043	BCY	Substation Gate w/ Gate Curb (30" Wide Double Swing)	2
Geogrid (Tensar TX7 or equal)	117,138	SY	Boundary Fence (OG&E Standard A688, Detail C)	5,142
Crushed Rock (ASTM #57) (ODOT Type A)	29,284	CCY	12' Property Gate	1
Cut	42,476	BCY	6"x12" OG&E Standard Driveway Curb	408
Fill	94,346	CCY		
			Rock Check Dam	60
			Temporary Silt Fence	2,378
			Temporary Inlet Protection (Dandy Bag)	20
			Temporary Concrete Washout	1
Crushed Rock (8" Depth) (ODOT Type A)	2,783	CCY	Temporary Construction Entrance	1
Crushed Rock (4" Depth) (Washed Limestone, ASTM C33 #57)	8,375	CCY		
Rock Rubble Riprap (12" Depth) (D ₉₀ < 5")	274	CY		
Topsoil, Fertilizer, and Sod	40,127	SY	Existing Pond Area Stripping (9" Assumed Depth)	1,338
Geotextile Fabric (Contech C-80NW) (Riprap Lining)	7,390	SF	Existing Pond Area Fill	7,730
Geotextile Fabric (Mirafi RS380) (Driveway Lining)	8,114	SF	Topsoil, Fertilizer, and Sod (Existing pond area outside overlapped area)	2,109
Soil Sterilant	75,379	SY		
Precast Drain Inlet - 3'x3'	14	EACH		
Precast Drain Inlet - 3'x3' (Type 2)	1	EACH		
Precast Drain Inlet - 4'x4'	5	EACH		
Precast Manhole - 4' Dia.	1	EACH		
Precast Manhole - 5' Dia.	2	EACH		
Precast Manhole - 6' Dia.	6	EACH		
Precast Manhole - 8' Dia.	4	EACH		
Precast Outlet Control Structure	1	EACH		
Storm Drain Pipe - 18" Dia. Corrugated HDPE w/ ODOT Class B Bedding	974	LF		
Storm Drain Pipe - 24" Dia. Corrugated HDPE w/ ODOT Class B Bedding	1,684	LF		
Storm Drain Pipe - 30" Dia. Corrugated HDPE w/ ODOT Class B Bedding	1,043	LF		
Storm Drain Pipe - 36" Dia. Corrugated HDPE w/ ODOT Class B Bedding	1,308	LF		
Storm Drain Pipe - 18" Class IV RCP w/ ODOT Class B Bedding	105	LF		
Storm Drain Pipe - 18" Class V RCP w/ ODOT Class B Bedding	98	LF		
Storm Drain Pipe - 36" Class III RCP w/ ODOT Class B Bedding	61	LF		
Pipe End Section - 24" Dia. Galvanized Steel w/ Trash Guard	1	EACH		
Pipe End Section - 30" Dia. Galvanized Steel w/ Trash Guard	1	EACH		
Pipe End Section - 36" Dia. Galvanized Steel w/ Trash Guard	7	EACH		
4:1 Culvert End Treatment	1	EACH		
6:1 Culvert End Treatment - ODOT Dwg. R-27	4	EACH		

Approved Fill Property Requirements		
Fill Type ¹	USCS Classification	Acceptable Location for Placement
Imported or on-site low plasticity cohesive soils - LL40 and 5% P _{CL} & At least 15% passing a No. 200 Sieve	CL, CL-ML, SC	All locations and elevations
Imported or on-site medium plasticity cohesive soils - 40<LL<45 and 15<P _{CL} <30 & At least 50% passing a No. 200 Sieve	CL	All locations and elevations except beneath floor slabs and as replacement fill beneath foundations ²
Imported or on-site cohesionless soils - At least 60% passing a No. 200 Sieve	SM	All locations and elevations except beneath floor slabs and as replacement fill beneath foundations ¹
Type "A" aggregate base meeting the requirements of Section 703.01 of ODOT Standard Specifications for Highway Construction ²	-	Aggregate surfacing for driveways/drivepaths

- Fill shall consist of approved materials free of organic matter and debris. Frozen material shall not be used and shall not be placed on a frozen subgrade. A sample of each material type shall be submitted to the Geotechnical Engineer for evaluation prior to use on this site.
- Recycled aggregate is not permitted.
- Coordinate with Foundation Contractor for floor slab locations.

Fill Placement and Compaction Requirements	
Item	Description
Subgrade Scarification Depth	8 inches
Maximum Fill Lift Thickness	8 inches or less in loose thickness when heavy, self-propelled compaction equipment is used. 4 to 6 inches in loose thickness when hand-guided equipment (i.e., jumping jack or plate compactor) is used.
Compaction Requirements ¹	Cohesive soils: At least 95% for fill placed from finished grade to a depth of 5 feet below finished grade. At least 100% for fill placed at a depth greater than 5 feet below finished grade. Type "A" aggregate base: At least 98%
Water Content Range ¹	Cohesive and cohesionless soils: Within 2% of its optimum value Type "A" aggregate base: Workable moisture content

- Maximum dry density and optimum water content as determined by the standard Proctor test (ASTM D698).



Apr 13 2023 15:04

MICRO STATION
SUBSTATION ENGINEERING

OKLAHOMA GAS AND ELECTRIC COMPANY									
NORMAN HILLS SUBSTATION 8729-T NORMAN, OKLAHOMA					SITE WORK LOCATION AND SITE CONTROL PLAN				
ENGINEER	T. Layton (BMCD)	DATE		CHECKED	Y. Li (BMCD)	DATE	02-28-23	JOB NUMBER	847809, 848497, 848498, 848499
DESIGNER	N. Miller (BMCD)	DATE	02-28-23	APPROVED	T. Layton (BMCD)	DATE	02-28-23	SCALE	1" = 100'-0"
DRAWN BY	N. Miller (BMCD)	DATE	02-28-23	CONTACT	B. Montell	DATE	-	REFERENCE	A-327499

ORDINANCE NO. O-2223-46

ITEM NO. 11

STAFF REPORT**GENERAL INFORMATION**

APPLICANT	Williams, Box, Forshee & Bullard, P.C., on behalf of the Applicant/Land Owner
REQUESTED ACTION	Special Use for a Public Utility
EXISTING ZONING	A-2, Rural Agricultural District
SURROUNDING ZONING	North: A-2, Rural Agricultural District East: A-2, Rural Agricultural District and R-1, Single Family Dwelling District South: A-2, Rural Agricultural District and PUD, O-2021-47 West: A-2, Rural Agricultural District
LOCATION	Southwest corner of 48 th Avenue N.W. and Franklin Road
SIZE	40 acres
PURPOSE	Electric Substation
EXISTING LAND USE	Vacant
SURROUNDING LAND USE	North: Vacant East: Single-family residential and electric substation South: Single-family residential and agricultural West: Single-family residential and agricultural
LAND USE PLAN DESIGNATION	Very Low Density Residential and Floodplain
GROWTH AREA DESIGNATION	Suburban Residential and Country Residential

SYNOPSIS: Williams, Box, Forshee & Bullard, P.C., on behalf of the Applicant/Land Owner, is requesting Special Use for a Public Utility to allow for the development of an electric substation. The base zoning of A-2, Rural Agricultural District, will remain. The property will contain approximately 40 acres.

HISTORY: In April of 2017, Planning staff was directed to update/amend the existing Zoning Ordinance to establish a policy for all municipal projects and public utilities to properly zone the proposed development with a Special Use request. In order for the City to have the greatest flexibility to locate municipal projects and other public facilities in appropriate locations throughout the City, staff prepared a Zoning Code amendment that allows "municipal uses, public buildings and public utilities" in all zoning districts as a Special Use.

The Special Use designation provides Planning Commission and City Council the opportunity to ensure that municipal uses, public buildings and public utilities are in the proper location and enables the approval of special conditions that provide protection for surrounding property owners. At the same time, this review process allows approval of variances to specific regulations that best promote the health, safety and general welfare for the community and still meet the needs of the community to provide adequate services to the citizens. This policy to have all public utilities projects presented to Planning Commission and City Council gives staff the opportunity to present the project for approval as well as public notice of such future development.

ZONING ORDINANCE CITATION: A Special Use request shall be reviewed and evaluated on the following criteria according to Sec. 36-560, Special Uses:

1. Conformance with applicable regulations and standards established by the Zoning Regulations.
2. Compatibility with existing or permitted uses on abutting sites, in terms of building height, bulk and scale, setbacks and open spaces, landscaping and site development, and access and circulation features.
3. Potentially unfavorable effects or impacts on other existing or permitted uses on abutting sites, to the extent such impacts exceed those which reasonably may result from use of the site by a permitted use. (NOTE: Throughout this Section, "Permitted Use" means any use authorized as a matter of right under the applicable zoning district.)
4. Modifications to the site plan which would result in increased compatibility, or would mitigate potentially unfavorable impacts, or would be necessary to conform to applicable regulations and standards and to protect the public health, safety, morals, and general welfare.
5. Safety and convenience of vehicular and pedestrian circulation in the vicinity, including traffic reasonably expected to be generated by the proposed "Special Use" and other uses authorized and anticipated in the area, considering existing zoning and land uses in the area.
6. That any conditions applicable to approval are the minimum necessary to minimize potentially unfavorable impacts on nearby uses and to ensure compatibility of the proposed "Special Use" with existing or permitted uses in the surrounding area.

EXISTING ZONING: The existing zoning for the subject property is A-2, Rural Agriculture District. This would remain the base zoning for the property. Typical allowed uses in this district include single-family homes, agricultural uses such as the farming of crops or raising of farm animals, medical marijuana grower, and accessory uses, such as barns/sheds.

ANALYSIS:

SITE PLAN: The proposed site plan for the property shows two access points off W. Franklin Rd. These access points lead to a drive that extends around the perimeter of the substation development. A detention area is proposed for the southwest corner of the 40-acre tract.

The property currently has approximately 60-acres. The applicant submitted a Norman Rural Certificate of Survey for the July 13 Planning Commission meeting. These two applications will go to Council as companion items.

IMPACTS: It is anticipated the City's streets have available capacity to accommodate what little traffic demand this site will generate.

OTHER AGENCY COMMENTS:

PARK BOARD: N/A for this item.

GREENBELT COMMISSION: The rezoning application does not require a Greenbelt Commission meeting. The forthcoming Norman Certificate of Survey will go to the June Greenbelt Commission meeting.

ENGINEERING: The applicant submitted an application for a Norman Rural Certificate of Survey for the property; this will create a 40-acre tract, which will contain this development, and leave the remaining 20-acres as a separate tract. The drive approaches will be constructed to City standards.

TRAFFIC: The intersection of 48th Ave. N.W. and Franklin Road is a future signalized intersection as more development occurs in the area. Depending on the distance from the easternmost driveway to the intersection of Franklin/48th, the applicant may need to request a variance for spacing from the intersection. Depending on the distance between the two driveways, the applicant may also need a variance to the driveway spacing requirements in the Engineering Design Criteria. If needed, this process will be done with the Norman Rural Certificate of Survey application.

PREDEVELOPMENT: PD23-21, May 25, 2023

After discussion with the applicant, the neighbors understood the project and the scope but still had concerns about traffic increasing, access, impact on property values, and aesthetics. They asked multiple times to consider relocating the substation or the possibility of placing a fence that would help mitigate the visual impact of the development. The applicant explained how the location was thoroughly determined by soil quality studies, so it cannot be relocated. However, they will consider an alternative fence that improves the aesthetics.

CONCLUSION: Staff forwards this request for Special Use for a Public Utility with Ordinance No. O-2223-46 to the Planning Commission for a recommendation to City Council.

BOTTOM LOCK

Item 10.

PEXCO



The Bottom Lock Slat provides an economical and attractive way to enhance any chain link fence.

Pexco is the largest manufacturer of Bottom Locking Slats, which are marketed under the PDS® brand name. With over 40 years of experience extruding this product and an exclusive, proprietary, locking design, you can be assured of the highest standards in quality—from the raw materials used in manufacturing to the finished product in your fence.

This design utilizes a bottom locking system that provides an easy “snap-in” locking effect for security and deters vandalism.

Design

Bottom Lock Slats are flat and tubular in shape, with two “legs” inside the rigid, hollow body of the slat, for extra durability.

Standard Heights

4, 5, 6, 7, 8, 10 and 12 feet. Special heights available upon request.

Slat Length

3½” shorter than the overall height of fence.

Bottom Locking Channel

10 feet provided in each bag.

Wind Load & Privacy Factor

Approximately 75%.

SLAT
PROFILE:



LOCKING
CHANNEL:



Colors*



White



Green



Brown



Black



Beige



Gray



Redwood



Royal
Blue



Light
Blue

* Exact representation of slat colors in printing is difficult. Please refer to actual color samples for final matching.
Covered by one or more of the following patents: US Patent 6,068,243 / 5,165,664 / 5,234,199



FENCE PRODUCTS

PDS® is a registered trademark of Pexco.

Made in the USA



PRODUCT SPECIFICATIONS

Slat Type	Slat Width	Mesh Size	Wire Gauge	Slats Per Bag	Approx. Coverage Per Box
Bottom Lock 2"	1 3/32"	2"	8, 9 or 11	82	10 linear feet
Bottom Lock 2 1/4"	1 1/4"	2 1/4" or 2 3/8"	11 1/2 or 12 1/2	78	10 linear feet
Bottom Lock 1 3/4"	7/8"	1 3/4"	8, 9 or 11	100	10 linear feet

Materials

The Bottom Lock product is extruded from High Density Polyethylene (HDPE), color pigments and ultra violet (UV) inhibitors, specifically designed to retard the harmful effects of the sun and lengthen the life of the product.

Durability

Pexco PDS® HDPE Fence Products are resistant to: severe weather conditions, salt water, sand, road dirt, most acids, alcohol, alkaline, ammonia, petroleum distillates and common environmental pollutants.

Maintenance

Pressure cleaning of surface contaminants is quickly accomplished with plain water.

Wind Load Disclaimer

Pexco will not be responsible for fence damage resulting from wind load conditions due to insufficient structural support.

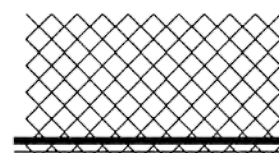
Limited Warranty

Bottom Lock carries a 25-year, pro-rata warranty against breakage under normal conditions. Write Pexco for full warranty information.

Installation Instructions

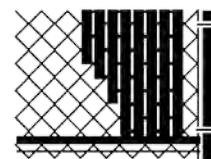
Step 1

Insert rail horizontally in first full diamond at bottom of fence with open side facing up.



Step 2

Insert vertical slats with beveled/notched end downward. Slat engages and interlocks with bottom rail.



Step 3

Push the vertical slat into the horizontal channel to lock-in place.



FENCE PRODUCTS

HDPE Technical Properties

Property	Value
Melt Index	(.35) Optimum extrusion processing conditions for Fence Slats
Density	(.945) Polyethylene ranges anywhere from .914 to .960 in density
Minimum Temp.	(-70°) Under no stress, HDPE remains flexible at this temperature
Maximum Temp.	(180°) Under no stress, HDPE will not distort at this temperature
Tensile Strength	(3,700 psi) HDPE will not distort at lesser loads or impacts

PEXCO LLC

Tacoma, WA 98424 | Athol, MA 01331
800.822.SLAT (7528) | 800.755.SLAT (7528)

VISIT US AT:

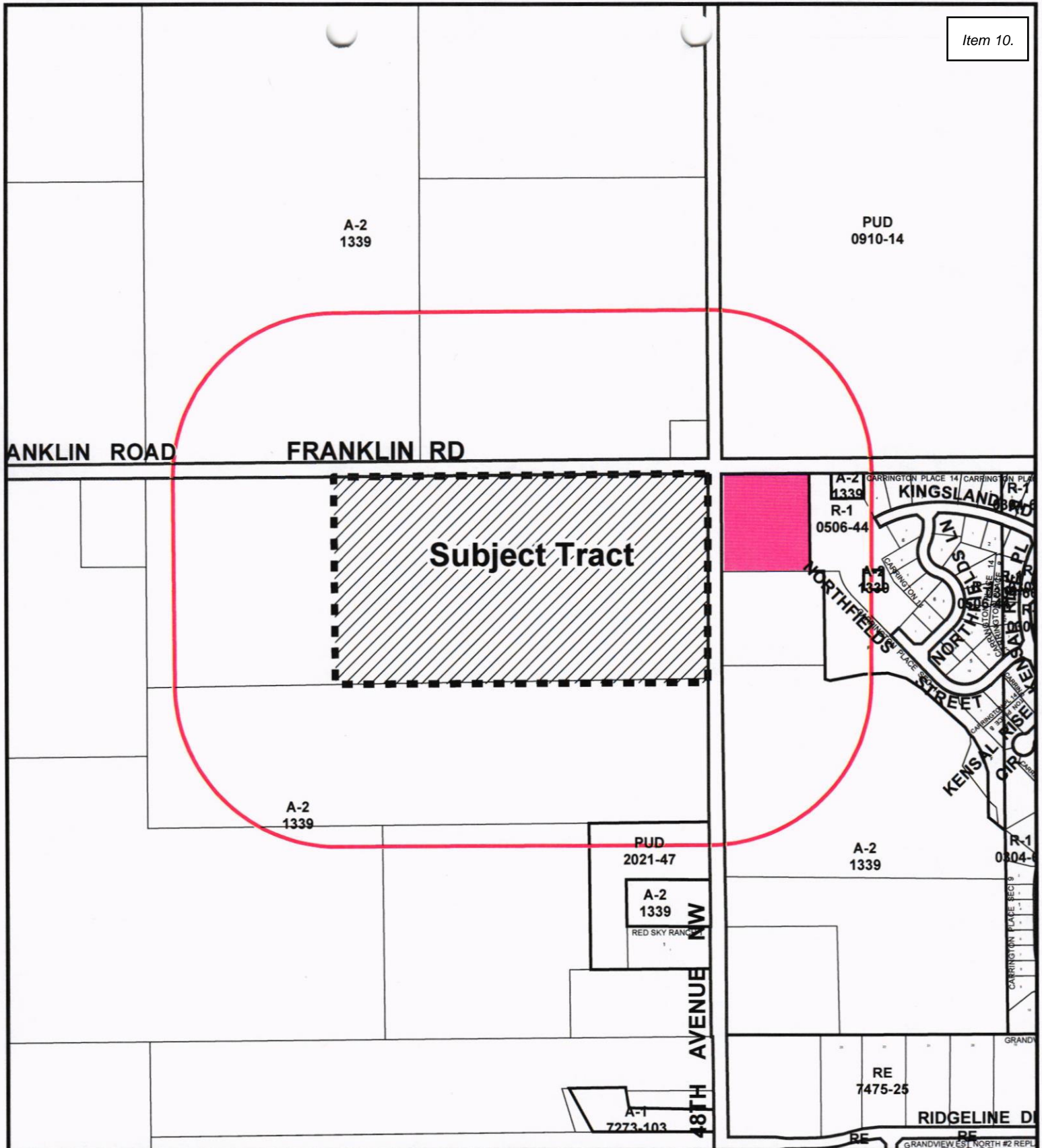
www.pexco.com/fence

EMAIL US AT:

fence.sales@pexco.com

Contact your local fence professional for more information about our complete line of enhancement products.





Protest Map



3.39% Protest Within Notification Area

Map Produced by the City of Norman
Geographic Information System.
The City of Norman assumes no
responsibility for errors or omissions
in the information presented.



0 300 600 Feet

June 7, 2023

-  Subject Tract
-  Notification Area
-  Protest

June 2, 2023

The City of Norman
Planning and Community Development
225 North Webster
P.O. Box 370
Norman, OK 73069

Dear Sirs:

This letter is in protest to the proposed construction of an electric utility sub station on the southwest corner of 48th Avenue NW and Franklin Road in Norman, Oklahoma.

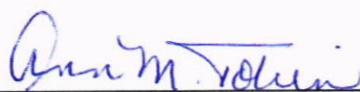
Our home is located on the southeast corner of 48th Avenue NW and Franklin Road, physical address 4720 West Franklin Road. The building of this sub station directly impacts our visual appreciation of the view to the west, along with the impact to an acre of our land with the placement of power lines overhead.

We strongly protest this request as to its planned location, feeling it could be moved further west and south on said property. Although it is reported the soil conditions are poor, we feel structurally engineered fill-dirt could be brought in to alleviate poor soil conditions along with raising the level of the area to build.

We hope you will consider our suggestions and reasons for protest.

Sincerely,


Michael F. Tobin


Ann M. Tobin

FILED IN THE OFFICE
OF THE CITY CLERK
ON 6/5/23



CITY OF NORMAN, OK PLANNING COMMISSION MEETING

Municipal Building, Council Chambers, 201 West Gray, Norman, OK 73069
Thursday, June 08, 2023 at 6:30 PM

MINUTES

The Planning Commission of the City of Norman, Cleveland County, State of Oklahoma, met in Regular Session in Council Chambers of the Norman Municipal Building, 201 West Gray Street, on the 8th day of June, 2023.

Notice and agenda of the meeting were posted at the Norman Municipal Building and online at <https://norman-ok.municodemeetings.com> at least twenty-four hours prior to the beginning of the meeting.

* * *

Secretary Michael Jablonski called the meeting to order at 6:35 p.m.

ROLL CALL

PRESENT

Cameron Brewer
Liz McKown
Michael Jablonski
Steven McDaniel
Jim Griffith

ABSENT

Douglas McClure
Erica Bird
Kevan Parker
Maria Kindel

A quorum was present.

STAFF PRESENT

Jane Hudson, Planning Director
Lora Hoggatt, Planning Services Manager
Anais Starr, Planner II
Zach Abell, Planner I
Roné Tromble, Admin. Tech. IV
Beth Muckala, Assistant City Attorney
David Riesland, Transportation Engineer
Todd McLellan, Development Engineer
Jack Burdett, Subdivision Development Coordinator
Bryce Holland, Multimedia Specialist

*

Special Use for Public Utility

11. Consideration of Approval, Acceptance, Rejection, Amendment, and/or Postponement of Ordinance No. O-2223-46: Williams, Box, Forshee & Bullard, PC, on behalf of the Applicant/Land Owner, requests Special Use for a Public Utility for 40 acres of property generally located at the southwest corner of 48th Avenue N.W. and Franklin Road.

ITEMS SUBMITTED FOR THE RECORD:

1. Location Map
2. Staff Report
3. Site Plan

PRESENTATION BY STAFF: Ms. Hoggatt reviewed the staff report, a copy of which is filed with the minutes.

Ms. McKown asked how the protest area is determined. Ms. Hoggatt explained that it is by land area within the radius, not the number of people.

PRESENTATION BY THE APPLICANT: Amanda Carpenter, with Williams, Box, Forshee & Bullard, 522 Colcord Drive, representing Oklahoma Gas & Electric, explained that this substation will serve the Nexterra line; it is not for service of OG&E. Federal regulations require that OG&E make their system available, so as Nexterra is running this line through Norman, they have to make their system available and they don't get to choose the line and where it is located; they only get to help decide where the substation is. OG&E went through a long process of a site study. This property is owned in fee title. There is an existing substation called Pleasant Valley Substation just south of the purple box on the protest map. Residents in the area have a current substation and transmission lines that they are used to seeing. The request from the protestor was to move the substation both west and south; the substructure of the ground in that area is very sandy and would not be consistent for the structures that are necessary for the substation. The substation must be where the Nexterra line is going, and they have no control over that. The corner was found to be the most appropriate. There are no trees that have to be removed. The Nexterra line is a federal project, and OG&E is required to share that system. The site is currently planned to be setback from Franklin Road 210 feet, and 260 feet from 48th Avenue NW. The access points are off Franklin Road. The only traffic that should be coming to the site would be for maintenance, so it should not create any additional traffic.

Mr. Jablonski asked if there is anything they can do to mitigate the view for adjacent property owners. Ms. Carpenter responded that there will be a fence around the site. OG&E currently has plans for a chain-link fence, but they're happy to include some sort of paneling to provide additional aesthetic accommodation. Mr. Jablonski asked about landscaping. Ms. Carpenter said they generally do not like to put landscaping around their electrical facilities.

Mr. McDaniel asked the height of the structures. Bernard Montel, 19225 Blanco Drive, Edmond, explained that the height will vary anywhere from 25' to 45'.

Mr. Griffith asked the extent of the service area for the substation. Ms. Carpenter said that would be a question for Nexterra.

Mr. Brewer asked about the sightlines for the elevation drawing. Mr. Montel explained that from Franklin Road you will be able to see the entire facility, but from 48th Avenue NW you only see part of it.

Ms. McKown asked if there could be some low landscaping. Mr. Montel responded that there are existing easements on the east and north sides that they do not own.

Mr. Brewer asked what type of noise will be emitted from the site. Ms. Carpenter did not have anyone present who could answer that question. Mr. McDaniel asked if it would be similar to the Pleasant Valley Substation. Ms. Carpenter responded affirmatively.

PUBLIC PARTICIPATION: None

DISCUSSION AND ACTION BY THE PLANNING COMMISSION:

Motion made by McKown, Seconded by Brewer, to recommend adoption of Ordinance No. O-2223-46 to City Council, with the recommendation that additional paneling be added to the chain-link fencing around the entire property.

Voting Yea: Brewer, McDaniel, McKown, Jablonski, Griffith

The motion to recommend adoption of Ordinance No. O-2223-46 to City Council, with the recommendation for panels on the fence, passed by a vote of 5-0.

*

Applicant: Williams, Box, Forshee & Bullard, PC on behalf of Applicant/Land Owner

Project Location: SW/C 48th NW/Franklin

Case Number: PD 23-21

Time: 6:30 p.m.

Applicant/Representative

David M. Box

Attendees

Chris and Sandy Lira, Neighbors
Daniel & Lillie Burchett, Neighbor
Mike & Ann Tobin, Neighbor
David Box, Applicant representative
+10 OE&G staff

City Staff

Beth Muckala, Assistant City Attorney
Melissa Navarro, Planner II
Amanda Stevens, Development Center Coordinator
Whitney Kline, Admin Tech IV

Application Summary

The applicant is requesting Special Use for a Public Utility. The base zoning of A-2, Rural Agricultural District, will remain. The applicant is proposing to develop an electric substation.

Neighbor's Comments/Concerns/Responses

After discussion with the applicant, the neighbors understood the project and the scope of it but still had concerns about traffic increasing, access, impact on property values, and aesthetics. They asked multiple times to consider relocating the substation or the possibility of placing a fence that would help mitigate the visual impact of the development. The applicant explained how the location was thoroughly determined by soil quality studies, so it cannot be relocated. However, they will consider an alternative fence that improves the aesthetics.

File Attachments for Item:

11. CONSIDERATION OF SUBMISSION, ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR REJECTION OF RECEIPT OF THE CITY MANAGER'S CONTRACT AND CHANGE ORDER REPORT AND DIRECTING THE FILING THEREOF.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Brenda Hall, City Clerk

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: CONSIDERATION OF SUBMISSION, ACKNOWLEDGEMENT, APPROVAL, REJECTION, AMENDMENT, AND/OR REJECTION OF RECEIPT OF THE CITY MANAGER'S CONTRACT AND CHANGE ORDER REPORT AND DIRECTING THE FILING THEREOF.



DATE: June 26, 2023

TO: Darrel Pyle, City Manager

FROM: Joseph Hill, Streets Program Manager

THROUGH: Shawn O'Leary, Director of Public Works

SUBJECT: Approval of Change order #1 to contract K-2223-6 with Silver Star Construction, adding for subgrade stabilization pay item on Street Maintenance Bond FYE 2023 Locations

BACKGROUND:

On Tuesday, April 6, 2021, Norman residents voted to approve the 2021-2026 Street Maintenance Bond Program which includes the issuance of \$27 million in bonds to fund the resurfacing, rehabilitation and reconstruction of neighborhood streets. The five categories of street maintenance include (1) Urban Asphalt Pavement Street Rehabilitation, (2) Urban Concrete Street Rehabilitation, (3) Urban Road Reconstruction, (4) Rural Road Rehabilitation, and (5) Preventive Maintenance. The FYE 2023 Asphalt Pavement locations are shown on the attached map.

The roadways included in this project are located in established residential neighborhoods with one roadway located in a rural area. The current roadways are constructed of asphalt pavement which is in poor condition. This project involves rehabilitation of the existing pavement including milling, deep patching, and overlaying with new asphalt. The project includes 3.1 miles of roadway. Attached is a map correlating the referenced project locations.

The FYE 2023 Asphalt Pavement Project was originally advertised on June 2, 2022 and June 9, 2022. Three contractors attended a pre-bid conference on June 9, 2022. Three bids were submitted and opened on July 7, 2022. The price of asphalt was very high and volatile at the time of that bid opening. This resulted in all of the bids exceeding available funding. All of the bids were rejected.

The project was again advertised on September 15, 2022 and September 22, 2022. Four contractors attended a pre-bid conference on September 19, 2022. Four bids were submitted and opened on September 29, 2022

Tabulation of Bid Results:

Contractor	Total
First Water Contracting	\$1,470,056.50
Silver Star Construction Co.	\$1,455,000.00
Haskell Lemon Construction	\$1,766,582.50
Rudy Construction Co.	\$1,681,620.00
Engineer's Estimate	\$1,386,840.05

The low bid was submitted by Silver Star Construction Company, Inc. of Moore, Oklahoma in the amount of \$1,455,000.00, which is \$68,159.95, or 4.9%, more than the engineer's estimate.

office memorandum

Silver Star Construction Company is a responsible bidder. They have successfully performed similar work for the City of Norman in the past. Due to corrections in asphalt market the described bid is within the adopted budget to complete the identified locations.

This project will be funded as follows:

Project	Number and Account	Amount
Normandy Acres First	BP0524 ACCT# 50594401-46101	\$300,000.00
Classen-Miller Addition	BP0525 ACCT# 50594401-46101	\$78,840.00
Norman Old Town	BP0526 ACCT# 50594401-46101	\$146,000.00
Campus Addition	BP0527 ACCT# 50594401-46101	\$96,360.00
Eagle Cliff Addition	BP0528 ACCT# 50594401-46101	\$385,440.00
Rural	BP0540 ACCT# #50593376- 46101	\$448,360.00
Total:		\$1,455,000.00

On October 25, 2022 City Council approved Contract K-2223-6 with Silver Star Construction.

DISCUSSION:

The Street Maintenance Bond program FYE 2023 locations is nearing completion with one final location to be substantially completed. This location is Ferrill Street between Classen Boulevard and Ponca Avenue. Upon initial mill of surface the contractor notified city staff of concerns regarding the roadways integrity and staff began investigation into these concerns.

On Monday, June 26, 2023 staff in agreement with the contractor during and on-site visit determined that the roadway subgrade is not stable enough to support replacement of surface until a more structural treatment of subgrade is completed. Silver Star construction provided the attached proposal for 6" of subgrade stabilization in order to provide a good working platform for final asphalt pavement. Fortunately, there has been some savings within the project so the proposed addition of subgrade stabilization will generate a neutral change order. This will be achieved by reducing quantity from Pay item 13 for clean topsoil/shoulder grading in the amount of 1,221 cubic yards or \$21,978.00 and adding pay item #16 to the contract in the amount of 1,320 square yards or \$21,978.00 creating a net zero change to the contract value. Reduction in pay item #13 quantity will not have an effect on the project's success as the final surface for this items use resulted in less area for shoulder work than initially estimated prior to work being conducted. The attached Change order #1 provides a breakdown of the proposed change and additional pay item. If approved, this work is proposed to begin as early as Tuesday June 27, 2023.

RECOMMENDATION NO. 1:

Staff recommends approval of Change Order #1 to Contract K-2223-6 with Silver Star Construction adding Pay Item for Subgrade Stabilization in the amount of \$21,978.00 and reducing quantity for Pay item #13 in the amount of \$21,978.00.

ACCEPTED BY:


Darrel Pyle, City MangerDATE: 6-26-23



The City of Norman assumes no responsibility for errors or omissions in the information presented.

FYE 2023 Asphalt Pavement Lincoln Elementary



2401 S. Broadway - Moore, Oklahoma 73160 -- (405) 793-1725 / 1-800-375-1725 / Fax (405) 793-9989

Proposal

Norman Urban Asphalt Change Order

6" Stabilization (Ferrill St)

Change Order #1

06/26/2023

Attn: Joseph Hill

ITEM #	DESCRIPTION	CHANGE	QUAN	UNIT	UNIT PRICE	COST	DECREASE CONTRACT COST	INCREASE CONTRACT COST
CO1-1	Subgrade Stabilization 6"	ADD	1,320	SY	\$16.65	\$21,978.00		\$21,978.00
130	Clean Topsoil/ Shoulder Grading	DELETE	1,221	CY	\$18.00	\$21,978.00	(\$21,978.00)	
					Total for Increases & Decreases		(\$21,978.00)	\$21,978.00
					Net for Increase + Decreases			\$0.00
					Total for this Change Order			\$0.00



CHANGE ORDER SUMMARY
CITY OF NORMAN
CLEVELAND COUNTY, OKLAHOMA

CHANGE ORDER NO. 1DATE: June 26, 2023CONTRACT NO.: K-2223-6SUBMITTED BY: Joseph HillPROJECT: Street Maintenance Bond Program – Asphalt Pavement FYE 2023 Locations

CONTRACTOR: Silver Star Construction Company, Inc.
2401 S. Broadway Street
Moore, Oklahoma 73160

Original Contract Time: 240 daysOriginal Contract Amount: \$1,455,000.00

DESCRIPTION	INCREASE	DECREASE
Change in Pay Quantities	\$21,978.00	\$(21,978.00)
Change in Contract Time	2 Days	0 Days

NET CHANGE \$0.00REVISED CONTRACT TIME: 242 daysREVISED CONTRACT AMOUNT: \$1,455,000.00

See Detailed Quantity Change on Page 2 of 2:

Detailed Quantity Change:

ITEM	DESCRIPTION	UNIT	CONTRACT QUANTITY	CO #1 QUANTITY	QUANTITY CHANGE	COST CHANGE
1	Mobilization	L.	1			
2	Traffic Control (10,11,12)	L.	1			
3	Undercut (2)	C.Y.	200			
4	Saw Cut Pavement Full Depth	L.F.	200			
5	Type A ODOT Aggregate Base	TON	40			
6	Tack Coat (5)	GAL	4,500			
7	Superpave, Type S3 (PG 64-22 OK) DEEP	TON	1,800			
8	Superpave, Type S4 (PG 64-22 OK)	TON	6,391			
9	1.5 to 2.0 in. Full Mill (6)	S.Y.	51,275			
10	Remove Pavement Full Depth (6)	S.Y.	650			
11	Adjust Valve Box	EA.	8			
12	Adjust Manhole Ring to Grade	EA.	6			
13	Clean Topsoil/Shoulder Grading (7)	C.Y.	6,630	5,409.0	-1221	-\$21,978.00
14	Slab Sod (8)	S.Y.	3,800			
15	Pavement Repair Membrane (9)	S.Y.	120			
16	Subgrade Stabilization	S.Y.	0	1,320	+1,320	\$21,978.00
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
TOTAL COST CHANGE						\$ 0.00

CONTRACTOR: ENGINEER: CITY ATTORNEY: ACCEPTED BY: 
(Mayor)

CITY MANAGER

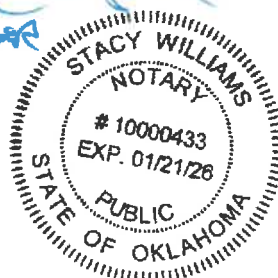
DATE: 6/26/23

DATE: 6/26/2023

DATE: 6/26/23

DATE: 6-26-23

Stacy Williams
 Expires 1-21-24
 # 10000433



File Attachments for Item:

12. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF PAYMENT OF FYE 2024 DUES ASSESSMENT IN THE AMOUNT OF \$65,000 TO THE OKLAHOMA MUNICIPAL LEAGUE FOR THE PERIOD OF JULY 1, 2023, THROUGH JUNE 30, 2024.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Brenda Hall, City Clerk

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF PAYMENT OF FYE 2024 DUES ASSESSMENT IN THE AMOUNT OF \$65,000 TO THE OKLAHOMA MUNICIPAL LEAGUE FOR THE PERIOD OF JULY 1, 2023, THROUGH JUNE 30, 2024.



OKLAHOMA MUNICIPAL LEAGUE, INC.

201 N.E. 23rd Street - Oklahoma City OK 73105
405-528-7515 - 800-324-6651 - 405-528-7560 Fax

Dear OML Member:

The Oklahoma Municipal League (OML) appreciates and values your continued support and participation in the League.

OML is a member focused organization, and we strive to provide you with the resources that are needed by your municipality. Below are a few examples of how OML has put revenue back into your community by our efforts at the Capitol:

- OML led the fight for sales and use tax reform to reduce the retainage fee which provides for additional funds to remain in your community.
- OML was the leading voice for municipalities for online sales tax reform, bringing over **\$300 million** to the State.
- The OML Legal team has been active in legal advocacy for municipal governments in the Court system as well. This past year OML filed several amicus briefs in cases before the Oklahoma Supreme Court. Topics included municipal revenue, franchise fees, and a case focusing on out of boundary municipal water protection.

American Rescue Plan Act (ARPA) dollars went directly to Oklahoma municipalities because of OML's efforts to lobby our Congressional Delegation. Oklahoma municipalities received **\$237,022,232.00** in federal funds that went straight to municipal budgets. OML continues to assist municipalities with the management of these funds with ongoing workshops and specialized one-on-one assistance.

In addition to all the incredible work OML does at the State Capitol on your behalf, we continue to provide the most comprehensive inquiry, research and training programs built to assist your community for any need.

The Oklahoma Municipal League Board of Directors voted to increase the Service Fees that municipalities pay to OML. The Board is looking at the long-term health and well-being of the organization, and to be prepared for future costs they voted for an increase in rates of 5% that will be implemented over a 5-year period. A Service Fee Committee was established to look at possible options, and the Board approved their recommendations. This is the first increase in OML's Services Fees in a decade.

Together we provide a unified voice for Oklahoma municipalities. The number one ingredient for success at the legislature and state agencies is a united and collective voice.

We are looking forward to continuing to work with you and your community for the betterment of Oklahoma cities and towns. Please feel free to contact OML at 405-528-7515 if you have questions or desire additional information.

Sincerely,

Mike Fina
Executive Director

Invoice

Page 1/1
 Invoice 085791
 Date 7/3/2023

Oklahoma Municipal League

201 NE 23rd St - Physical
 PO Box 268984 - for Payments
 Oklahoma City OK 73126-8984

Bill To: NORMAN
 201 W GRAY
 PO BOX 370
 NORMAN OK 73070

Purchase Order No.		Customer ID		Salesperson ID	Shipping Method	Payment Terms	Req Ship Date	Master No.
		140500			SHIPPING	DUE UPON RECEIPT	7/3/2023	115,191
Ordered	Shipped	B/O	Item Number	Description		Discount	Unit Price	Ext. Price
1.00	1.00	0.00	SFEES	2023-2024 OML Annual Service Fees Renewal		\$0.00	\$65,000.00	\$65,000.00

Please return a copy of invoice with remittance

Subtotal	\$65,000.00
Misc	\$0.00
Tax	\$0.00
Freight	\$0.00
Trade Discount	\$0.00
Total	\$65,000.00

File Attachments for Item:

13. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF SPECIAL CLAIM SC-2324-1: SUBMITTED BY WOODSTOCK CONDOMINIUM OWNERS ASSOCIATION IN THE AGREED AMOUNT OF \$25,000 FOR DAMAGE TO A PARKING LOT AT 1932 EAST LINDSEY STREET AS A RESULT OF A WATER MAIN BREAK ON JULY 24, 2022.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Anthony Purinton, Assistant City Attorney

PRESENTER: Anthony Purinton, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF SPECIAL CLAIM SC-2324-1: SUBMITTED BY WOODSTOCK CONDOMINIUM OWNERS ASSOCIATION IN THE AGREED AMOUNT OF \$25,000 FOR DAMAGE TO A PARKING LOT AT 1932 EAST LINDSEY STREET AS A RESULT OF A WATER MAIN BREAK ON JULY 24, 2022.

BACKGROUND:

A claim was filed by Woodstock Condominium Owners Association for expenses incurred due to a water main break at their property on July 24, 2022, at 1932 East Lindsey Street. Claimants request reimbursement of damage in the amount of \$25,000.

DISCUSSION:

The claim was investigated by the Line Maintenance Manager who determined on the night of July 24, 2022, City division staff received a service call for a water main break at Woodstock Condominiums located at 1932 East Lindsey Street. Shortly thereafter, City staff arrived, turned off water service and began excavation work to gain access to the main which was located under a portion of the concrete parking lot. Once the repair was completed, staff backfilled the resulting excavation hole with gravel, which was estimated to be approximately 2,100 square feet area of the parking lot.

Claimants submitted an estimate totaling \$31,750 in order to repair the concrete that was removed in order to repair the water main. The City of Norman is a political subdivision which processes tort claim according to the Governmental Tort Claims Act. This Act sets a maximum allowable property damage claim of \$25,000.

RECOMMENDATION:

Based on the above and foregoing, it is the recommendation of the City Attorney's Office that the claim of Woodstock Condominium Owners Association, in the agreed amount of \$25,000 as set forth above, be approved.

CITY OF NORMAN
POST OFFICE BOX 370
NORMAN, OKLAHOMA 73070

Item 13.

FILED IN THE OFFICE
OF THE CITY CLERK
ON 8/23/23
CINDY CROCKER

NOTICE OF TORT CLAIM

CLAIMANT: Woodstock Condominium Owners Association DATE: _____

ADDRESS: 1932 E. Lindsey CITY Norman

STATE: OK ZIP: 73071 PHONE: (H) _____ (W) _____

DATE OF INCIDENT: 7-24-22

LOCATION OF INCIDENT: 1932 E. Lindsey

STATEMENT OF CIRCUMSTANCES / REASONS YOU BELIEVE CITY IS LIABLE:

Water main broke UNDER PARKING LOT.
Michael Price came to site & gave them
CLAIM & ASKED them to file CLAIM
BROUGHT 3 EST

(use additional pages if necessary)

MONETARY STATEMENT: List of expenses claimed for payment:

<u>WOODSTOCK/SPH</u>	\$ _____	\$ <u>500.00</u>
<u>KEAR CONST</u>	\$ _____	\$ <u>31,250</u>
_____	\$ _____	\$ _____

TOTAL AMOUNT CLAIMED: \$ 31,750.00

NAME AND ADDRESS OF INSURANCE COMPANY: _____

AGENT: _____

THIS FORM MUST BE SIGNED AND RETURNED WITH ALL REQUESTED INFORMATION IN ORDER TO BE PROCESSED.

I SWEAR AND/OR AFFIRM THE INFORMATION PROVIDED ABOVE IS TRUE AND CORRECT.

[Signature]
CLAIMANT'S SIGNATURE

contact person
Eddie Crocker

(505) 659-7304

PO BOX 720042
NORMAN, OK 73070
405-659-7304

2-20-2023

TO:
WOODSTOCK CONDOMINIUM OWNERS ASSOCIATION
C/O SPM REALTY INC
PO BOX 1671
NORMAN, OK 73070

[illegible]

Make all payments to [CAMERON AND CROCKER CONSTRUCTION]
If you have any questions concerning this invoice, contact office

THANK YOU FOR YOUR BUSINESS!

PO BOX 720042
NORMAN, OK 73070

Invoice

Date	Invoice #
2/20/2023	4202

Bill To
SPM Realty PO BOX 1671 Norman OK 73070

Ship To

P.O. Number	Terms	Rep	Ship	Via	F.O.B.	Project
			2/20/2023			Woodstock
Quantity	Item Code	Description			Price Each	Amount
	Construction	supervise rebuilding of drive and sidewalk east side of Woodstock			500.00	500.00
					Total	\$500.00

Kear Construction, LLC

400 Driftwood Drive
Norman, Oklahoma 73026
(405)329-2437

Page _____ of _____
No. _____ f _____

PROPOSAL

PROPOSAL SUBMITTED TO <u>Eddie Crocker</u>		TODAY'S DATE <u>2-1-23</u>	DATE OF PLANS/PAGE #'S
PHONE NUMBER <u>405-659-7304</u>	email	JOB NAME	
ADDRESS, CITY, STATE, ZIP <u>1932 E Lindsey St. Norman OK</u>		JOB LOCATION <u>Woodstock Apartments</u>	

We propose hereby to furnish material and labor necessary for the completion of:

- sawcut and breakout 2631 sqf of concrete
- haul off all debris
- grade base for binches of concrete
- set rebar on 2ft centers, dowel into existing concrete
- pour 3500 psi concrete @ binches thick
- finish with a broom finish

total \$31,250⁰⁰

We propose hereby to furnish material and labor - complete in accordance with above specifications for the sum of:
dollars (\$ 31,250⁰⁰)

Payment as follows:

All material is guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance. If either party commences legal action to enforce its rights pursuant to this agreement, the prevailing party in said legal action shall be entitled to recover its reasonable attorney's fees and costs of litigation relating to said legal action, as determined by a court of competent jurisdiction.

Authorized Signature Kyle Kear

Note: this proposal may be withdrawn by us if not accepted within _____ days.

ACCEPTANCE OF PROPOSAL The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above.

Signature _____

Signature _____

Date of Acceptance _____

Thin Line Concrete Construction LLC

713 Woodbrier
Noble, OK 73068 US
+1 4052531942
ThinLineConcrete@gmail.com



Estimate

Estimate #

ESTIMATE
DATE

1012
01/21/2023

DATE

ACTIVITY

DESCRIPTION

QTY

RATE

AMOUNT

Concrete Service

2700 sq ft parking lot patching, rebar on 2 ft centers. Includes demolition and haul off.

1

31,500.00

31,500.00

Submitted & Accepted
By: Eddie Crocker
Norman, OK

TOTAL

\$31,500.00

Accepted By:

Signature: _____

ESTIMATE

Felkins Concrete
313 S Front St
Noble, OK 73068

felkinsconcrete@gmail.com
405-431-8604



Bill to

Estimate details

Estimate no.: 1268
Estimate date: 1/18/23
Expiration date: 2/1/23

Product or service	Amount
--------------------	--------

1. Services

\$31,572.00

Tear out and replace parking lot

- Tear out
- Haul off
- To grade/form & pour medium finish 3500 PSI 4" thick 23.5' x 98'20" x 11' parking lot, 27' x 4' sidewalk, 4' curb
- Dirt work
- Sand
- Rebar reinforcements on 2' centers
- Expansion joints as needed

Total	\$31,572.00
--------------	--------------------

Note to customer

Woodstock Apartments
1932 E Lindsey St.
Norman, OK 73071

Expiry date	2/1/23
-------------	--------

Thank you for your business!



File Attachments for Item:

14. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF EASEMENT E-2324-2: A PERMANENT UTILITY EASEMENT GRANTED BY THE CITY OF NORMAN TO OKLAHOMA GAS AND ELECTRIC COMPANY FOR THE NORTH BASE PHASE 2 VEHICLE WASH FACILITY PROJECT.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 7/11/2023

REQUESTER: Paul D'Andrea, Capital Projects Engineer

PRESENTER: Shawn O'Leary, Public Works Director

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF EASEMENT E-2324-2: A PERMANENT UTILITY EASEMENT GRANTED BY THE CITY OF NORMAN TO OKLAHOMA GAS AND ELECTRIC COMPANY FOR THE NORTH BASE PHASE 2 VEHICLE WASH FACILITY PROJECT.

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 subsequently changed the plans to construct 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 1310 Da Vinci Street near the Norman Municipal Airport. The proposed multi-departmental facility provides maintenance for City Parks and Recreation vehicles and equipment, City Transit System buses, and Public Safety vehicles and equipment.

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 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 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 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 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 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 May 25, 2021, the Norman City Council approved Amendment 6 to Contract K-1617-114 with PDG, LLC d.b.a. Planning Design Group, in the amount of \$40,000, for design services to add an additional manual wash bay to the North Base Phase 2 Vehicle Wash Facility.

On July 13, 2021, the Norman City Council approved Change Order 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 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 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 January 22, 2022 City staff issued substantial completion for the City Park Maintenance Facility and the Transit/Public Safety Maintenance Facility. Upon issuance of substantial completion, the City moved all Transit/Public Safety Maintenance operations into the new facilities, and out of the University of Oklahoma facilities. Parks Maintenance staff moved in to their new facility a few months later.

On February 8, 2022, the Norman City Council approved appropriation of funds, in the amount of \$1,800,000 from the Capital Fund balance (\$576,000), and General Fund balance (\$684,000), and acting as the Trustees of the Norman Municipal Authority, approved the transfer of \$540,000 from the Sanitation Truck Wash Facility project to the construction of the North Base Complex Phase 2 Project, which provided funds for a vehicle wash facility at the North Base Complex capable of serving all City fleet vehicles and transit busses.

On June 2, 2022, The City of Norman opened bids for the North Base Phase 2 Vehicle Wash Facility project. The low bid, from L5 Construction, was \$2,688,000. This was nearly \$900,000 over the project budget. Consequently, the bids were rejected.

On November 8, 2022, after rebidding the project, the Norman City Council awarded Contract K-2223-33, with L5 Construction, LLC, in the amount of 2,185,500, for construction of the North Base Phase 2 Vehicle Wash Facility project.

On June 27, 2023, the Norman City Council approved Change Order 1 to Contract K-2223-33, with L5 Construction, in the amount of \$97,468 for the North Base Phase 2 Vehicle Wash Facility Project.

DISCUSSION:

In order to provide electric service to the North Base Phase 2 Vehicle Wash Facility, OG&E requests an easement to extend new electric service westbound along Da Vinci Street from their current termination point near the Parks Maintenance facility to the new Wash Facility site.

Staff has reviewed the easement request and legal description provided by OG&E and takes no exception to granting the easement as provided by OG&E.

RECOMMENDATION:

Staff recommends acceptance of Permanent Utility Easement E-2324-2 granted to Oklahoma Gas and Electric Company for providing electric service to the North Base Phase 2 Vehicle Wash Facility.

AFTER RECORDING RETURN TO:
 OGE ELECTRIC SERVICES
 TIMOTHY J. BAILEY, M/C WNM-12
 PO BOX 321
 OKLAHOMA CITY OK 73101-0321

EASEMENT

Work Order #7388739

KNOW ALL MEN BY THESE PRESENTS: THAT **THE CITY OF NORMAN, OKLAHOMA, a Municipal Corporation**, Grantor, in consideration of the sum of Ten or more dollars in hand paid, the receipt of which is hereby acknowledged, and other good and valuable consideration, does hereby grant and warrant unto **OKLAHOMA GAS AND ELECTRIC COMPANY**, an Oklahoma corporation, Grantee, its successors and assigns, the right, privilege and authority to enter upon and install, erect, operate, maintain, and reconstruct underground and/or above ground a system of conduits, wires, cables, vaults, junction boxes, switches, fuses, transformers, service connection boxes and other fixtures for the transmission and distribution of electrical current and communication messages, including the right of ingress and egress to and from said system across adjoining lands of Grantor, upon and across the following real property and premises, situated in Cleveland County, State of Oklahoma, to wit:

A part of the **NE/4, SECTION 24, T9N, R3W, I.M.**, being a part of a tract of land described in deed recorded in Book 2965, Pages 283-284, at the County Clerk's office, as described in Exhibit "A" and shown on Exhibit "B", attached hereto and hereby made a part of this easement.

Grantor further covenants and agrees that no building or other structure shall ever be erected nor shall any excavation or other removal of soil, so as to change the grade of terrain, be accomplished by Grantor, its heirs or assigns, within the above described easement area unless the written consent of the Grantee is first obtained. Grantor further acknowledges the requirements of 63 Oklahoma Statutes (2011) Section 142.1, et. seq. (One-call statute).

The rights and privileges above granted to continue so long as same are used or needed for the transmission and distribution of electric current or communication messages; but should the Grantee remove its property from the premises and abandon the right of way herein granted, then the rights granted in this easement shall terminate.

Approved this _____ day of _____, 2023, by the City of Norman.

THE CITY OF NORMAN, OKLAHOMA, a Municipal Corporation

City Seal

By: _____

Title: _____

CITY ACKNOWLEDGMENT

STATE OF OKLAHOMA, COUNTY OF CLEVELAND, SS;

Before me, the undersigned, a Notary Public, in and for said County and State, on this _____ day of _____, 2023, personally appeared _____, of the City of Norman, Oklahoma, a Municipal Corporation, to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument as its _____, and acknowledged to me that they executed the same as their free and voluntary act and deed of such city, for the uses and purposes therein set forth.

My Commission Expires: _____

Commission # _____

 Notary Public

EXHIBIT "A"

To that certain easement from the City of Norman, Oklahoma, a Municipal Corporation to Oklahoma Gas and Electric Company.

An easement in the **NORTHEAST QUARTER (NE1/4) OF SECTION TWENTY-FOUR (24), TOWNSHIP NINE (9) NORTH, RANGE THREE (3) WEST** of the Indian Meridian, Cleveland County, Oklahoma, written by Timothy G. Pollard, PLS 1474, on June 22, 2023. Bearings are Based on an deed bearing of S00°25'33"E on the East Line of said NE1/4 and as shown on attached Easement Sketch, said easement further described as: being Ten (10) feet in width, Five (5.00) feet each side of a centerline described as follows:

COMMENCING at the NE corner of said NE1/4;

Thence S00°25'33"E, on the East Line of said NE1/4 for a distance of 1337.30 feet;

Thence N29°21'31"W, for a distance of 13.50 feet;

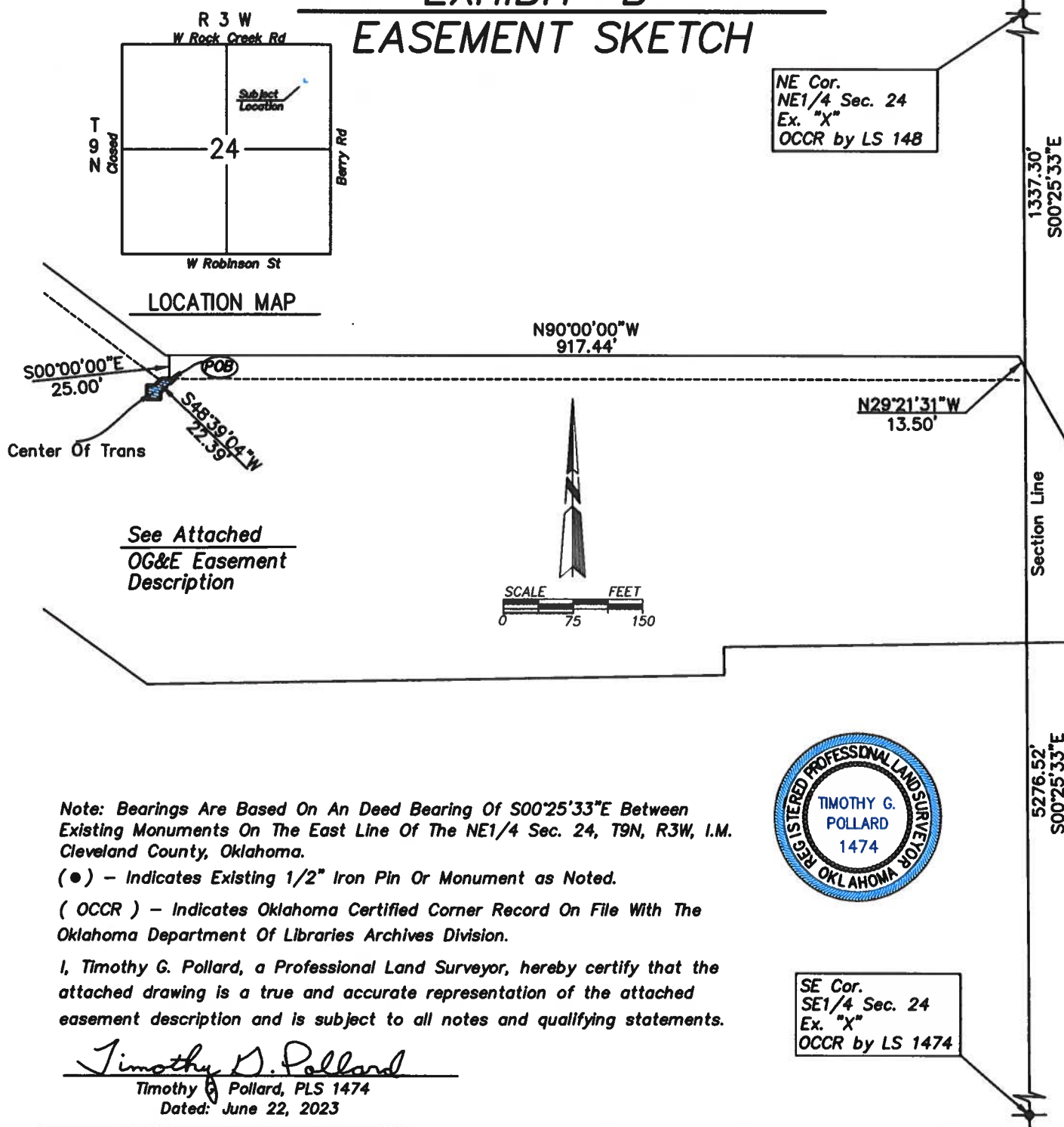
Thence N90°00'00"W, for a distance of 917.44 feet;

Thence S00°00'00"E, for a distance of 25.00 feet, to the **POINT OF BEGINNING**;

Thence S48°39'04"W, on said centerline for a distance of 22.39 feet to the center of a Fifteen(15) foot by Fifteen(15) foot transformer easement being made part of this easement, to the **POINT OF ENDING**.

EXHIBIT "B"

EASEMENT SKETCH



OKLAHOMA GAS AND ELECTRIC COMPANY

POLLARD & WHITED SURVEYING INC. 2514 TEE DRIVE, NORMAN, OKLAHOMA 73069 CA#2380 EXP 06-30-25 405-366-0001	OG&E EASEMENT SKETCH WO# 7388739 PART OF THE NE1/4 SEC. 24, T9N, R3W, I.M. CLEVELAND COUNTY, OKLAHOMA	REVISIONS:
DRAWN BY: J. THOMAS DATE: June 22, 2023	FILE # 24-9n3w.ASC DATE: June 22, 2023	SCALE: 1" = 100'
APPROVED BY: D. MEEKS DATE: June 22, 2023	DRWG # 24-9n3w.DWG DATE: June 22, 2023	SHEET 1 OF 1



JUNE 26, 2023

CITY OF NORMAN
ATTN: CASEY FELTY
P. O. BOX 370
NORMAN, OK. 73069

RE: Easement for underground line to serve wash bay on DaVinci Street

Mr. Felty;

Oklahoma Gas and Electric Company (OG&E) has been asked to provide electrical service to the new wash bay being built by the City of Norman on the south side of Da Vinci Street. Attached you will find an easement request for the new underground line. The description of this line appears on Exhibit "A", and a drawing showing the pathway of the line appears on Exhibit "B". I have also included a copy of the engineer's design. Please note, this is not part of the easement document.

Please present this document at your next City Council meeting for signature. Review the following instructions to ensure that this easement will be legally correct and that there will be no delay in processing:

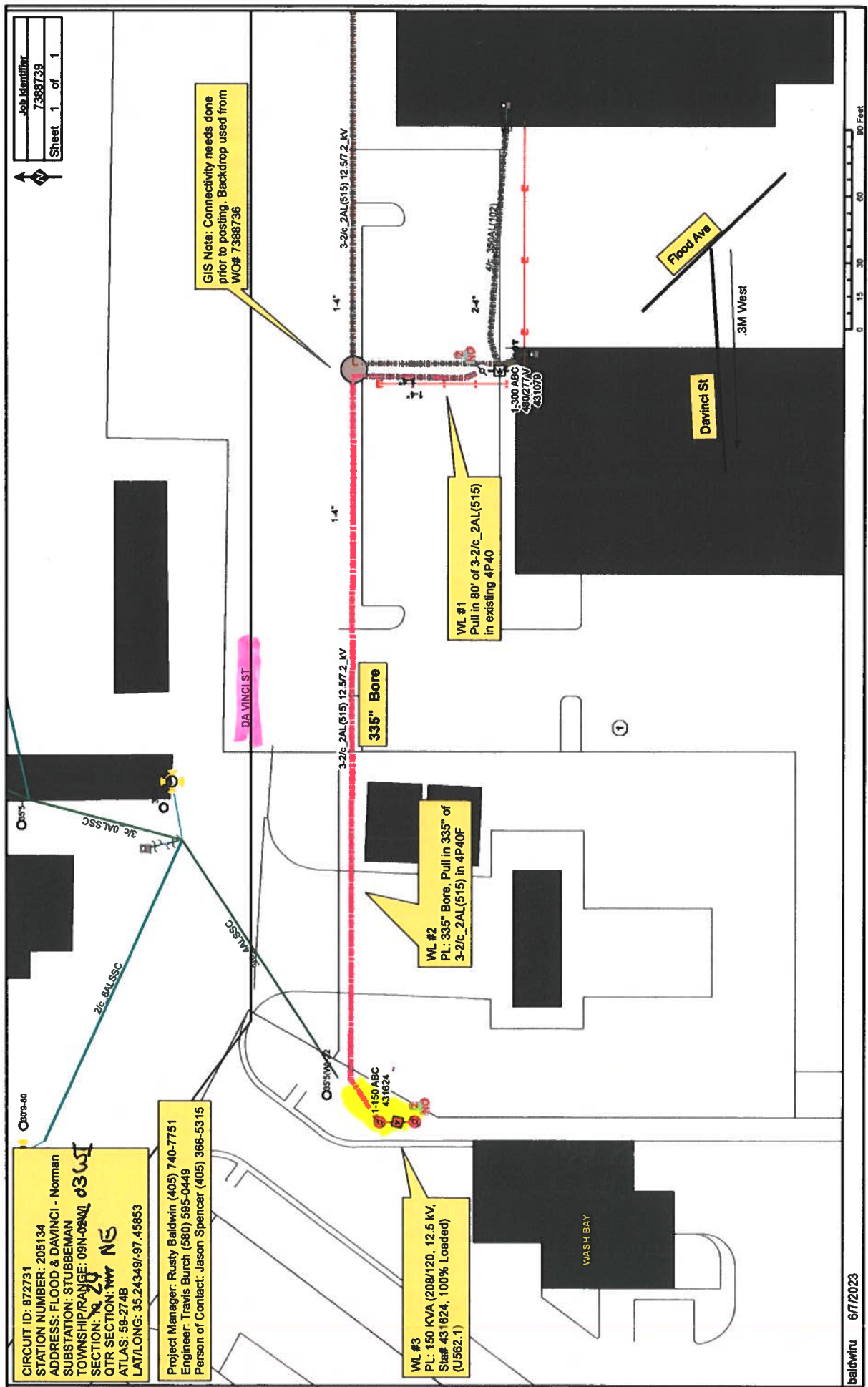
1. The city seal must be affixed.
2. The date of signing must match the date of notarizing.
3. The notary must fill in all blanks in the acknowledgement section and add the notary seal.
4. The notary expiration date must be later than the date of notarizing.

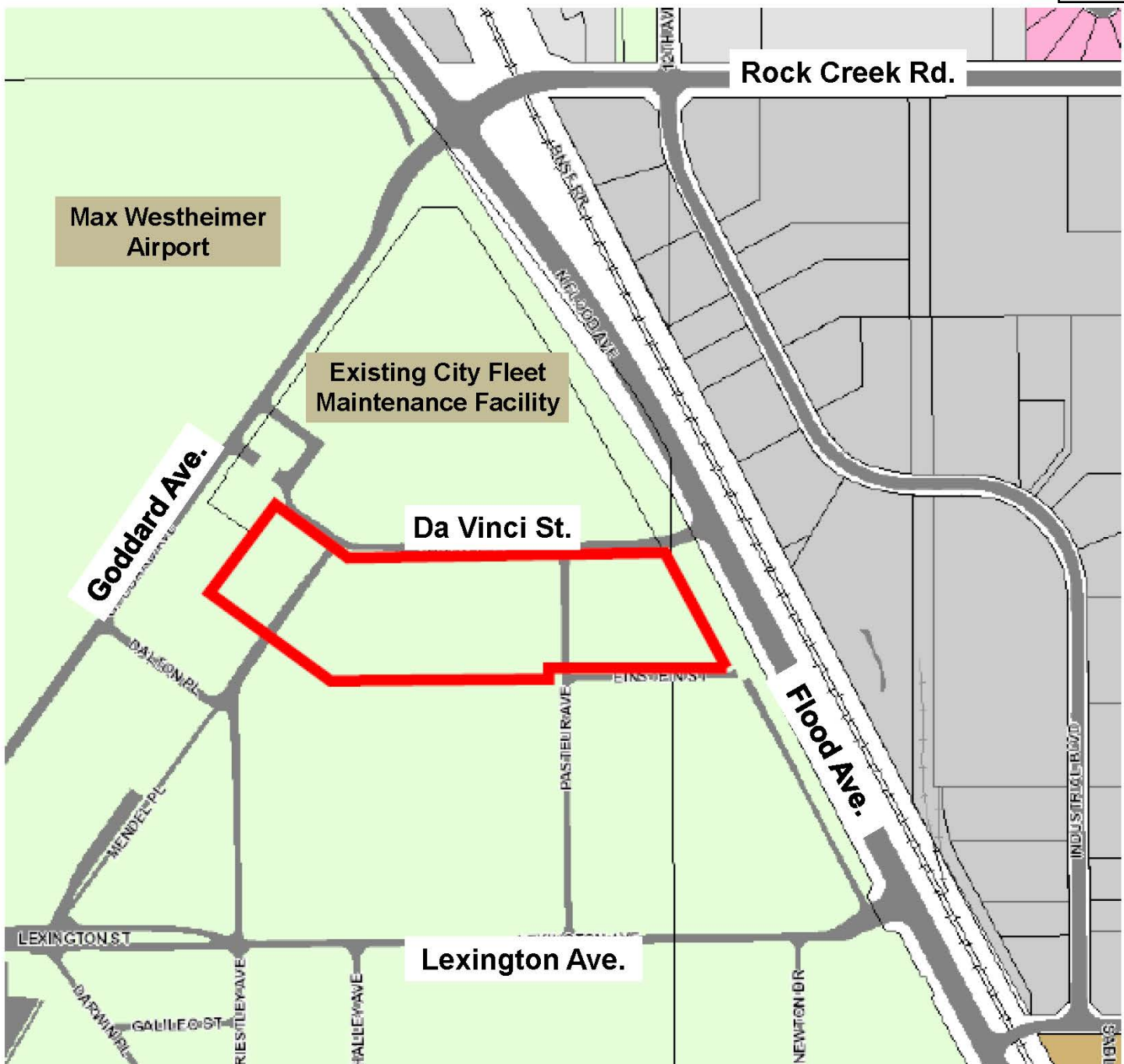
If you have any questions, or if anything will cause a delay in signing, please contact me at (405) 553-5174. Thank you so much for your help in this matter.

Sincerely,

A handwritten signature in black ink, reading "Timothy J. Bailey".

Timothy J. Bailey
Right-Of-Way Agent





North Base Complex, Phase 1 Location Map



File Attachments for Item:

15. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CROSS ACCESS EASEMENT E-2324-5: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND CATHERINE H. PETERSEN AND LESTER E. R. DOTY TO PROVIDE ACCESS FOR BOTH PARTIES TO THE DRIVE LOCATED BETWEEN 320 EAST COMANCHE STREET AND 314 EAST COMANCHE STREET.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 7/11/2023

REQUESTER: Shawn O 'Leary, Director of Public Works

PRESENTER: Heather Poole, Assistant City Attorney

TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CROSS ACCESS EASEMENT E-2324-5: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND CATHERINE H. PETERSEN AND LESTER E. R. DOTY TO PROVIDE ACCESS FOR BOTH PARTIES TO THE DRIVE LOCATED BETWEEN 320 EAST COMANCHE STREET AND 314 EAST COMANCHE STREET.

BACKGROUND:

The City has utilized the University of Oklahoma's on-campus Brooks Street Transfer Station since taking over the public transit operations from the University in July of 2019. During the development of the City's Go Norman Transit Plan, many sites were considered in the City downtown area for a new Transit Center. Ultimately, The Depot was identified as the preferred site for a City bus transit center; however, after the Plan was completed and approved, the City revived interest in purchasing real property at 320 East Comanche Street in Norman to be used as the City's transit center. After working with the seller, Council approved a purchase-sale agreement (PSA) for the property at 320 East Comanche Street on January 18, 2022. The City assumed ownership of the property on March 4, 2022.

On March 8, 2022, City Council approved the first amendment to Contract K-2021-18 with Nelson\Nygaard to amend the Go Norman Transit Plan to reflect the new location of the Transit Center and conduct additional analyses related to transit center operations. This work was completed and presented to the City Council Community Planning and Transportation Committee on June 23, 2022. Separate from this amendment, Nelson/Nygaard provided technical expertise to the architect for the transit center renovations.

On October 22, 2019, City Council approved numerous on-call professional services contracts after a qualitative-based selection (QBS) process was completed. Of those vendors, Council approved a contract with McKinney Architects to provide Architectural and Engineering services for the property on May 10, 2022.

On January 4, 2023, the City of Norman opened bids for the City Transit Center Remodel project. On February 14, 2023, the remodel project was awarded to Stronghold Construction, L.L.C. for \$875,334. Preliminary work began on the site in March, 2023.

DISCUSSION:

Shortly after taking possession of the property in 2022, the City reached out to Ms. Catherine Petersen, who was one of the owners of 314 East Comanche and had parking spaces facing the west side of 320 East Comanche. The property the City now owns has a 10 foot width of the drive located between the properties, which connects East Comanche Street to the alley behind the properties. The City indicated this to Ms. Petersen and offered to work with her on not blocking her access to the spaces located on her property, by providing access through an approved easement or some other method. No response was received until an attorney representing Ms. Petersen contacted the City and wanted assurances that no use of the drive would be made by the City as it was their opinion that the drive was part of the parcel that 314 East Comanche was located on.

Ms. Petersen and her husband filed Requests for Temporary Injunction and Restraining Order along with a Quiet Title Action. A hearing was held on March 10, 2023 in Cleveland County District Court. On March 20, 2023 District Judge Tupper issued an order denying the requests for a restraining order or a temporary injunction. The Order indicated one of the reasons those were not granted was due to the unlikelihood that Plaintiffs would prevail in their Quiet Title action against the City.

A cross access easement was drafted by the City and sent to the Plaintiffs' attorney, as a settlement of the Quiet Title Action against the City. The easement allows both parties to access all of the drive, but maintain only that portion which they own. The Plaintiffs have signed and returned the easement, which will be filed after Council approval.

RECOMMENDATION:

Staff recommends approval of Easement E-2324-5.

WHEN RECORDED MAIL TO:

City of Norman
Attn: City Attorney
201 W. Gray
Norman, OK 73070

SPACE ABOVE THIS LINE FOR RECORDER'S USE

CROSS ACCESS EASEMENT

THIS AGREEMENT, made and entered into this _____ day of _____, 2023, by and between, Catherine H. Petersen and Lester E. R. Doty, husband and wife as First Party, and, City of Norman, an Oklahoma municipality, as Second Party.

WHEREAS, the First Party is the owner of the following described property, to-wit:

All of Lots Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15) and Sixteen (16), in Block Twenty-Four (24), of THE ORIGINAL TOWN OF NORMAN, Norman, Cleveland County, Oklahoma, according to the recorded plat thereof.

WHEREAS, the Second Party is the owner of the following described property, to-wit:

All of Lots Four (4), Five (5), Six (6), Seven (7), Eight (8) and Nine (9), in Block Twenty-Four (24), of THE ORIGINAL TOWN OF NORMAN, Norman, Cleveland County, Oklahoma, according to the recorded plat thereof.

WHEREAS, the Parties are desirous of obtaining each from the other a non-exclusive easement for ingress and egress purposes only, over and across a portion of the premises owned by them, in order that said Parties, their successors, invitees and assigns, might have proper ingress and egress to the property owned by said Parties.

NOW, THEREFORE, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration in hand paid each to the other, the Parties do hereby grant, bargain and convey each to the other, their successors and assigns, a non-exclusive easement for purposes of ingress and egress only, over and across the following described real property, to-wit:

The East 4' of Lot Nine (9) and the West 10' of Lot Ten (10), in Block Twenty-Four (24), of THE ORIGINAL TOWN OF NORMAN, Norman, Cleveland County, Oklahoma.

The foregoing easement is given for purposes of ingress and egress only and may be used for no other purposes whatsoever. The Parties shall use their best efforts to keep the easement area open to vehicular traffic.


The foregoing easement shall not be considered as a Dedication to the general public.


Should the easement area above granted be abandoned for purposes of ingress and egress by the Parties, or their successors or assigns, then in that event, such easement and all rights thereunder shall become null and void and be of no further force and effect.

Each Party agrees to maintain that portion of the easement located on its parcel of land at its sole expense.

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective the executors, administrators, devisees, trustees, successors, assigns and grantees of the parties hereto.

Dated this _____ day of _____, 2023.


Catherine G. Petersen
H.


Lester E. R. Doty

CITY OF NORMAN, OKLAHOMA

By: _____
Larry Heikkila, Mayor

APPROVED BY CITY OF NORMAN LEGAL DEPARTMENT
BY  DATE 7/6/23

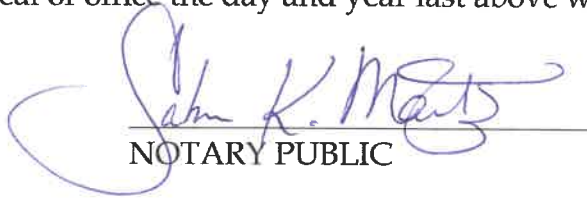
ACKNOWLEDGMENT

STATE OF OKLAHOMA
COUNTY OF CLEVELAND

} SS:

Before me, the undersigned, a Notary Public in and for said County and State on this 14th day of June, 2023, personally appeared Catherine H. Petersen and Lester E. R. Doty, husband and wife, to me known to be the identical persons who executed the within and foregoing instrument and acknowledged to me that they executed the same as their free and voluntary act and deed, for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.


NOTARY PUBLIC

My Commission Expires:



04-22-2027

ACKNOWLEDGMENT

STATE OF OKLAHOMA
COUNTY OF CLEVELAND

} SS:

Before me, the undersigned, a Notary Public in and for said County and State on this ____ day of _____, 2023 personally appeared _____ to me known to be the identical person who subscribed the name of the maker thereof to the foregoing instrument as its Mayor and acknowledged to me that he executed the same as Mayor free and voluntary act and deed and as the free and voluntary act and deed of such Municipality, for the uses and purposes therein set forth.

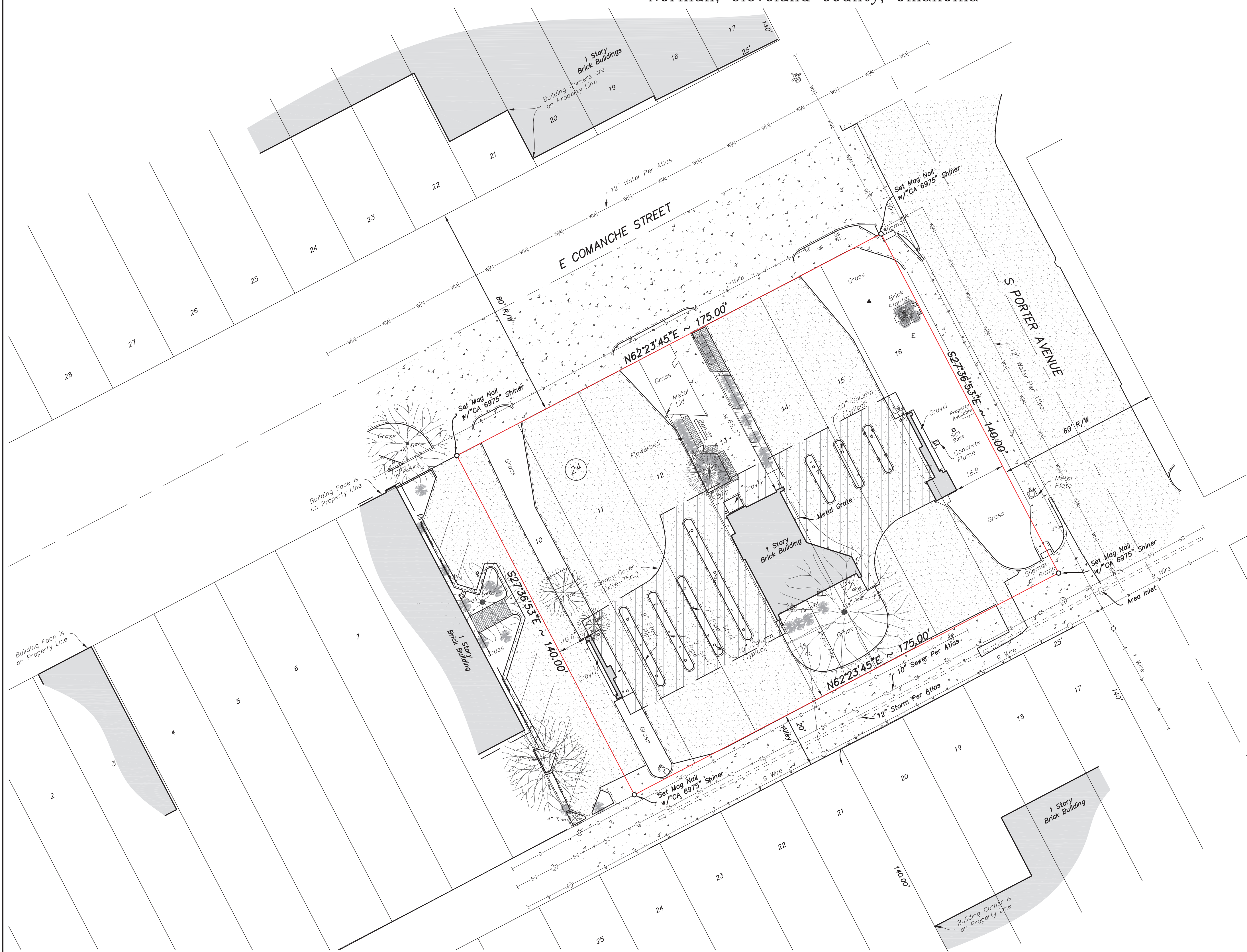
Given under my hand and seal of office the day and year last above written.

NOTARY PUBLIC

My Commission Expires:

(SEAL)

ALTA/NSPS LAND TITLE SURVEY
318 E. COMANCHE STREET
Norman, Cleveland County, Oklahoma



City's Exhibit No. 16

TOPOGRAPHIC LEGEND

- AIR CONDITIONER UNIT
- LIGHT POLE
- POWER POLE
- ELECTRIC RISER
- GAS VALVE
- SPRINKLER HEAD
- SPRINKLER VALVE
- FIRE HYDRANT
- WATER METER
- WATER VALVE BOX
- SANITARY SEWER MANHOLE
- SANITARY SEWER CLEANOUT
- SANITARY SEWER LAMPHOLE
- ROOF DRAIN
- GUARD POST
- SIGN
- ELECTRIC UNDERGROUND LINE
- OVERHEAD ELECTRIC LINE
- SANITARY SEWER LINE
- WATER LINE
- GAS LINE
- STORM DRAIN LINE
- CURB AND GUTTER
- CONCRETE
- ASPHALT
- GRAVEL
- BRICK

SCHEDULE B-II

The following items refer to Chicago Title Insurance Co.
Title Commitment No. 710702000931
Effective Date: September 16, 2020 at 7:00 AM
1.-8. NOT SURVEY MATTERS

SURVEYOR'S CERTIFICATE

To:
-Liberty National Bank and Trust company of Oklahoma City
-Chicago Title Oklahoma Co.
-Chicago Title Insurance Company

I, Matt C. Barnum, a Registered Professional Land Surveyor, do hereby certify to the aforesaid parties, as of the date set forth above that I or others under my direct supervision, have made a careful survey of a tract of land described as follows:

Lots Ten (10), Eleven (11), Twelve (12), Thirteen (13), Fourteen (14), Fifteen (15), and Sixteen (16), in Block Twenty-four (24), of the ORIGINAL TOWN OF NORMAN, Cleveland County, Oklahoma, according to the recorded plat thereof.

1 This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2016 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 4, 8, 9, 11 and 20, of Table A thereof. The fieldwork was completed on December 14, 2020.

2 This survey meets or exceeds the requirements set forth by the "Oklahoma Minimum Standards for the Practice of Land Surveying" as adopted by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors

3 Issuing a new Title Policy or a re-dating of an existing policy which references this map and survey without the benefit of an update of said survey by Lemke Land Surveying shall terminate any liability expressed or implied hereon

TABLE "A" NOTES

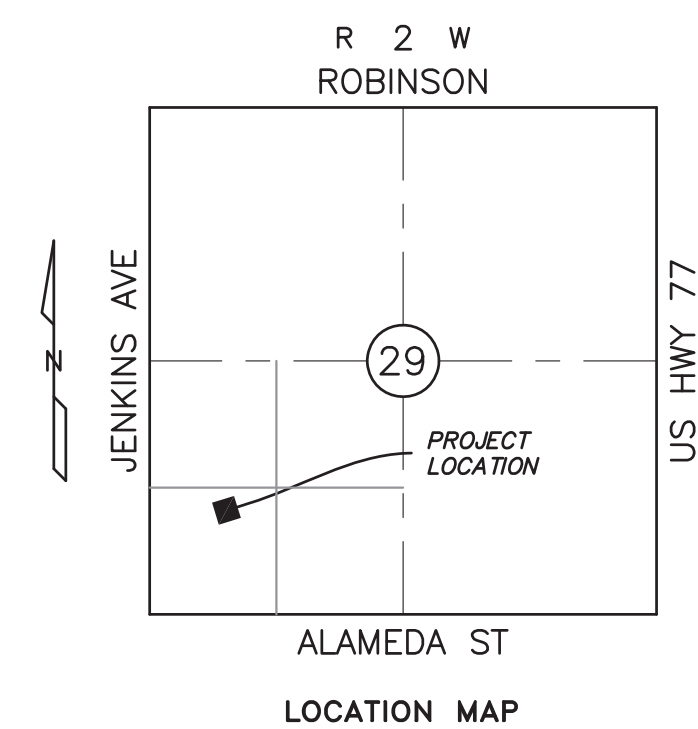
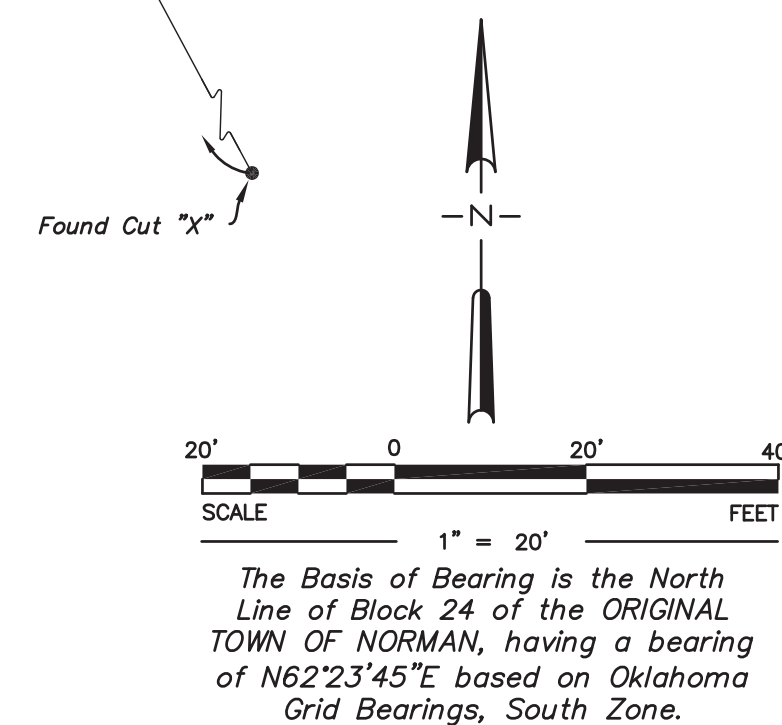
- As Shown on Survey Drawings.
- The physical address of property is 318 E. Comanche Street, Norman, OK 73069.
- The property described hereon contains 0.56 acres, more or less.
- As Shown on Survey Drawings.
- No Parking Spaces were observed at the time of this Survey.
- As Shown on Survey Drawings.
- Lemke Land Surveying carries and keeps current a Professional Liability Insurance Policy.

UTILITY WARNING:
The underground utilities shown have been located from record documents or field locations by the operator. The surveyor makes no guarantee that the underground utilities shown comprise all such utilities in the area either in service or abandoned. The surveyor further does not warrant that the underground utilities shown are in the exact location indicated although the surveyor does certify that they are located as accurately as possible from the information available. The surveyor has not physically located the underground utilities.

Utility elevations and sizes may have been measured under adverse field conditions. Upon exposing the utility, elevations and line sizes should be verified by the contractor prior to construction. Contractor should verify critical elevations using the benchmark provided by the surveyor or engineer. Any discrepancies should be immediately brought to the engineer's and surveyor's attention.

Call OKIE Ticket Nos. 20121214230124

MEMBERS NOTIFIED:
S00376 USIC/Cox Comm/OKC S00376
S00444 USIC/ONG/West OK S00444
T09079 Norman City of T09079
S00442 USIC/OG&E OKC METRO S00442
T11158 AT&T Distribution T11158



MATT C. BARNUM, P.L.S. NO. 1742
DATED: 12/23/2020




LEMKE LAND SURVEYING
3328 EAST COMANCHE DRIVE
NORMAN, OK 73075
PH: (405) 366-8541 FAX: (405) 366-8540
CA # 6975 http://www.lemke-ls.com

Surveyed By:	PR/RT	SA	MB	Date	Appr.
Drawn By:					
Approved By:					
Date:					
Scale:					
Project No:					

ALTA/NSPS LAND TITLE SURVEY
318 E. COMANCHE STREET
CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA
CITY OF NORMAN
P.O. BOX 370, NORMAN OK 73070

Sheet Number
1
Sheet 1 of 1

**Interactive Map**City of Norman, Oklahoma

+

-

Home

History

Find address or place

🔍

📏

📐

📱

🖨️

Measurement

📏

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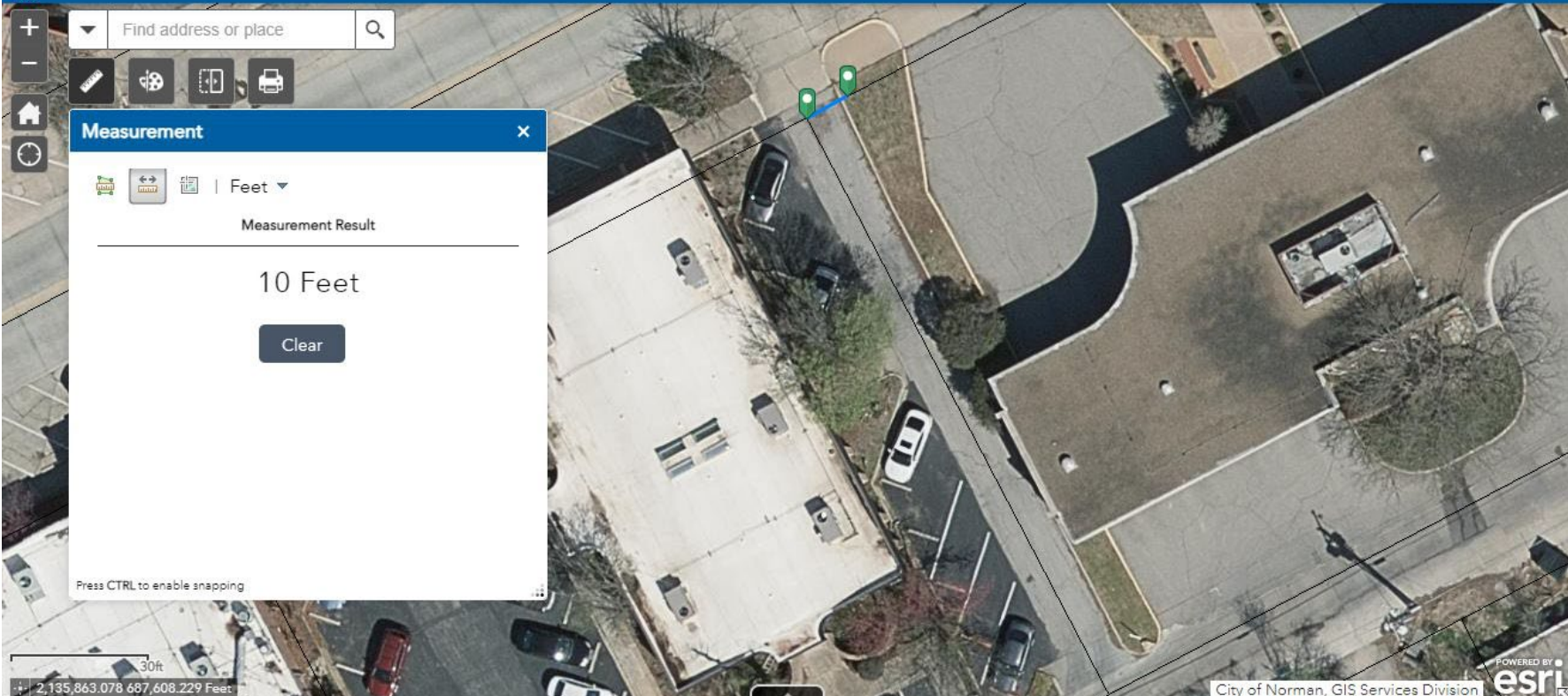
Feet

Measurement Result

10 Feet

Clear


Press CTRL to enable snapping



30ft

2,135,863.078 687,608.229 Feet

City of Norman, GIS Services Division

POWERED BY 



File Attachments for Item:

16. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONSENT TO ENCROACH EN-2223-3: FOR LOT 30, BLOCK 4, VINTAGE CREEK ADDITION, SECTION 1, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA. (512 LEGACY COURT)



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Beth Muckala, Assistant City Attorney

PRESENTER: Beth Muckala, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONSENT TO ENCROACH EN-2223-3: FOR LOT 30, BLOCK 4, VINTAGE CREEK ADDITION, SECTION 1, CITY OF NORMAN, CLEVELAND COUNTY, OKLAHOMA. (512 LEGACY COURT)

BACKGROUND:

An encroachment request has been filed in the office of the City Clerk by property owner(s), Heath McKee and April McKee, requesting a Consent to Encroach into a sanitary sewer easement at the above-described property.

DISCUSSION:

The application for the Consent to Encroachment concerns the encroachment upon a City of Norman and Norman Utilities Authority (NUA) sanitary sewer easement for a proposed driveway. The owner(s) are requesting that the proposed driveway be allowed to encroach upon the existing sanitary sewer easement located across the south side of the property.

A platted 20-foot sanitary sewer easement exists along the south property line and will be encroached upon for the proposed driveway. A majority of the driveway will encroach within the easement.

The area is not serviced by AT&T Oklahoma, Cox Communications, Oklahoma Gas & Electric, Oklahoma Natural Gas, or Oklahoma Electric Cooperative.

Staff has reviewed the application and the “hold harmless” clauses. From a legal perspective, it protects the City’s and the NUA’s concerns with respect to damage to the property owners’ property should the City and the NUA or other authorized entity be required to perform work within its easement. There are some conditions applied to this Consent to Encroachment as listed below:

1. The property owner(s), and property owners’ heirs, successors, or assigns (hereafter collectively the “Owner Parties”) will be responsible for the cost to repair any damages to the City’s drainage, utilities or infrastructure caused by any excavation, piercing or other construction activities conducted by the Owner Parties or their agents;

2. The Owner Parties will be required to apply for and receive any applicable permits prior to commencing work;
3. The Owner Parties will not place any above-ground structures within the sanitary sewer easement;
4. The Owner Parties will be responsible for the cost the City and the NUA incurs to remove any driveway, structure, paving, curb, retaining wall, landscaping, and/or any other item if needed to maintain or repair NUA facilities;
5. The Owner Parties will be responsible for the cost to repair or replace any driveway, structure, paving, curb, retaining wall, landscaping, or any other item after such repair;
6. The Owner Parties will waive and release any claims against the City and the NUA for any damages to the residence and related improvements caused by failure or repair and maintenance of the City's and the NUA's facilities within the easement area;

The benefit to having the consent to encroach on file is that it is evidence of the property owners' understanding that, while the City and the NUA is allowing them to encroach upon the easement, the City and the NUA are not liable and will not be responsible for damage to the property owners' property in the event maintenance has to be performed within the easement.

All necessary City departments have responded on this item and have no objection to the proposed Consent Agreement and Covenant, with the conditions stated therein. Please note that this Consent Agreement and Covenant concerns only the City's consent to encroach where a project is otherwise permissible under City Code. Further evaluation will occur once such an application has been submitted by applicants relating to this project.

RECOMMENDATION:

Based upon the above and foregoing, the City Attorney's office is forwarding the above Consent to Encroach, EN-2223-3, for Council consideration.

CONSENT AGREEMENT AND COVENANT

Consent to Encroachment No. EN-2223-3

WHEREAS, the City of Norman and the Norman Utilities Authority (NUA), Cleveland County, are in possession of a sanitary sewer easement on the land described as follows, to-wit:

Lot 30, Block 4, Vintage Creek Addition, Section 1, City of Norman,
Cleveland County, Oklahoma (512 Legacy Court)

AND WHEREAS, the owner(s) of the above-described property requests that a proposed driveway be allowed to encroach upon an existing sanitary sewer easement;

AND WHEREAS, the City and the NUA have been requested to consent in writing to the proposed driveway being located at the requested location as demonstrated in Exhibit A;

NOW, THEREFORE, the City of Norman and the NUA do hereby consent to said proposed driveway being within and upon the sanitary sewer easement with the following conditions:

1. The property owner(s), and property owners' heirs, successors, or assigns (hereafter collectively the "Owner Parties") will be responsible for the cost to repair any damages to the City's drainage, utilities or infrastructure caused by any excavation, piercing or other construction activities conducted by the Owner Parties or their agents;
2. The Owner Parties will be required to apply for and receive any applicable permits prior to commencing work;
3. The Owner Parties will not place any above-ground structures within the sanitary sewer easement;
4. The Owner Parties will be responsible for the cost the City and the NUA incurs to remove any driveway, structure, paving, curb, retaining wall, landscaping and/or any other item if needed to maintain or repair City or NUA facilities;
5. The Owner Parties will be responsible for the cost to repair or replace any driveway, structure, paving, curb, retaining wall, landscaping, or any other item after such repair;
6. The Owner Parties will waive and release any claims against the City and the NUA for any damages to the residence and related improvements caused by failure or repair and maintenance of the City's and the NUA's facilities within the easement area;

The consent is limited to the proposed driveway as indicated in the application being located within the sanitary sewer easement and the City does not authorize or consent to the construction or location of any other structure of a permanent nature within the easement. Further, this Consent is given with the understanding that the Owner Parties are responsible for any and all direct and consequential damages resulting from the granting of this consent with entry to or upon the existing sanitary sewer easement as required at any time in the future.

The City and the NUA, or any other entity so authorized, shall not be held responsible for any and all direct or consequential damages to encroaching improvements resulting from entry, by the City and the NUA, or any other entity so authorized, upon said sanitary sewer easement, for any purpose associated with the maintenance, construction, relocation, etc. of any sanitary sewer and/or utility located within the said easement.

This Consent carries with it obligations and benefits affecting the land, and constitutes a covenant running with the land, shall be binding upon the Owner Parties, and any heirs, successors and assigns.

IN WITNESS WHEREOF, the undersigned has executed this consent this 11th day of July, 2023.

THE CITY OF NORMAN, OKLAHOMA

ATTEST:

Mayor

City Clerk

OWNER

By: Heath McKee
Heath McKee

OWNER

By: April McKee
April McKee

COUNTY OF CLEVELAND

)

) ss:

STATE OF OKLAHOMA

)

On this 7th day of July, 2023, before me personally appeared Heath and April McKee, to me known to be the Owner Parties and the identical person(s) who executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

Witness my hand and official seal the day and year last above written.

Pamela Roselle Houston

Notary Public

My Commission Expires: March 11, 2026

My Commission Number: #22003458



Item 16.



Date: JANUARY 2023

SHEET NO. OF _

DATE: May 22, 2023

TO: Kathryn Walker, City Attorney
Rone Tromble, Administrative Technician IV
Ken Danner, Subdivision Manager
Nathan Madenwald, Utilities Engineer
Jane Hudson, Director of Planning and Community Development

FROM: Brenda Hall, City Clerk

SUBJECT: Request for Consent to Encroachment 2223-3 – 512 Legacy Court

I am in receipt of an encroachment request for permission to encroach on a utility easement located 512 Legacy Court. The application fee has been paid. After the information has been received from the Planning Department, Public Works Department, and Utilities Department and a determination has been made on whether to recommend approval or denial, please forward your recommendation and Consent to Encroachment Form, if needed, to my office in order that it may be scheduled as an agenda item.

This item will be scheduled as an agenda item on July 11, 2023, and the information must be received in my office by June 4, 2023. If there is a problem in meeting that timeframe, please advise.

BH:smr
attachments



office memorandum

May 16, 2023

City Clerk – Brenda Hall
201 West Gray
Norman, OK 73070

RE: Residential Shop Building Driveway Encroachment

Dear Brenda:

This letter is to request a consent to encroach a sanitary sewer easement located at 512 Legacy Ct. I have submitted a plan for a new shop building to Planning Department. They forwarded this plan to Utilities and I was told I would need to write you a letter explaining the need for encroachment. The sewer line in question runs through my side yard and the path represents the best access to shop building. A path to the north of my house is complicated due to slope of yard and a 100 year flood plane on that part of my property.

I have attached my site plan to this correspondence. Thank you for your time and consideration in this matter.

Sincerely,
Heath McKee
512 Legacy Ct
Norman, OK 73069

FILED IN THE OFFICE
OF THE CITY CLERK
ON 5/16/23



TO: Brenda Hall, City Clerk

FROM: Lora Hoggatt, Planning Services Manager

DATE: May 24, 2023

SUBJECT: Consent to Encroach No. 2223-3
Block 4, Lot 30
Vintage Creek Addition, Section 1
512 Legacy Ct.

The lot located at the subject address has a platted 20' sanitary sewer easement across the south side of the lot. The owner is requesting consent to encroach into this platted easement with a new driveway, providing access to a new storage building located on the east side of the lot. The impervious area requirements will still be under the required maximum coverage of 65%.

Planning and Community Development Staff does not oppose the encroachment of this driveway.

cc: Jane Hudson, Planning Director
Brenda Hall, City Clerk
Ellen Usry, Deputy City Clerk

office memorandum



office memorandum

Date: June 15, 2023

To: Beth Muckala, Assistant City Attorney

From: Ken Danner, Subdivision Development Manager *K.D.*

Subject: Consent to Encroach
 Lot 30, Block 4, Vintage Creek Addition, Section 1, a Planned Unit Development
 512 Legacy Court.

Public Works Department, Engineering Division does not object to the encroachment of a proposed parking area (driveway) into twenty-foot (20') sanitary sewer easement as long as there is a hold harmless clause in the consent document that clearly states replacement of the driveway (pavement) will be at the total expense of the property owner if Utilities Department has to perform maintenance on an existing 27" sanitary sewer interceptor main. Engineering does yield to the Utilities Department for any additional comments. Utility companies were not notified since this encroachment is located within an exclusive sanitary sewer easement.

If you have further questions, please feel free to contact me.

kd

Reviewed by: Scott Sturtz, City Engineer *SS*

Reviewed by: Shawn O'Leary, Director of Public Works *SO*

cc: Brenda Hall, City Clerk
 Chris Mattingly, Director of Utilities



Date: June 1, 2023

To: Brenda Hall, City Clerk

From: Rachel Croft, Staff Engineer *RC*

Subject: Consent to Encroach 2223-3
(512 Legacy Ct – Block 4, Lot 30, Vintage Creek Addition, Section 1)

An existing platted utility easement lies along the east side and a separate sewer easement lies along the south side of the subject property. The applicant is requesting encroachment into the south 20-foot sanitary sewer easement for a private drive.

An 8-inch waterline is located in the existing right-of-way and a 27-inch sanitary sewer line and manhole runs through the property from the southwest to the southeast side, within the 20-foot sewer easement.

The Norman Utilities Authority (NUA) objects to all encroachments in easements. However, if the applicant agrees to the following requirements with consent document filed of record on the property for the duration that the encroachment is in place, NUA staff will not oppose a recommendation for approval:

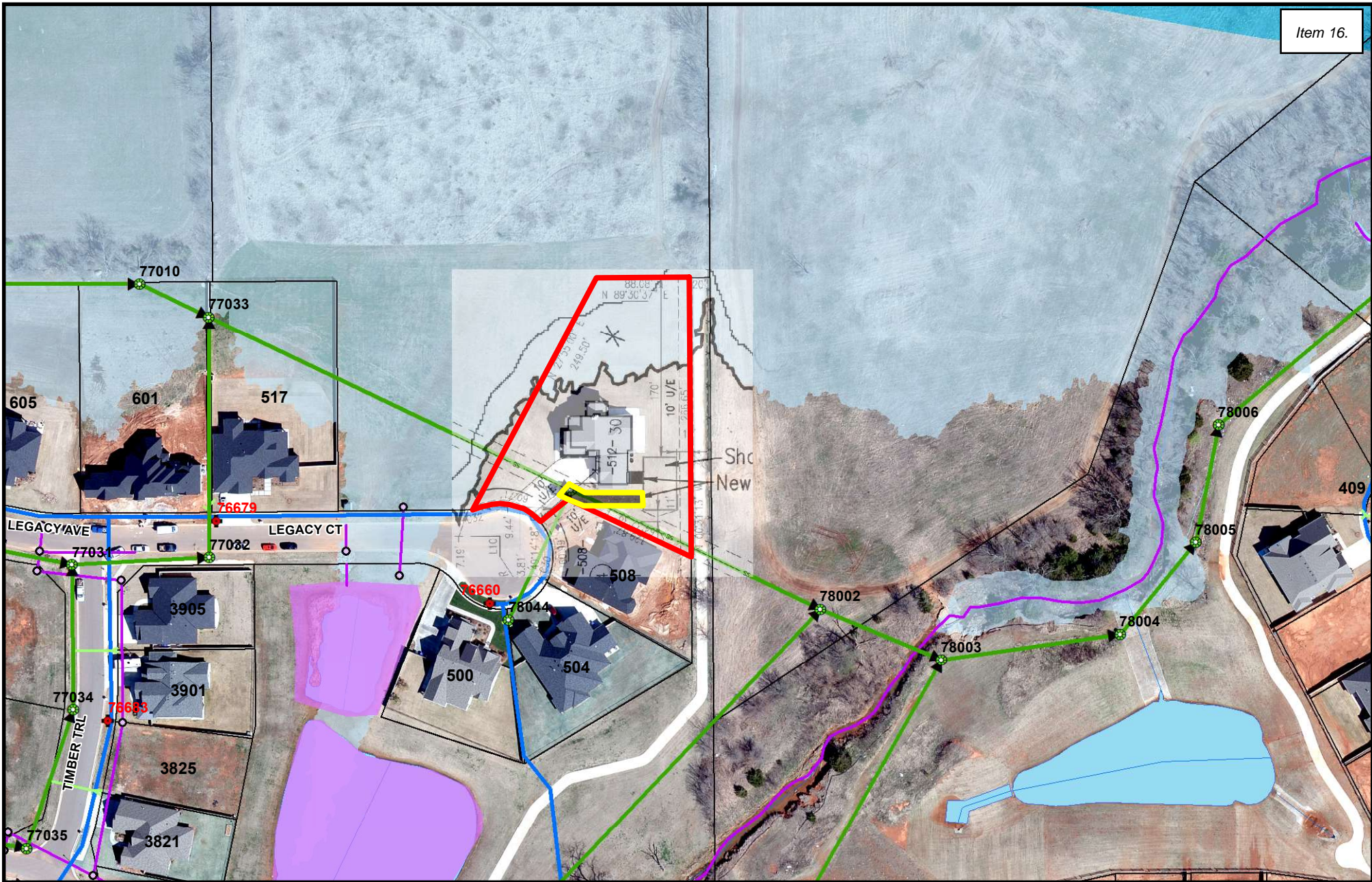
1. The property owner will be responsible for the cost to repair any damages to the City's utilities caused by any excavation or other construction activities conducted by the property owner or his agents.
2. The property owner will be responsible for the cost the City incurs to remove any improvements or structure if needed to maintain, repair, or install NUA facilities.
3. The property owner will be responsible for the cost to repair or replace any improvements or structure after such repairs.
4. The property owner will waive and release any claims against the City for any damages to the residence and related improvements caused by failure or repair, maintenance, and installation of the City's utilities within the easement area.

Please advise if questions arise.


Attachments: Map of Water and Sewer Infrastructure and Proposed Encroachment
May 22, 2023 Consent to Encroachment No. 2223-3 Memo from City Clerk
Engineering Plans for Vintage Creek Addition, Sec. 1 – Sewer
Engineering Plans for Vintage Creek Addition, Sec. 1 – Water
Final Plat –Vintage Creek Addition, Sec. 1
Easement E-0708-29 (Book 4482 Page 1392)

cc: Ken Danner
Kathryn Walker
Beth Muckala
Sarah Encinias
Chris Mattingly
Nathan Madenwald
Utilities Folder

office memorandum






512 Legacy Ct - Consent to Encroach 2223-3

 Map Produced by the City of Norman
Geographic Information System.
The City of Norman assumes no
responsibility for errors or omissions
in the information presented.

0 31.25 62.5 125 Feet
June 1, 2023






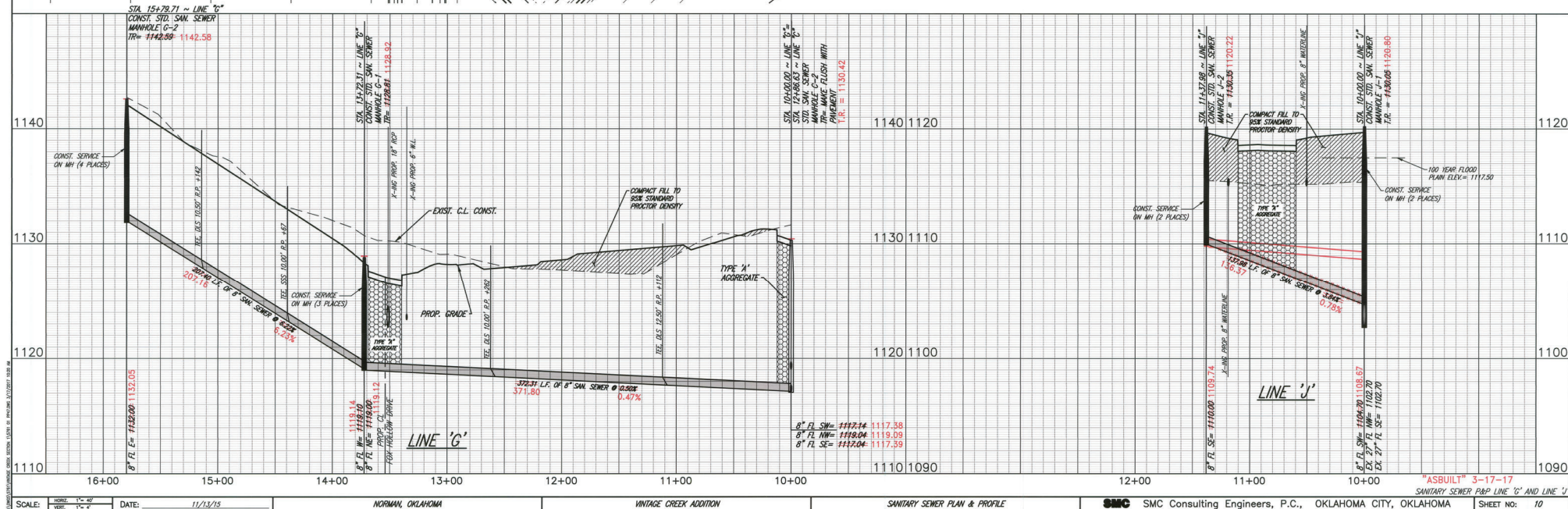
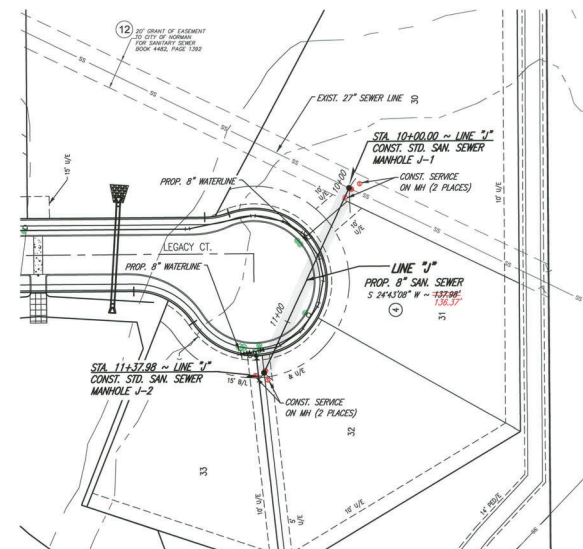
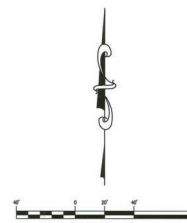
Legend

-  SGravityMains
-  WMains
-  Storm Lines

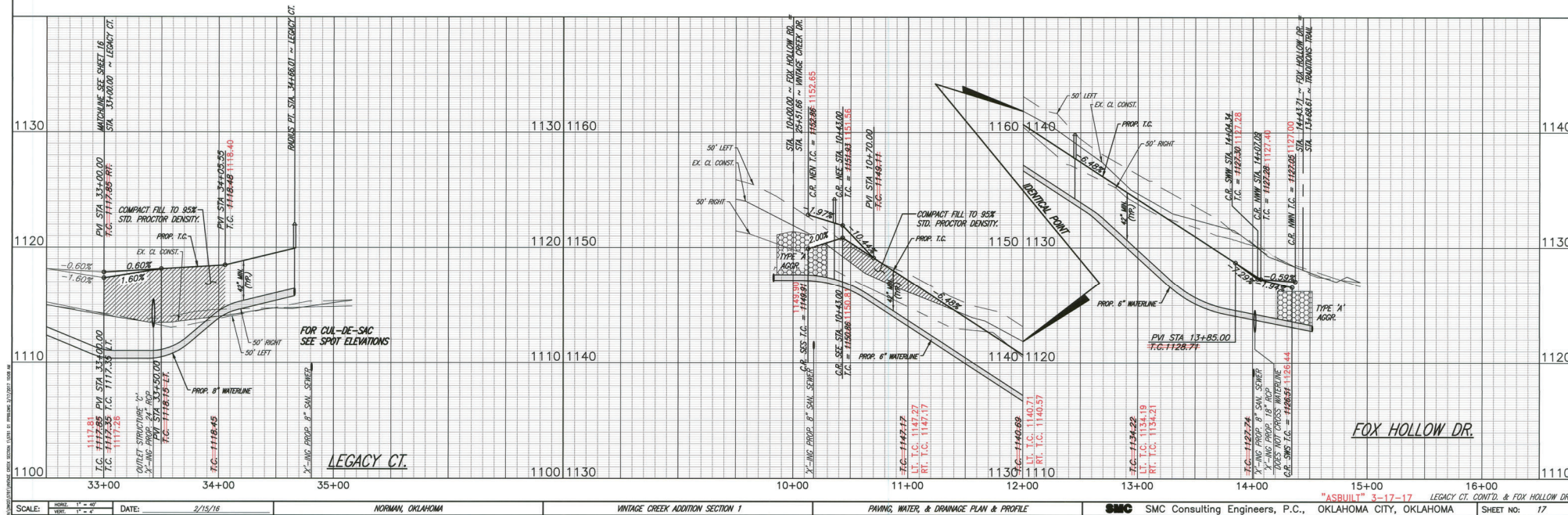
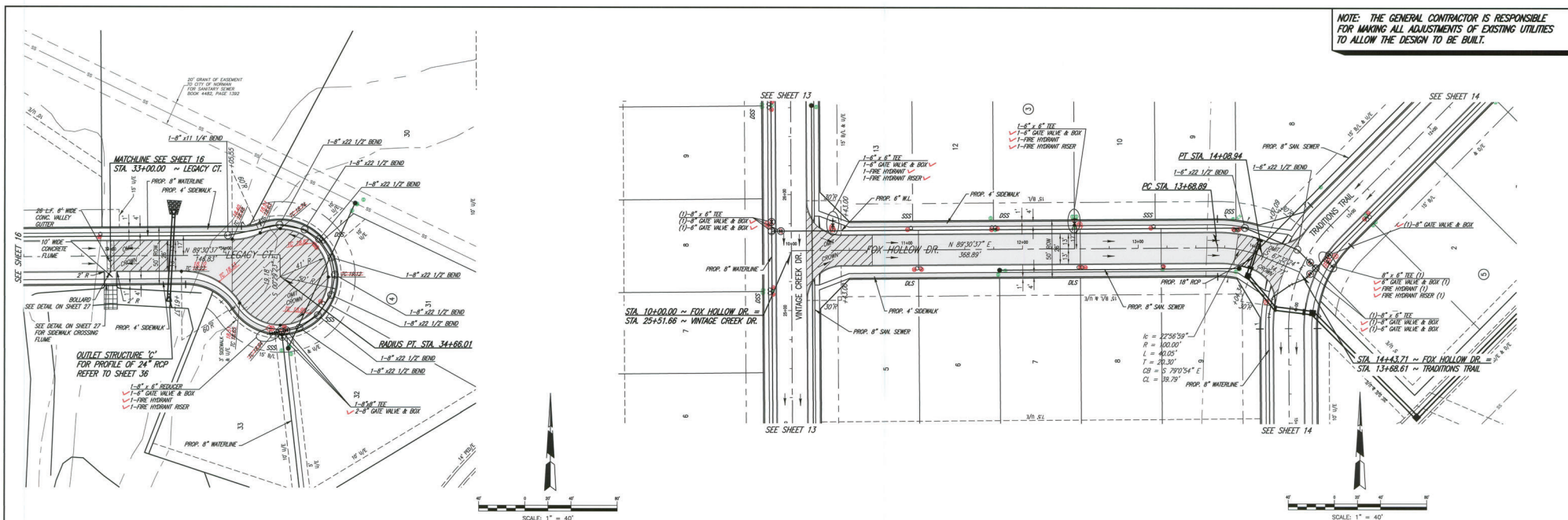
Flood Zones

TYPE

 100	 112
 floodway	



NOTE: THE GENERAL CONTRACTOR IS RESPONSIBLE FOR MAKING ALL ADJUSTMENTS OF EXISTING UTILITIES TO ALLOW THE DESIGN TO BE BUILT.



FINAL PLAT VINTAGE CREEK ADDITION

A PLANNED UNIT DEVELOPMENT
A PART OF SECTION 7, TN9, RW2, I.M.
NORMAN, CLEVELAND COUNTY, OKLAHOMA

STORM DRAINAGE DETENTION FACILITY EASEMENT

DRAINAGE DETENTION FACILITY EASEMENTS ARE HEREBY ESTABLISHED AS SHOWN TO PROVIDE FOR DETENTION OF STORM SURFACE WATER AND CONSTRUCTED AS APPROVED BY THE CITY ENGINEER. ALL MAINTENANCE WITHIN THE DRAINAGE DETENTION FACILITY EASEMENT SHALL BE THE RIGHT, DUTY AND RESPONSIBILITY OF THE PROPERTY OWNERS ASSOCIATION IN THE PLAT OF VINTAGE CREEK ADDITION; HOWEVER, IF MAINTENANCE IS NEGLECTED OR SUBJECT TO OTHER UNUSUAL CIRCUMSTANCES AND IS DETERMINED TO BE A HAZARD OR THREAT TO PUBLIC SAFETY BY THE CITY ENGINEER, CORRECTIVE MAINTENANCE MAY BE PERFORMED BY THE GOVERNING JURISDICTION WITH COSTS ASSESSED TO AND BORNE UPON SAID PROPERTY OWNERS ASSOCIATION. OFFICIALS REPRESENTING THE ENGINEERING DIVISION, PUBLIC WORKS DEPARTMENT, SHALL HAVE THE RIGHT TO ENTER UPON THE EASEMENT FOR PURPOSES OF PERIODIC INSPECTION AND/OR CORRECTIVE MAINTENANCE OF THE FACILITY. UPON RECEIVING WRITTEN APPROVAL FROM THE ENGINEERING DIVISION, PUBLIC WORKS DEPARTMENT, PROPERTY OWNERS ASSOCIATION MAY CONSTRUCT IMPROVEMENTS WITHIN THE EASEMENT, PROVIDED THE IMPROVEMENT DOES NOT INTERFERE WITH THE FUNCTION OF THE DETENTION FACILITY.

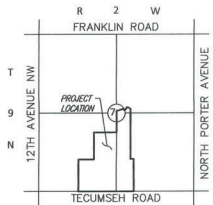
Doc# P 2017 9
Bk# P 24 207-208
Plat# 13-29-2017
02:00:43 PM
Cleveland County, OK

STATE OF OKLAHOMA
COUNTY OF CLEVELAND
FILED FOR RECORD

Noted 2/29/17 at 2:00:43 PM
Book 24, Page 207
By [Signature] Deputy

NOTES:

1. BEARINGS SHOWN HEREON ARE BASED ON THE RECORD OF S 89°44'29" W FOR THE SOUTH LINE OF SECTION 7.
2. EASEMENTS SHOWN HEREON BY SPECIFIC RECORDING INFORMATION ARE SHOWN FOR REFERENCE PURPOSES ONLY AND ARE NOT DEDICATED PURSUANT TO THIS FINAL PLAT.
3. COMMON AREAS WILL BE OWNED AND MAINTAINED BY THE PROPERTY OWNERS ASSOCIATION.
4. UNLESS NOTED OTHERWISE, THE UNIT OF MEASUREMENT SHOWN FOR ALL DIMENSIONS ON THE FINAL PLAT IS FEET.
5. UNLESS OTHERWISE NOTED, ALL PROPERTY CORNERS ARE SET 1/2" IRON PINS WITH CA 6301 CAPS OR MAG NAILS WITH CA 6301 HDS.



LOCATION MAP
SCALE: 1" = 2000'

CURVE TABLE

CHORD BEARS	CHORD BEARS	CHORD BEARS	CHORD BEARS	CHORD BEARS	CHORD BEARS
CL 1	115.00	115.00	115.00	115.00	115.00
CL 2	115.00	115.00	115.00	115.00	115.00
CL 3	115.00	115.00	115.00	115.00	115.00
CL 4	115.00	115.00	115.00	115.00	115.00
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CL 22	115.00	115.00	115.00	115.00	115.00
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CL 26	115.00	115.00	115.00	115.00	115.00
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CL 28	115.00	115.00	115.00	115.00	115.00
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CL 32	115.00	115.00	115.00	115.00	115.00
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CL 99	115.00	115.00	115.00	115.00	115.00
CL 100	115.00	115.00	115.00	115.00	115.00

LINE TABLE

LINE	CHORD BEARS		CHORD BEARS	CHORD BEARS	CHORD BEARS
(1)	S	00°29'23"	E	8.3	
(2)	S	00°29'23"	E	8.8	
(3)	S	38°47'19"	W	12.0	
(4)	N	67°32'24"	W	34.2	
(5)	N	11°15'39"	E	18.9	
(6)	S	40°08'09"	E	24.4	
(7)	N	89°30'37"	E	75.9	
(8)	N	25°39'56"	E	27.5	
(9)	S	11°15'39"	W	22.0	
(10)	N	00°29'23"	W	19.1	
(11)	S	00°15'31"	E	25.7	
(12)	S	78°09'42"	E	21.6	
(13)	S	00°15'31"	E	68.9	

Doc#: R 2008 15403
 Bk & Pg: RB 4482 139
 Filed: 04-29-2008 CJM
 03:22:16 PM EA
 Cleveland County, OK

Item 16.

Little River Interceptor (Phase II)
 Easement E-0708-29

15/1 **GRANT OF EASEMENT**
 City of Norman

KNOW ALL MEN BY THESE PRESENTS:

THAT James Dean Sterling Revocable Living Trust (GRANTOR), in consideration of the sum of One Dollar (\$1.00), receipt of which is hereby acknowledged, and for and upon other good and valuable considerations, do hereby grant, bargain, sell, and convey unto the City of Norman (CITY), a municipal corporation, a public sewer easement over, across, and under the following described real estate and premises situated in the City of Norman, Cleveland County, Oklahoma, to wit:

A 20 foot wide strip of land lying in the South Half (S/2) of Section Seven (7), Township Nine North (T9N), Range Two West (R2W) of the Indian Meridian, Cleveland County, Oklahoma, being 10.00 feet both sides of the following described centerline, said 10.00 foot sides shall be extended or trimmed to abut the property boundary lines.

COMMENCING from the Northwest corner of the SW/4 of said Section 7;
 THENCE South 00°30'10" East, along the west line of said Section 7, a distance of 994.90 feet; THENCE North 88°07'48" East a distance of 50.69 feet; THENCE North 64°08'47" East a distance of 807.26 feet; THENCE North 89°36'51" East a distance of 628.34 feet; THENCE North 84°54'50" East a distance of 433.33 feet; THENCE North 89°44'46" East a distance of 10.00 feet to the POINT OF BEGINNING; THENCE continuing North 89°44'46" East a distance of 744.81 feet; THENCE South 64°37'39" East a distance of 613.70 feet to the POINT OF TERMINATION. Said tract of land contains an area of 0.62 acres (27,170 square feet), more or less.

with the right of ingress and egress to and from the same, for the purpose of surveying, laying out, constructing, maintaining, and operating a public sanitary sewer line.

To have and to hold the same unto the said City, its successors, and assigns forever.

SIGNED and delivered this 11th day of April, 20 08.

BY: James Dean Sterling x
 GRANTOR

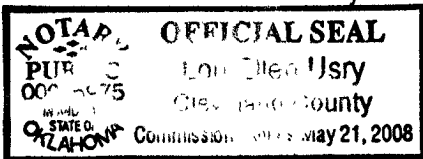
CITY OF NORMAN
 BOX 370
 NORMAN, OK 73070

REPRESENTATIVE ACKNOWLEDGMENT

STATE OF OKLAHOMA, COUNTY OF CLEVELAND, SS:

Before me, the undersigned, a Notary Public in and for said County and State, on this 11th day of April, 20 08,
 personally appeared James Dean Sterling to me known to
 be the identical person(s) who executed the foregoing grant of easement and acknowledged to me
 that he executed the same as his free and voluntary act
 and deed for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year last above written.



Lou Ellen Usry
 Notary Public

My Commission Expires: 5-21-2008

Approved as to form and legality this 16th day of April, 20 08.

K. J. Z...
 City Attorney

Approved and accepted by the Council of the City of Norman, this 22nd day of April, 20 08.

Cindy S. R...
 Mayor

Dorenda Hall
 City Clerk

File Attachments for Item:

17. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF NORMAN RURAL CERTIFICATE OF SURVEY COS-2223-5: FOR THE AMENDED RULE'S EMERALD SPRINGS ADDITION (GENERALLY LOCATED ON THE SOUTH SIDE OF FRANKLIN ROAD AND APPROXIMATELY 1/3 MILE EAST OF 12th AVENUE NW.)



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Ken Danner, Subdivision Development Manager

PRESENTER: Shawn O'Leary, Director of Public Works

TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF NORMAN RURAL CERTIFICATE OF SURVEY COS-2223-5: FOR THE AMENDED RULE'S EMERALD SPRINGS ADDITION (GENERALLY LOCATED ON THE SOUTH SIDE OF FRANKLIN ROAD AND APPROXIMATELY 1/3 MILE EAST OF 12th AVENUE NW.)

BACKGROUND:

This item is Norman Rural Certificate of Survey No. COS-2223-5 for Amended Rule's Emerald Springs Addition generally south side of Franklin Road and approximately 1/3 mile east of 12th Avenue N.W.

The property is located in the A-2, Rural Agricultural District.

Planning Commission, at its meeting of March 9, 2023, recommended approval of Norman Rural Certificate of Survey COS-2223-5 for Amended Rule's Emerald Springs Addition with a variance in the private road width requirement from 20' to 12'.

DISCUSSION:

There is one tract being divided into two tracts encompassing 38.32 acres in this certificate of survey. Tract 5 consists of 10.01 acres and Tract 6 consist of 28.31 acres.

This certificate of survey, if approved, will allow one single-family structure on each tract. There is an existing structure with an existing sanitary sewer system and water well on Tract 5. Private individual sanitary sewer system and water well will be installed in accordance with the Oklahoma Department of Environmental Quality (ODEQ) standards for the remaining tract. Fire protection will be provided by the City of Norman pumper/tanker trucks.

There is an existing private road serving Tract 5. The private road will be extended to serve Tract 6. City Standards requires a private road width standard of twenty-feet unless serving less than four (4) tracts or lots. The surveyor has requested a variance in the 20' width to a 12' width private road. Staff can support the variance based on the fact it is an excellent concrete private

road for a large portion of the development. Also, the tracts that fronted Franklin Road chose not to take access to Franklin Road which could have reduced the number of tracts connecting to the private road. This is a gated development with five (5) tracts. There are three (3) tracts previously platted.

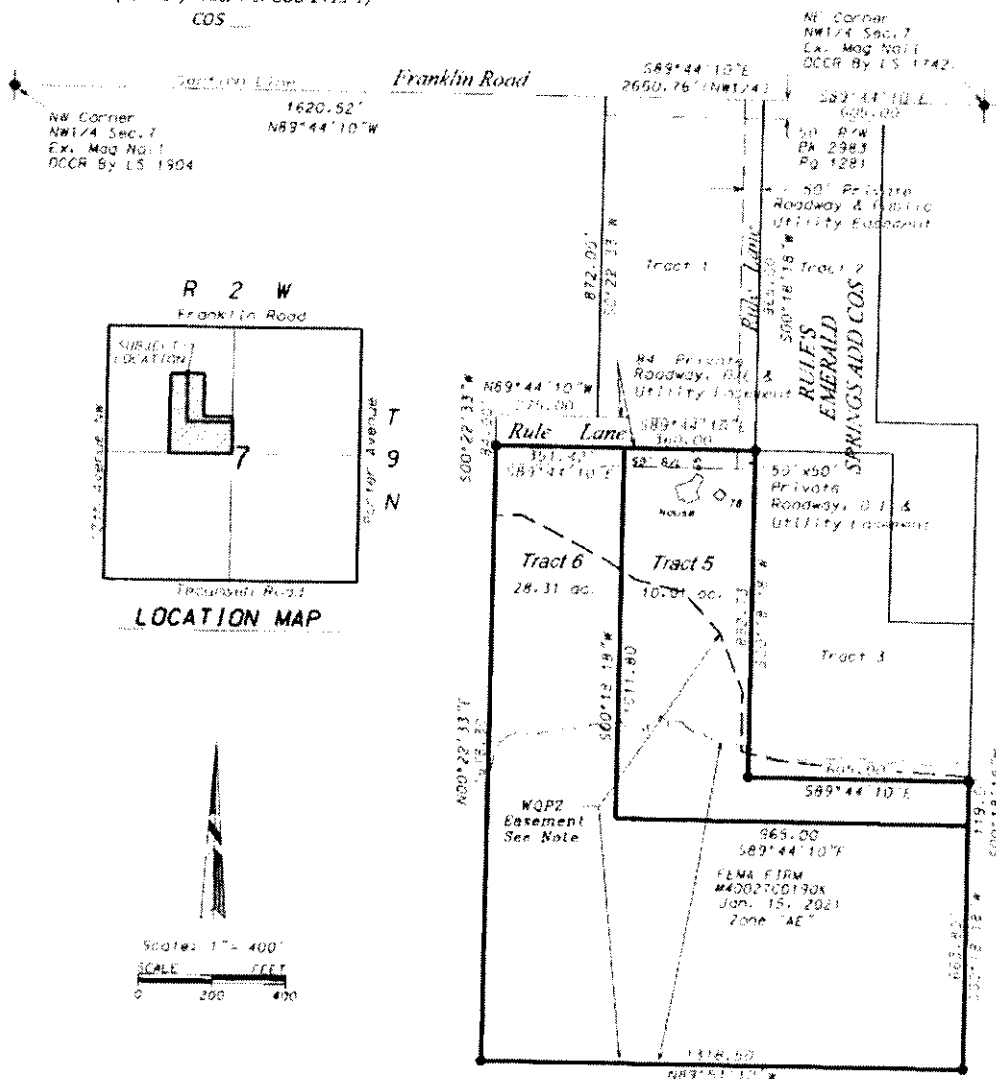
Tracts 5 and 6 contain WQPZ. However, there is sufficient area to construct structures including private sanitary sewer system outside of the WQPZ. This area will be protected by the owners per covenants. The amended covenants will include the new tract numbers protecting the WQPZ and have been reviewed by the City Legal Department and will be filed of record with the certificate of survey. A drainage easement has been previously filed of record to address the WQPZ.

Also, Tract 6 contains flood plain. However, there are no proposed structures within the flood plain and the existing structure on Tract 5 is located outside of the flood plain.

RECOMMENDATION:

Based upon the above information, staff recommends approval of Norman Rural Certificate of Survey No. COS-2223-5 for Amended Rule's Emerald Springs Addition and a variance in the private road width from 20' to 12'.

**AMENDED
RULE'S EMERALD SPRINGS ADDITION
A NORMAN RURAL CERTIFICATE
OF SURVEY SUBDIVISION
PART OF THE NW1/4 OF SECTION 7, T9N, R2W, 1.M.
NORMAN, CLEVELAND COUNTY, OKLAHOMA
(Formerly Tract 4 of COS 1415-1)
COS**



NOTE:

Bearings shown are based on a Bearing of $S89^{\circ}44'10''E$ between existing monuments on the North line of the NW1/4 of Section 7, T9N, R2W, 1.M. Norman, Cleveland County, Oklahoma.

(●) - Indicates Existing 3/8" Iron Pin Or Monument As Noted Hereon.

(○) - Indicates Set 1/2" Iron Pin With Plastic Cap Marked "Pollard PLS 1474" Or Set PK Nail With Shiner Marked "P&W Surveying CA 2380".

(OCCR) - Indicates Oklahoma Certified Corner Record on File With The Oklahoma Department of Libraries, Archives Division.

(WQPZ) - Indicates the Water Quality Protective Zone. There shall be no clearing, grading, construction or disturbance of vegetation in this area except as permitted by the Director of Public Works, unless such disturbance is done in accordance with 19-514(E) of the Norman City Code. The WQPZ is subject to protective covenants that may be found in the Land Records and that may restrict disturbance and use of these areas.

POLLARD & WHITED SURVEYING, INC.

2514 Tee Drive Norman, OK 73069

405-366-0001 Off.

405-443-8100 Cell

pollard@surveying.com

Edwin Rule

Norman Certificate of Survey Subdivision

Part of the NW1/4 of Section 7, T9N, R2W, 1.M.

Norman, Cleveland County, Oklahoma

November 28, 2021

4-362w.dgn

Drawn By: J. Pollard

Sheet 1 of 11

POLLARD & WHITED SURVEYING, INC.

2514 Tee Drive Norman, OK 73069
office (405)366-0001
tim@pwsurveying.com

February 20, 2023

City Of Norman Planning Commission
and City of Norman Staff Members
201 W. Gray
Norman, OK 73070

**Re: Continuing Variance Request for Rule's Emerald Springs, Amended
Certificate of Survey Subdivision**
in the NW1/4 of Sec.7, T9N, R2W, I.M.
Norman, Cleveland County, Oklahoma

To all interested parties,

An application has been submitted to the City of Norman Staff for "**Rule's Emerald Springs, Amended**" Certificate of Survey Subdivision, which amends the previous COS Rule's Emerald Spring Addition COS 1415-1 and Emerald Springs COS 9899-3. The proposed COS would split Tract 4 (38.3 acres) of the previous COS into Tracts 5 (10.04 acre) and Tract 6 (28.31 acre).

The proposed subdivision is located in the NW1/4 of Sec.7, T9N, R2W. The location can be generally described as: Located on the South side of Franklin Road approximately 3 tenths of a mile (1650') East of 12th Avenue NW in Norman.

This letter is a request for a continuance of variance of varying to construct a private road of a minimum of Twelve (12) foot width. The total number of tracts for the project would be five (5) with the possibility of Tract 2 of the original COS fronting from Franklin Road. This would allow only Four (4) tracts to be served by this private drive and the Applicant would request a continued variance be granted to allow this private drive to remain at Twelve (12) feet wide.

If you have any questions or concerns about this request, please call me at my office (405)366-0001, mobile (405)443-8100, or you can email me at tim@pwsurveying.com.



Respectfully,

Timothy G. Pollard

Timothy G. Pollard, PLS

Planning Commission Agenda
March 9, 2023

CERTIFICATE OF SURVEY
COS-2223-5

ITEM NO. 3

STAFF REPORT

ITEM: Consideration of **NORMAN CERTIFICATE OF SURVEY COS-2223-5 FOR THE AMENDED RULE'S EMERALD SPRINGS ADDITION.**

LOCATION: Generally located on the south side of Franklin Road and approximately one-fourth mile east of 12th Avenue N.W.

INFORMATION:

1. Owners. Edwin Rule
2. Developer. Edwin Rule
3. Surveyor. Pollard and Whited Surveying, Inc.

HISTORY:

1. October 18, 1961. City Council adopted Ordinance No. 1312 annexing this property into the Norman Corporate City limits.
2. October 30, 1961. Planning Commission recommended to City Council that this property be placed in A-2, Rural Agricultural District.
3. December 12, 1961. City Council adopted Ordinance No. 1322 placing this property in A-2, Rural Agricultural District.
4. September 10, 1998. Planning Commission, on a vote of 9-0, approved Certificate of Survey Emerald Springs COS-9899-3.
5. September 11, 1998. Certificate of Survey Emerald Springs COS-9899-3 was filed of record with the Cleveland County Clerk.
6. September 14, 2014. Planning Commission approved Rule's Emerald Springs Addition, Norman Certificate of Survey 1415-1, (Formerly Tract 1 and 2 of the Emerald Springs C.O.S. 9899-3).
7. October 28, 2014. City Council approved Rule's Emerald Springs Addition, Norman Certificate of Survey 1415-1 (Formerly Tract 1 and 2 of the Emerald Springs C.O.S. 9899-3).

8. December 31, 2014. Rule's Emerald Springs Addition, Norman Certificate of Survey 1415-1 (Formerly Tract 1 and 2 of the Emerald Springs COS 9899-3) was filed of record with the Cleveland County Clerk.

IMPROVEMENT PROGRAM:

1. Fire Protection. Fire protection will be provided by the Norman Fire Department with use of a pumper truck/tanker trucks.
2. Sanitary Sewer. Individual septic systems will be installed in accordance with City and Oklahoma Department of Environmental Quality standards. There is an existing house on Tract 5 and Tract 6 will be served by private sanitary sewer system.
3. Water. Individual water well will be installed in accordance with City and Oklahoma Department of Environmental Quality standards. There is an existing water well serving Tract 5 and a new water well will serve Tract 6.
4. Easements. Certificate of Survey Emerald Springs COS-9899-3 provided additional easement for Franklin Road.
5. Acreage. Tract 5 is approximately 10.01 acres and Tract 6 is approximately 28.31 acres for a total of 38.32 acres.
6. WQPZ. The Water Quality Protection Zone (WQPZ) is located within Tracts 5 and 6. The owners will be required to protect these areas.
7. Private Road. There is an existing private road that will serve Tract 5. The private road will be extended to serve Tract 6. City Standards requires a private road width standard of twenty-feet unless serving less than four (4) tracts or lots. The surveyor has requested a variance in the 20' width to a 12' width private road. Staff can support the variance based on the fact it is an excellent concrete private road. Also, the tracts that fronted Franklin Road chose not to take access to Franklin Road which could have reduced the number of tracts connecting to the private road. This is a gated development with five (5) tracts.
8. Flood Plain. There is flood plain on Tracts 5 and 6. However, there are no proposed structures shown within the flood plain.
9. Covenants. Covenants addressing the Water Quality Protection Zone (WQPZ) are amended to include Tracts 5 and 6.

SUPPLEMENTAL MATERIAL: Copies of a location map, Norman Rural Certificate of Survey No. COS-2223-5 for the Amended Rule's Emerald Springs Addition and letter of request for a variance in the private road width standard are included in the Agenda Book.

P.C. Agenda 3-9-23

Certificate of Survey No. COS-2223-5, Amended Rule's Emerald Springs Addition

Page 3

STAFF COMMENTS AND RECOMMENDATION: The residential tracts meet the requirements of the Subdivision Regulations and the owners are protecting the WQPZ. The surveyor is requesting a variance in the private road width based on the fact it is an excellent paved road. Staff recommends approval of the request in a variance in the private road width requirement from 20' width to 12' width since will be extended to serve Tract 6. Staff recommends approval of Norman Certificate of Survey No. COS-2223-5 for the Amended Rule's Emerald Springs Addition.

ACTION NEEDED: Recommend approval or disapproval of a variance in the private road width from 20' width to 12' width and approval or disapproval of Certificate of Survey No. COS-2223-5 for the Amended Rule's Emerald Springs Addition to City Council.

ACTION TAKEN: _____

File Attachments for Item:

18. CONSIDERATION FOR APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CERTIFICATE OF PLAT CORRECTION CPC-2324-1: FOR SHOPS AT TECUMSEH.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 7/11/2023

REQUESTER: Ken Danner, Subdivision Development Manager

PRESENTER: Shawn O'Leary, Director of Public Works

TITLE: CONSIDERATION FOR APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CERTIFICATE OF PLAT CORRECTION CPC-2324-1: FOR SHOPS AT TECUMSEH.

BACKGROUND:

The final plat for Shops at Tecumseh was filed of record June 29, 2017 with the Cleveland County Clerk in Book 24 of Plats, Pages 213 and 214. Since that time, it has been determined that certain scrivener's errors have been found within the plat. Title 11.0S, 1981, §41-115 permits or provides a method of amending or correcting final plats subject to the governing body of a City approving such changes.

DISCUSSION:

The specific errors relate to certain distances within the plat.

The errors only impact this property.

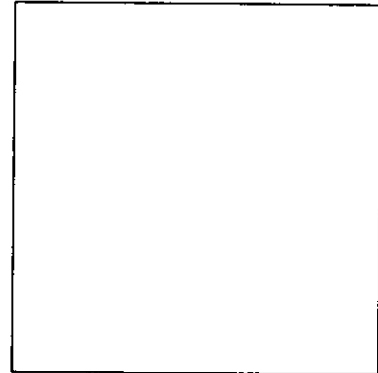
RECOMMENDATION:

Staff is not opposed to the changes, and since a procedure has been established without the requirement for District Court action, Staff recommends City Council approval of Certificate of Plat Correction No. CPC-2324-1 for the above-mentioned addition.

**CERTIFICATE OF PROFESSIONAL LAND SURVEYOR
CORRECTION OF PLAT**

CPC-2324-1

STATE OF OKLAHOMA)
)
COUNTY OF CLEVELAND) SS:




1. I, Randall A. Mansfield, the Licensed Land Surveyor who executed the subdivision plat of SHOPS AT TECUMSEH, an Addition to the City of Norman, Cleveland County, Oklahoma, being a part of the NE 1/4 of Section 14, Township 9 North, Range 3 West, of the Indian Meridian, Cleveland County, Oklahoma, and certify that said Plat was duly filed and recorded in Plat Book 24 of Plats, on Page 213-214 in the records in the office of the County Clerk of Cleveland County, Oklahoma.
2. Said Plat bears an approval date by the City of Norman Development Committee of October 25, 2016, and an acceptance date by the City Council of the City of Norman of February 14, 2017.
3. It has come to my attention that several scrivener errors have been identified on the referenced Plat that need to be corrected with reference to the Legal Description of the boundary of the Plat, property line bearings and distances and easements dimensions within the boundary of the Plat. These errors are hereby amended and corrected by this instrument pursuant to provisions of Title 11 Section 41-115 of the Oklahoma Statutes, as amended.
4. The "Legal Description" of the boundary of the Plat is amended and corrected by bearings and distances shown in italics and underlined as indicated on Exhibit "A" which is attached hereto and made a part hereof.
5. The amendments and corrections to certain bearings and distances on said Plat are noted by an alphanumeric icon symbol that corresponds to the following paragraphs and graphically shown on the Exhibit "B" which is attached hereto and made a part hereof. The corrections are as follows:
 - A. The south line of Lot 2, Block 1, Shops At Tecumseh is shown on the recorded plat as 650.64 feet. Said distance should have been and is corrected to read 648.50 feet.
 - B. The distance shown from the Southwest Corner of Lot 2, Block 1, of said Plat going East to the Southwest Corner of a "Drainage Easement" inside the south line of said Lot 2 is shown on the recorded plat as 228.85 feet. The distance should have been and is corrected to read 226.70 feet.

(1)

- C. The west boundary line of the subject Plat, from the southwest corner of Lot 2 to the south right of way line of Tecumseh Road, is shown on the recorded plat as a bearing of N 00°06'55" W for a distance of 442.22 feet. Said bearing and distance should have been and is corrected to read N 00°22'25" W a distance of 442.20 feet.
- D. The distance of the west line of Lot 2, Block 1, of said Plat is shown on the recorded plat as 356.13 feet. The distance should have been and is corrected to read 355.67 feet.
- E. The distance of the north line of Lot 2, Block 1, of said Plat is shown on the recorded plat as 496.19 feet. The distance should have been and is corrected to read 495.65 feet.
- F. The distance shown from the Northwest Corner of Lot 2, Block 1, of said Plat going East to the centerline of a 15' U/E is shown on the recorded plat as 75.28 feet. The distance should have been and is corrected to read 74.95 feet.
- G. There is a centerline of a "24' Cross Access Easement" that starts at a point 36.83 feet north of the southwest corner of Lot 1, Block 1 of said Plat. The distance of the centerline of said "24' Cross Access Easement" from the west line of said Lot 1 to the point of intersection where said easement turns to go north is shown as 53.93 feet on the subject Plat. The distance should have been and is corrected to read 53.78 feet.
- H. There is a centerline of a "15' U/E" that starts at a point 57.07 feet north of the southwest corner of Lot 1, Block 1 of said Plat. The distance of the centerline of said "15' U/E" from the west line of said Lot 1 to the point of intersection where said easement turns to go north is shown as 74.64 feet on the subject Plat. The distance should have been and is corrected to read 74.57 feet.
- I. There is an offset in the west line of Lot 1, Block 1 at a distance of 86.53 feet of north of the southwest corner of said Lot 1. The offset distance shown on the recorded Plat is 9.75 feet. The distance should have been and is corrected to read 9.60 feet.

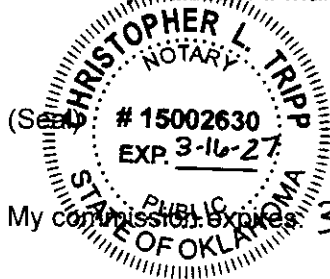
The errors listed above are hereby amended and corrected by this Certificate pursuant to the provisions of Title 11 Section 41-115 of the Oklahoma Statutes as amended.

Dated this 20th day of June, 2023.


 Randall A. Mansfield, P.L.S. 1613
 REGISTERED PROFESSIONAL SURVEYOR
 MANSFIELD
 1613
 OKLAHOMA

[illegible]

The foregoing instrument was acknowledged before me on this 20th day JUNE of 2023 by Randall A. Mansfield.



(Signature of Notarial Officer)

MUNICIPAL APPROVAL:

Approved by the City of Norman, Oklahoma this _____ day of _____, 2023.

CITY OF NORMAN

City Clerk

Mayor _____

APPROVED as to form only this 28 day of June, 2023.

Nichelle Muchala
ASST. MUNICIPAL COUNSELOR

EXHIBIT "A"**LEGAL DESCRIPTION**

A TRACT OF LAND LYING IN THE NORTHEAST QUARTER (NE/4) OF SECTION FOURTEEN (14), TOWNSHIP NINE (9) NORTH, RANGE THREE (3) WEST OF THE INDIAN MERIDIAN, CLEVELAND COUNTY, OKLAHOMA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

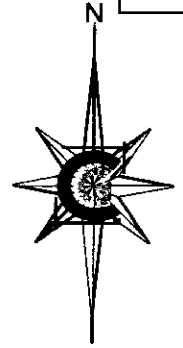
COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE SOUTH 89°14'35" WEST, ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 590.00 FEET; THENCE SOUTH 00°06'55" EAST A DISTANCE OF 110.00 FEET TO A POINT ON THE NORTH RIGHT OF WAY LINE OF TECUMSEH ROAD AS ESTABLISHED IN AGREE JOURNAL ENTRY CASE NO. CJ-94-2062H RECORDED IN BOOK 2639, PAGE 798, CLEVELAND COUNTY RECORDS, AND THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 00°06'55" EAST A DISTANCE OF 562.11 FEET; THENCE SOUTH 89°14'35" WEST, PARALLEL WITH THE NORTH LINE OF SAID NORTHEAST QUARTER, A DISTANCE OF 648.50 FEET; THENCE NORTH 00°22'25" WEST A DISTANCE OF 442.20 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE OF TECUMSEH ROAD;

THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE, THE FOLLOWING THREE COURSES:

1. THENCE NORTH 89°53'05" EAST A DISTANCE OF 9.60 FEET;
2. THENCE NORTH 00°06'55" WEST A DISTANCE OF 120.00 FEET;
3. THENCE NORTH 89°14'35" EAST A DISTANCE OF 640.89 FEET TO THE POINT OF BEGINNING.

SAID DESCRIBED TRACT OF LAND CONTAINS AN AREA OF 364,032 SQUARE FEET OR 8.3670 ACRES, MORE OR LESS.



LOT 2
 BLOCK 1
 SHOPS AT TECUMSEH
 BOOK 24 OF PLATS
 PAGE 213-214

AMENDED PLAT OF
BLOCK 1, THEDFORD ADDITION
BOOK 18 OF PLATS, PAGE 184

N 89°53'05" E
① ~~9.75'~~
9.60'

27' CROSS ACCESS EASEMENT

15' U/E

N 89°14'25" E

74.64' 74.57'

20.24'

86.53'

24' CROSS ACCESS EASEMENT

53.78'

33.93'

36.83'

75.28'

74.95'

(H)

(G)

(F)

NW/C OF LOT 2 &
SW/C OF LOT 1
SHOPS AT TUCUMSEH

(C) $N\ 00^{\circ}22'25''\ W$ $442.20'$
 $\underline{N\ 00^{\circ}06'55''\ W}$ $\underline{442.22'}$

50' THEFORD DRIVE
PER AMENDED PLAT
OF BLOCK 1, THEFORD ADDITION

WEST LINE LOT 2 &
EAST LINE OF THEDFORD DRIVE
AS SHOWN ON THE AMENDED
PLAT OF THEDFORD

SW/C OF LOT 2
SHOPS AT TECUMSEH

S 89°4'35" W

Diagram showing the calculation of the distance between two points A and B. Point A is at the bottom, and point B is at the top. A horizontal line connects them. The distance from A to the horizontal line is 648.50'. The distance from B to the horizontal line is 226.70'. The total distance between A and B is 650.64'.

SOUTH LINE LOT 2

**GRAPHIC EXHIBIT ONLY
NOT TO SCALE**

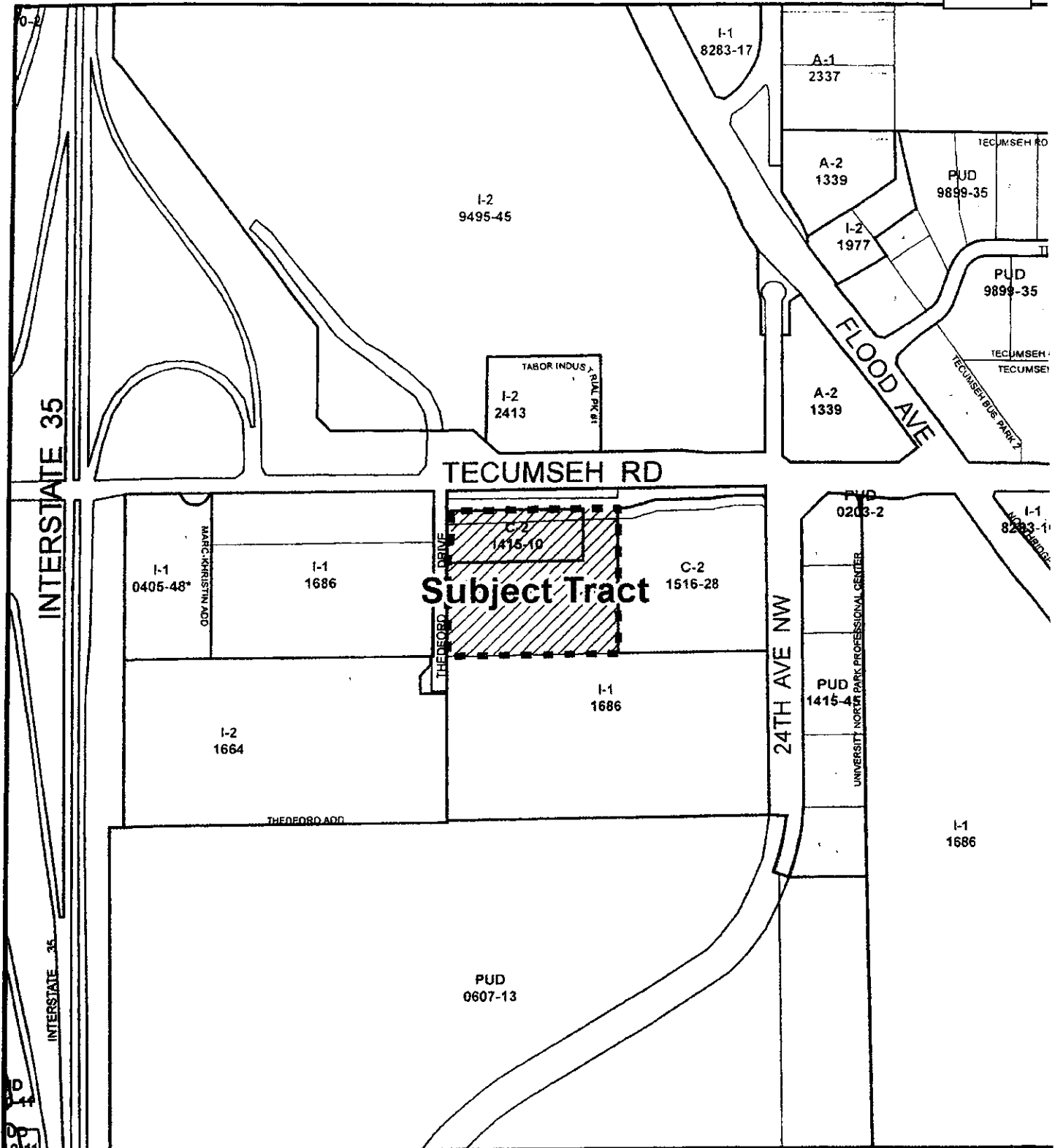
SHEET 5



COWAN GROUP ENGINEERING

7100 N. CLASSEN, SUITE 500 - OKLAHOMA CITY, OK 73116
405-463-3369 (OFFICE) - 405-463-3381 (FAX)
WWW.COWANGROUP.CO

ENGINEERING - SURVEYING
CERTIFICATE OF AUTHORIZATION NO: 6414
EXPIRES JUNE 30, 2024



Location Map



Map Produced by the City of Norman
Geographic Information System.
The City of Norman assumes no
responsibility for errors or omissions
in the information presented.



October 18, 2016

0 250 500 Ft.

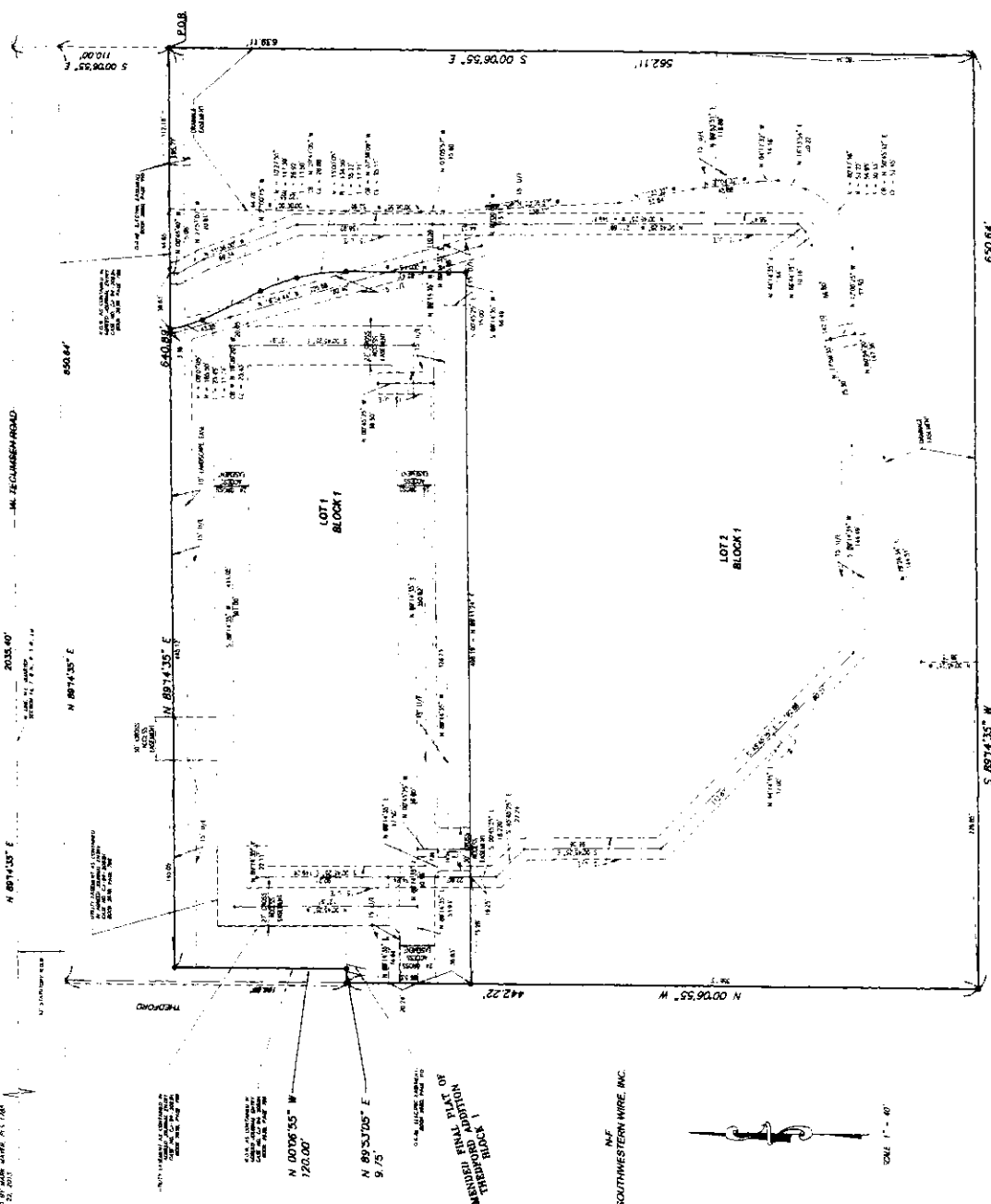
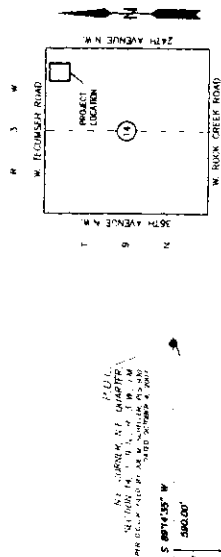
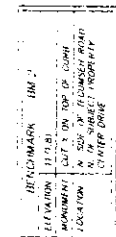
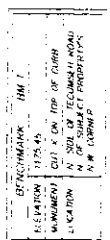


Subject Tract



Zoning

A PART OF THE N.E. 1/4 OF SECTION 14, T9N, R3W, I.M.
NORMAN, CLEVELAND COUNTY, OKLAHOMA

N.F.
SOUTHWESTERN WIRE INC.

STOT WIGI

LINE	LINE OF NO ACCESS
D/E	DRAINAGE EASEMENT
U/E	UTILITY EASEMENT
PED/E	PEDESTRIAN EASEMENT
B/L	BUILDING LINE
1000-	ADDRESS

• **SAFETY**

1. CONTRACTS

7070

THE ELEVATIONS SHOWN HEREIN ARE BASED ON THE RECORD OF

Order: Max. 11.4111
 NUMBER OF RECORDS
 SMC CONSULTING ENGINEERS, P.C.
 1817 W. Main Street
 Oklahoma City, OK 73106
 Tel: (405) 232-7100
 Oklahoma City, OK 73106

Item 18.

City Council Agenda

July 11, 2023

ITEM: CONSIDERATION OF APPROVAL OF THE FOLLOWING CERTIFICATE OF PLAT
CORRECTIONNUMBERSUBDIVISION

CPC-2324-1

SHOPS AT TECUMSEH

INFORMATION: The above final plat was filed with the Cleveland County Clerk in Book 24, Pages 213-214. Since that filing, it has been determined that there are draftsmen's or scrivener's errors within the body of the plat. The surveyor that prepared the plat has submitted for City Council's approval a correction of some existing specific language within the plat. Staff has reviewed the certificate of plat correction and found it to be in order and proper as to form. Staff is not opposed to the certificate of plat correction. Copies of an advisory memorandum, certificate of plat correction, and location map are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject Certificate of Plat Correction No. CPC-2324-1 in connection with Shops at Tecumseh, and, if approved, direct the filing thereof with the Cleveland County Clerk.

ACTION TAKEN: _____

File Attachments for Item:

19. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF AMENDMENT 2 TO CONTRACT K-1617-103: WITH EST, INC. FOR SUPPLEMENTAL FINAL DESIGN ENGINEERING SERVICES ON THE CEDAR LANE ROAD PROJECT FROM BLACK LOCUST COURT TO 36TH AVENUE EAST IN THE AMOUNT OF \$81,045 FOR THE 2019 BOND PROJECT AND BUDGET APPROPRIATION AS OUTLINED IN THE STAFF REPORT.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Tim Miles, Capital Projects Engineer

PRESENTER: Shawn O'Leary, Director of Public Works

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF AMENDMENT 2 TO CONTRACT K-1617-103: WITH EST, INC. FOR SUPPLEMENTAL FINAL DESIGN ENGINEERING SERVICES ON THE CEDAR LANE ROAD PROJECT FROM BLACK LOCUST COURT TO 36TH AVENUE EAST IN THE AMOUNT OF \$81,045 FOR THE 2019 BOND PROJECT AND BUDGET APPROPRIATION AS OUTLINED IN THE STAFF REPORT.

BACKGROUND:

On November 10, 2015, the Norman City Council approved programming Resolution R-1516-40, requesting federal funds to widen Cedar Lane Road from Black Locust Court to 36th Avenue SE. This Resolution states the City's commitment to adhere to the terms and conditions of a federally funded project. Through the Association of Central Oklahoma Governments (ACOG), the Oklahoma Department of Transportation (ODOT) agrees to provide 80% of the cost of construction with a 20% matching share from the City of Norman. The construction cost of this project is estimated to be \$8.9 million. In order to receive the federal funding, the City of Norman is required to enter into an agreement with ODOT to complete the design, acquire all rights-of-way and relocate existing utilities/encroachments at City's cost.

Both development and safety issues are driving the need to widen and improve Cedar Lane Road east through the intersection of 36th Avenue SE.

Proposed improvements for the Cedar Lane Widening project include:

1. Widen the roadway from two lanes to four lanes
2. New traffic signal and intersection improvements at Cedar Lane Road/36th Avenue SE
3. Continuous sidewalks and accessibility
4. Stormwater improvements
5. On-street bike lanes

On April 2, 2019, the citizens of Norman voted in favor of a \$72 million transportation bond issue, which includes nineteen (19) projects. With the anticipated \$67 million in federal dollars being

leveraged for these projects, approximately \$139 million is budgeted for the nineteen (19) projects. One of the projects is the Cedar Lane Road Widening Project from Black Locust Court to 36th Avenue East (please see the attached project list and map showing the approved projects).

On November 27, 2018, City Council approved Amendment 1 to Contract K-1617-103, with EST, Inc., for Final Design Services on the Cedar Lane Road project from Black Locust Court to 36th Avenue SE in the amount of \$230,659.

DISCUSSION:

The Cedar Lane Road Widening Project from Black Locust Court to east of 36th Avenue East has been one of the more challenging projects in recent years because of the steep rolling terrain encountered on the project. Significant cuts on the hilltops and fills in the valleys are necessary to meet minimum design standards when converting the roadway from a rural 2-lane roadway to an urban 4-lane roadway with curb & gutter, sidewalks and storm sewer systems. This terrain is proving to be challenging to fit the proposed improvements within a standard 100-foot wide right-of-way. City staff want to be mindful of the land needs for the project from both a cost perspective and being respectful of the adjacent landowners' properties. As a result, City staff has requested additional profile and roadway geometric iterations, and right-of-way adjustments to find the best combination that meets the City's project goals.

Add Alternate 2 in the amount of \$81,045 includes the additional design costs associated with the above mentioned items, which is further expanded on in the attached Contract Amendment 2. The total amount of the Original Contract-Phase 1, Preliminary Design (\$168,800), Amendment 1-Phase 2, Final Design (\$230,659), and Amendment 2-Final Design revisions (\$81,045) is \$480,504, which is a 20.2% increase.

City Council previously authorized the sale of General Obligation Bonds for the 2019 Bond Program and funds are available for this design task. City staff recommends appropriating the \$81,045 in funds for Contract Amendment 2 from the Capital Fund, 2019 Bond Fund Balance (50-29000) to the Cedar Lane Widening Project, Design (Account 50595552-46201; Project BP0420).

If approved, EST Inc. will complete the 65% Right-of-Way Plans by August 18, 2023. Once the right-of-way is established, land acquisition and utility relocation can begin. Final Plans are anticipated to be completed in March, 2024. At that point, if additional federal, capital and/or local funds are authorized to the project, the project can be bid and constructed as soon as all utilities are relocated.

RECOMMENDATION 1:

Staff recommends appropriating \$81,045 from the Capital Fund, 2019 Bond Fund Balance (Account 50-29000) to the Cedar Lane Widening Project, Design (Account 50594019-46201; Project BP0420).

RECOMMENDATION NO. 2:

Staff recommends approval of Amendment 2 to Contract K-1617-103 between the City of Norman and EST. Inc., for Supplemental Final Design Engineering Services on the Cedar Lane Road Project from Black Locust Court to 36th Avenue SE, in the amount of \$81,045 for the 2019 Road Improvement Bond Project.

Reviewed by: Scott Sturtz, City Engineer
 Shawn O’Leary, Director of Public Works
 Clint Mercer, Chief Accountant
 Anthony Francisco, Director of Finance
 Jane Hudson, Director of Planning and Community Development
 Kathryn Walker, City Attorney
 Darrel Pyle, City Manager

**AMENDMENT NO. 2
TO CONTRACT NO. K-1617-103**

Amendment No. 2 to Contract K-1617-103 between EST, Inc. (CONSULTANT) the City of Norman (OWNER) is amended to include the following agreement of the parties.

1. REVISE ROADWAY GEOMETRICS AND ASSOCIATED ITEMS

- a. CONSULTANT will revise the number of traffic lanes and modify the roadway widths at the intersection of Cedar Lane and 36th Avenue SE to minimize the right-of-way. This will require revisions to the roadway design, and the following plan components:
- Revise plan and profile sheets illustrating the roadway geometric and associated profile changes
 - Driveway revisions
 - Culvert and storm pipeline revisions within the modified roadway segments
 - Updated cross section sheets illustrating the new roadway geometrics and revised grades and slopes
 - Revised inlet spacing to reflect changes in roadway widths.
 - Revised signing and striping plans for changes in storage lengths and number of lanes at the intersection
 - Revised right-of-way and easements along the project
 - Recalculation of quantities for all affected construction items

**ATTACHMENT “B”
to
AGREEMENT
FOR
ENGINEERING SERVICES**

1 ANTICIPATED SCHEDULE

- 1.1.** Based upon the project scope (as described in Attachment “A”), the anticipated schedule for the project will be as follows:

<u>Project Submittals</u>	<u>Days from NTP</u>
Right of Way Construction Plans to City	August 18, 2023
Right of Way Maps and Easements	30 days
Final Review Plans to City	180 days
Final Review Plans to ODOT (if federal funds)	15 days
Final PS&E	30 days

If any portion of the project scope is adjusted the above schedule will need to be modified to allow for additional time. The submittals that require feedback from either the City or ODOT may require the adjustment of the schedule due to additional time to review the provided documents. Anticipated letting date is currently in FY 2025.

ATTACHMENT C COMPENSATION

COMPENSATION of the AGREEMENT is amended and supplemented to include the following agreement of the parties.

The CONSULTANT agrees to perform the SERVICES identified above in accordance with the limitations and conditions set forth in the AGREEMENT. The OWNER agrees, in accordance with the limitations and conditions set forth in the AGREEMENT to pay an amount not to exceed \$480,504.00 unless changed or modified by a mutually executed contact amendment between the OWNER and the CONSULTANT.

Phase	Fee
Preliminary Design	\$168,800.00 Lump Sum (Original Contract)
Final Design	\$230,659.00 Lump Sum (Amendment No.1)
Revised Final Design	\$81,045.00 Lump Sum (Amendment No.2)

Total \$480,504 Not to Exceed

Payment claims or invoices for incremental work completed on each task may be submitted by the CONSULTANT to the OWNER for prompt payment on a monthly basis. Final payment shall not be deemed to waive any rights or obligation of the OWNER or the CONSULTANT to this AGREEMENT.

The Services provided for in this Agreement are for the sole use and benefit of OWNER and CONSULTANT. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OWNER and CONSULTANT.

IN WITNESS WHEREOF, OWNER and EST, Inc. have executed this Agreement.

DATED this ____ day of _____, 2023.

The City of Norman
(OWNER)

Signature _____

Name Larry Heikkila

Title Mayer

Date _____

Attest:

City Clerk

EST, Inc.

Signature Michael Vahabzadeh

Name Michael Vahabzadeh

Title President

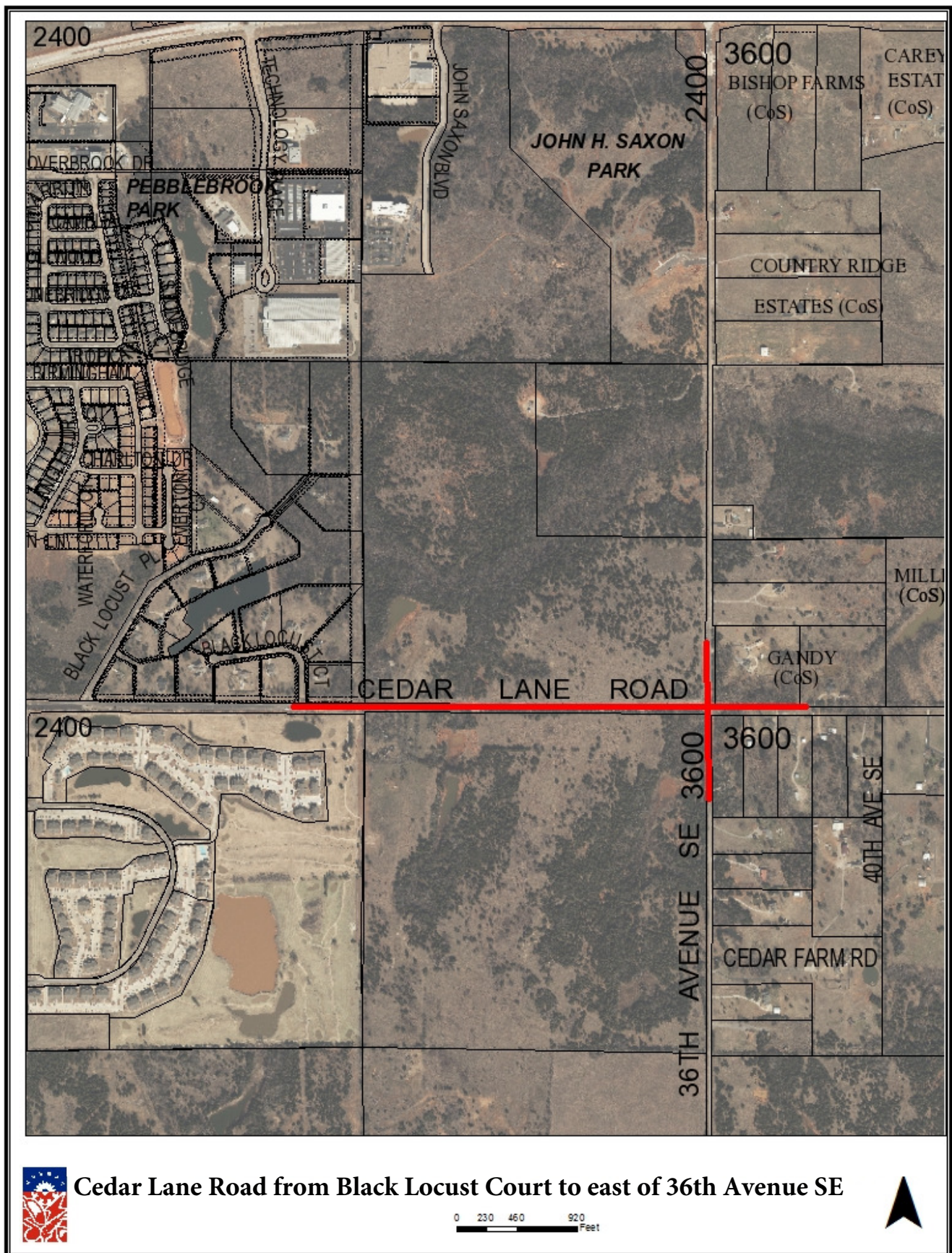
Date 6/28/23

Attest:

Paul Paynter
Secretary

Approved as to form and legality this 6 day of July 2023.

Elizabeth Heikkila
City Attorney



AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is entered into between The City of Norman (OWNER) and EST, Inc. (CONSULTANT) for the following reasons:

1. OWNER intends to construct Cedar Lane from Black Locust to east of 36th Avenue SE (the Project); and,
 2. OWNER requires certain professional survey, design, analysis and engineering services in connection with the Project (the Services); and,
 3. CONSULTANT is prepared to provide the Services.
- In consideration of the promises contained in this Agreement, OWNER and CONSULTANT agree as follows:

ARTICLE 1 - EFFECTIVE DATE

The effective date of this Agreement shall be 14th day of March, 2017.

ARTICLE 2 - GOVERNING LAW

This Agreement shall be governed by the laws of the State of Oklahoma.

ARTICLE 3 - SCOPE OF SERVICES

CONSULTANT shall provide the Services described in Attachment A, Scope of Services.

ARTICLE 4 - SCHEDULE

CONSULTANT shall exercise its reasonable efforts to perform the Services described in Attachment A according to the Schedule set forth in Attachment B.

ARTICLE 5 - COMPENSATION

OWNER shall pay CONSULTANT in accordance with Attachment C, Compensation. Invoices shall be due and payable upon receipt. OWNER shall give prompt written notice of any disputed amount and shall pay the remaining amount.

ARTICLE 6 - OWNER'S RESPONSIBILITIES

OWNER shall be responsible for all matters described in Attachment D, OWNER'S Responsibilities. OWNER hereby represents that it owns the intellectual property rights in any plans, documents or other materials provided by OWNER to CONSULTANT. If OWNER does not own the intellectual property rights in such plans, documents or other materials, prior to providing same to CONSULTANT, OWNER shall obtain a license or right to use, including the right to sublicense to CONSULTANT. OWNER hereby grants CONSULTANT the right to use the intellectual property associated with plans, documents or other materials it owns or has the right to use for the limited purpose of performing the Services. OWNER represents that CONSULTANT'S use of such documents will not infringe upon any third parties' rights.

ARTICLE 7 - STANDARD OF CARE

The same degree of care, skill, and diligence shall be exercised in the performance of the Services as is ordinarily possessed and exercised by a member of the same profession, currently practicing, under similar circumstances. No other warranty, express or implied, is included in this Agreement or in any drawing, specification, report, opinion, or other instrument of service, in any form or media, produced in connection with the Services.

ARTICLE 8 - INDEMNIFICATION AND LIABILITY

Indemnification. The CONSULTANT and the OWNER each hereby agree to defend, indemnify, and hold harmless the other party, its officers, servants, and employees, from and against any and all liability, loss, damage, cost, and expense (including attorneys' fees and accountants' fees) caused by an error, omission, or negligent act of the indemnifying party in the performance of services under this Agreement. The CONSULTANT and the OWNER each agree to promptly serve notice on the other party of any claims arising hereunder, and shall cooperate in the defense of any such claims. In any and all claims asserted by any employee of the CONSULTANT against any indemnified party, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONSULTANT or any of the CONSULTANT'S employees under workers' compensation acts, disability benefit acts, or other employee benefit acts. The acceptance by OWNER or its representatives of any certification of insurance providing for coverage other than as required in this Agreement to be furnished by the CONSULTANT shall in no event be deemed a waiver of any of the provisions of this indemnity provision. None of the foregoing provisions shall deprive the OWNER of any action, right, or remedy otherwise available to the OWNER at common law.

Survival. The terms and conditions of this Article shall survive completion of the Services, or any termination of this Agreement.

ARTICLE 9 - INSURANCE

During the performance of the Services under this Agreement, CONSULTANT shall maintain the following insurance:

- (a) General Liability Insurance, with a limit of \$1,000,000 per occurrence and \$2,000,000 annual aggregate.
- (b) Automobile Liability Insurance, with a combined single limit of \$1 ,000,000 for each person and \$1,000,000 for each accident.
- (c) Workers' Compensation Insurance in accordance with statutory requirements and Employers' Liability Insurance, with a limit of \$500,000 for each occurrence.
- (d) Professional Liability Insurance, with a limit of \$1,000,000 per claim and annual aggregate.

CONSULTANT shall, upon written request, furnish OWNER certificates of insurance which shall include a provision that such insurance shall not be canceled without at least thirty days' written notice to OWNER. OWNER shall require all Project contractors to include OWNER, CONSULTANT, and its parent company, affiliated and subsidiary entities, directors, officers and employees, as additional insureds on their General and Automobile Liability insurance policies, and to indemnify both OWNER and CONSULTANT, each to the same extent

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

CONSULTANT shall not be responsible for (a) construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Project; (b) the failure of any contractor, subcontractor, vendor, or other Project participant, not under contract to CONSULTANT, to fulfill contractual responsibilities to OWNER or to comply with federal, state, or local laws, regulations, and codes; or (c) procuring permits, certificates, and licenses required for any construction unless such procurement responsibilities are specifically assigned to CONSULTANT in Attachment A, Scope of Services. In the event the OWNER requests CONSULTANT to execute any certificates or other documents, the proposed language of such certificates or documents shall be submitted to CONSULTANT for review at least 15 days prior to the requested date of execution. CONSULTANT shall not be required to execute any certificates or documents that in any way would, in CONSULTANT's sole judgment, (a) increase CONSULTANT'S legal or contractual obligations or risks; (b) require knowledge, services or responsibilities beyond the scope of this Agreement; or (c) result in CONSULTANT having to certify, guarantee or warrant the existence of conditions whose existence CONSULTANT cannot ascertain.

ARTICLE 11 - OPINIONS OF COST AND SCHEDULE

Because CONSULTANT has no control over the cost of labor, materials, or equipment furnished by others, or over the resources provided by others to meet Project schedules, CONSULTANT's opinion of probable costs and of Project schedules shall be made on the basis of experience and qualifications as a practitioner of its profession. CONSULTANT does not guarantee that proposals, bids, or actual Project costs will not vary from CONSULTANT'S cost estimates or that actual schedules will not vary from CONSULTANT'S projected schedules.

ARTICLE 12 - REUSE OF DOCUMENTS

All documents, including, but not limited to, plans, drawings, and specifications prepared by CONSULTANT as deliverables pursuant to the Scope of Services are instruments of service in respect to the Project. They are not intended or represented to be suitable for reuse by OWNER or others on modifications or extensions of the Project or on any other project. Any reuse without prior written verification or adaptation by CONSULTANT for the specific purpose intended will be at OWNER'S sole risk and without liability or legal exposure to CONSULTANT. OWNER shall indemnify and hold harmless CONSULTANT and its subconsultants against all judgments, losses, damages, injuries, and expenses, including reasonable attorneys' fees, arising out of or resulting from such reuse. Any verification or adaptation of documents will entitle CONSULTANT to additional compensation at rates to be agreed upon by OWNER and CONSULTANT.

ARTICLE 13 - OWNERSHIP OF DOCUMENTS AND INTELLECTUAL PROPERTY

Except as otherwise provided herein, documents, drawings, and specifications prepared by CONSULTANT and furnished to OWNER as part of the Services shall become the property of OWNER; provided, however, that CONSULTANT shall have the unrestricted right to their use. CONSULTANT shall retain its copyright and Ownership rights in its design, drawing details, specifications, data bases, computer software, and other proprietary property. Intellectual property developed, utilized, or modified in the performance of the Services shall remain the property of CONSULTANT.

ARTICLE 14 - TERMINATION AND SUSPENSION

This Agreement may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this Agreement; provided, however, the nonperforming party shall have 14 calendar days from the receipt of the termination notice to cure or to submit a plan for cure acceptable to the other party. OWNER may terminate or suspend performance of this Agreement for OWNER'S convenience upon written notice to CONSULTANT. CONSULTANT shall terminate or suspend performance of the Services on a schedule acceptable to OWNER, and OWNER shall pay CONSULTANT for all the Services performed. Upon restart of suspended Services, an equitable adjustment shall be made to CONSULTANT'S compensation and the Project schedule.

ARTICLE 15 - DELAY IN PERFORMANCE

Neither OWNER nor CONSULTANT shall be considered in default of this Agreement for delays in performance caused by circumstances beyond the reasonable control of the nonperforming party. For purposes of this Agreement, such circumstances include, but are not limited to, abnormal weather conditions; floods; earthquakes; fire; epidemics; war, riots, and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage; judicial restraint; and delay in or inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or services required to be provided by either OWNER or CONSULTANT under this Agreement. CONSULTANT shall be granted a reasonable extension of time for any delay in its performance caused by any such circumstances. Should such circumstances occur, the nonperforming party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Agreement.

ARTICLE 16 - NOTICES

Any notice required by this Agreement shall be made in writing to the address specified below:
OWNER:

Tim M. Miles, P.E.
Capital Projects Engineer
City of Norman
P.O. Box 370
Norman, OK 73070

EST, Inc:

Mr. Paul Poynter, PE
Vice President
480 24th Avenue NW, Suite 244
Norman, OK 73069

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of OWNER and CONSULTANT.

ARTICLE 17 - DISPUTES

In the event of a dispute between OWNER and CONSULTANT arising out of or related to this Agreement, the aggrieved party shall notify the other party of the dispute within a reasonable time after such dispute arises. If the parties cannot thereafter resolve the dispute, each party shall nominate a senior officer of its management to meet to resolve the dispute by direct negotiation or mediation.

Should such negotiation or mediation fail to resolve the dispute, either party may pursue resolution of the dispute by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association; provided, however, in the event the parties are unable to reach agreement to arbitrate under terms reasonably acceptable to both parties, either party may pursue resolution in any court having jurisdiction. During the pendency of any dispute, the parties shall continue diligently to fulfill their respective obligations hereunder.

ARTICLE 18 - EQUAL EMPLOYMENT OPPORTUNITY

CONSULTANT hereby affirms its support of affirmative action and that it abides by the provisions of the "Equal Opportunity Clause" of Section 202 of Executive Order 11246 and other applicable laws and regulations. CONSULTANT affirms its policy to recruit and hire employees without regard to race, age, color, religion, sex, sexual preference/orientation, marital status, citizen status, national origin or ancestry, presence of a disability or status as a Veteran of the Vietnam era or any other legally protected status. It is CONSULTANT'S policy to treat employees equally with respect to compensation, advancement, promotions, transfers and all other terms and conditions of employment. CONSULTANT further affirms completion of applicable governmental employer information reports including the EEO-1 and VETS-1 00 reports, and maintenance of a current Affirmative Action Plan as required by Federal regulations.

ARTICLE 19 - WAIVER

A waiver by either OWNER or CONSULTANT of any breach of this Agreement shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 20 - SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

ARTICLE 21 - INTEGRATION

This Agreement, including Attachments A, B, C, and D incorporated by this reference, represents the entire and integrated agreement between OWNER and CONSULTANT. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement.

ARTICLE 22 - SUCCESSORS AND ASSIGNS

OWNER and CONSULTANT each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners, to the other party to this Agreement and to the successors, executors, administrators, permitted assigns, legal representatives, and partners of such other party in respect to all provisions of this Agreement.

ARTICLE 23 - ASSIGNMENT

Neither OWNER nor CONSULTANT shall assign any rights or duties under this Agreement without the prior written consent of the other party, which consent shall not be unreasonably withheld; provided, however, CONSULTANT may assign its rights to payment without OWNER'S consent. Unless otherwise stated in the written consent to an assignment, no assignment will release or discharge the assignor from any obligation under this Agreement. Nothing contained in this Article shall prevent CONSULTANT from engaging independent CONSULTANTS, associates, and subcontractors to assist in the performance of the Services.

ARTICLE 24 - NO THIRD PARTY RIGHTS

The Services provided for in this Agreement are for the sole use and benefit of OWNER and CONSULTANT. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OWNER and CONSULTANT.

IN WITNESS WHEREOF, OWNER and EST, Inc. have executed this Agreement.

DATED this 14th day of March, 2017.

The City of Norman
(OWNER)

Signature

Name Lynne Miller

Title Mayor

Date

3/14/17

Attest:

Brenda Hall

City Clerk



EST, Inc.
(CONSULTANT)

Signature

Name MICHAEL VAHABZADEGAN

Title President

Date

3-6-17

Attest:

Paul Payton

Secretary



Approved as to form and legality this 10 day of March 2017.

[Signature]
City Attorney

ATTACHMENT "A"
SCOPE OF SERVICES
to
AGREEMENT
For
ENGINEERING SERVICES

1 PROJECT SCOPE

1.1. PROJECT LOCATION

The ENGINEER'S survey and design extents in conjunction with the project are anticipated to include approximately the following locations and extents:

1.1.1 Cedar Lane from Black Locust Court to east of 36th Avenue SE

Cedar Lane:	3500 feet west from the intersection 200 feet wide
	1500 feet east from the intersection 200 feet wide
36 th Avenue SE:	1500 feet north from the intersection 200 feet wide
	1500 feet south from the intersection 200 feet wide

1.2. SCOPE OF SERVICES

The ENGINEER'S scope of services in conjunction with the project is anticipated to include the following:

Scope of Project

- 1.2.1 Reconstruct Cedar Lane from a two lane to a four lane facility with five foot bike lanes adjacent to the driving lanes for 45mph design speed. Provide dedicated left turn lanes in all directions at 36th Avenue SE. Reconstruct 36th Avenue SE from a two lane to a four lane facility north and south of the intersection only as far as needed to correct vertical sight distances and to provide the tapers needed for the left turn lanes. Continuous ADA compliant (PROWAG) sidewalks will be provided along Cedar Lane and 36th Avenue SE. Wheelchair ramps and striped crosswalks will be provided at the intersection of Cedar Lane and 36th Avenue SE in all directions. Provide storm water improvements for the entire design extents. Retaining walls will be constructed to narrow the grading limits if determined necessary. Project will be closed to through traffic during construction and detours will be provided.

Scope of Preliminary Design Phase

- 1.2.2 Develop traffic projections based on historical data and future land use.
- 1.2.3 Performance of a DETAILED TOPOGRAPHIC SURVEY to locate all adjacent property lines, fences, trees, utilities and other pertinent physical features. Survey data to include alignment ties to corners or monuments.

CITY OF NORMAN**ATTACHMENT "A"**

- 1.2.4 Provide a Pedological Survey, Embankment Analysis and a pavement design recommendation for Cedar lane and all legs of the intersection at 36th Avenue SE. Sulfate levels will be identified.
- 1.2.5 Prepare a written analysis that includes design requirements (i.e. traffic projections, intersection layout, pavement design, drainage, etc.), all necessary calculations, and a detailed cost estimate. The design analysis must receive written approval from the City's Project Manager before proceeding with the final plans and specifications.
- 1.2.6 Preparation of preliminary plans (30%).
- 1.2.7 Provide preliminary construction cost estimate.
- 1.2.8 Oversee all aspects of a public meeting and provide meeting minutes per the guidelines of the NEPA Document. Make a presentation at the public meeting which includes a PowerPoint slide show and applicable exhibits. Provide the City of Norman with a completed NEPA checklist using the most current version. Additional environmental services are not part of this contract and may be included as a supplement to the contract.
- 1.2.9 Meet with staff, City Council and/or others for project discussions, coordination, presentation, etc. as required.

Scope of Final Design Phase

- 1.2.10 Provide traffic signal design services, if determined necessary. The services will include the preparation of the construction plans for the installation of a new traffic signal at Cedar Lane and 36th Avenue SE if warranted and as directed by the City of Norman.
- 1.2.11 If needed, provide additional geotechnical investigation for design of retaining walls.
- 1.2.12 Prepare all necessary right of way plot plans, exhibits and easements for approval by ODOT right of way division. Acquisition activities are not a part of this contract and may be included as a supplement to the contract.
- 1.2.13 Provide right-of-way staking services as directed by the City.
- 1.2.14 Furnish required plans and specifications to each utility company affected as necessary to coordinate the project construction and utility relocations. Request written approval from all utility companies as the accuracy of all facilities on the plans. Attend meetings, as needed, for the coordination of relocating utilities within the project limits to assist in design related issues only. Provide meeting minutes and review of proposed relocation plans. Furnish the City with an

electronic drawing showing the location of all existing and proposed utilities. All water line and sanitary sewer design plans will be completed by supplement agreement.

- 1.2.15 Preparation of right of way construction plans (65% plans) with USACOE Section 404 pre-construction notification form. Preparation of final review plans (90%), and preparation of PS&E including final plans (100%) with specifications, detailed final estimate, and notice of intent (NOI) in accordance with ODOT for submission to State and Federal agencies for initial prosecution, construction, and for approval of Federal funding.
- 1.2.16 Attendance of all project related meetings with the ODOT and Federal Highway Administration and others during plan development. Prepare and distribute minutes of all meetings.
- 1.2.17 Provide assistance to the City during project construction and prepare as-built plans upon completion of the project, including computer-aided drawings on disk.
- 1.2.18 Meet with staff, City Council and/or others for project discussions, coordination, presentation, etc. as required.

ATTACHMENT "B"
to
AGREEMENT
FOR
ENGINEERING SERVICES

1 ANTICIPATED SCHEDULE

- 1.1. Based upon the project scope (as described in Attachment "A"), the anticipated schedule for the project will be as follows:

<u>Project Submittals</u>	<u>Days from NTP</u>
Notice to Proceed	March 2017
Design Analysis	180 days
Preliminary Plans (30%) to City	60 days
Preliminary Plans (30%) to ODOT	15 days
Revised Preliminary Plans (65%) to City	30 days
Right of Way Construction Plans to City	90 days
Right of Way Maps and Easements	30 days
Final Review Plans to City	180 days
Final Review Plans to ODOT	15 days
Final PS&E	30 days

If any portion of the project scope is adjusted the above schedule will need to be modified to allow for additional time. The submittals that require feedback from either the City or ODOT may require the adjustment of the schedule due to additional time to review the provided documents. Anticipated letting date is currently in FY 2021.

2 PERIOD OF SERVICE

- 2.1. City may terminate or suspend performance of this Agreement for City's convenience upon written notice to Engineer. Engineer shall terminate or suspend performance of the Services on a schedule acceptable to City. If termination or suspension is for City's convenience, City shall pay Engineer for all the Services performed to date, amount not to exceed the normal fee amount due for the services rendered and termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Engineer's compensation and Project schedule.
- 2.2. Upon Written authorization from OWNER, ENGINEER shall proceed with the performance of services called for in Roadway and Signal Design Phase, shall submit preliminary design documents and opinion of probable Total Project Cost within one hundred twenty (120) calendar days.

CITY OF NORMAN**ATTACHMENT "B"**

- 2.3. ENGINEER's services under the Roadway and Signal Design Phase shall be considered complete upon the submittal of as-builts to the City of Norman.
- 2.4. The Construction Phase will commence with the execution of the first prime contract to be executed for the work of the Project or any part thereof and will terminate upon written recommendation by ENGINEER of final payment as approved by the City on the last prime contract to be completed and all as-built records have been approved and received. Construction Phase services may be rendered at different times in respect of separate prime contracts if the Project involves more than one prime contract.
- 2.5. If OWNER has requested significant modifications or changes in the general scope, extent or character of the Project, the time of performance of ENGINEER's services shall be adjusted equitably.
- 2.6. If ENGINEER's services for design or during construction of the Project are delayed or suspended in whole or in part by OWNER for more than three months for reasons beyond ENGINEER's control, ENGINEER shall, on written demand to OWNER (but without termination of this Agreement), be paid as provided herein not to exceed the normal fee amount due for the services rendered to date. If such delay or suspension extends for more than one year for reasons beyond ENGINEER's control, or if ENGINEER for any reason is required to render Construction Phase services in respect of any prime contract for construction, materials or equipment more than one year after Substantial Completion is achieved under that contract, the various rates of compensation provided for elsewhere in this Agreement shall be subject to equitable adjustment, subject to approval of an amendment by the City Council.

ATTACHMENT "C"
to
AGREEMENT
FOR
ENGINEERING SERVICES

1. PAYMENTS TO ENGINEER

1.1 FOR SERVICES (as described in Attachment "A") through the Preliminary Design Phase, exclusive fees for services as a witness, the Engineer shall be paid a lump sum fee of one-hundred sixty-eight thousand and eight-hundred dollars (\$168,800.00). The services (as described in Attachment "A") required to complete the final design phase will be executed under supplemental agreement with the City.

1.2 Times of Payment

1.2.1 ENGINEER shall submit monthly statements for services rendered. Compensation will be based on ENGINEER's estimate of the proportion of the total services actually completed at the time of billing and agreed upon by the City's Project Manager. OWNER shall make prompt monthly payments in response to ENGINEER's monthly statements.

1.2.2 OWNER shall, upon conclusion of each phase, pay such additional amount, if any, as may be necessary to bring total compensation paid on account for these phases of Basic Services. (The sum of payments shall not exceed the percentage of the total fee as set forth below for each phase):

<u>Preliminary Design Phase</u>	<u>Percent of Fee</u>
Topographic Survey	20
Pedological Soil Survey, Pavement Design and Settlement Analysis	20
Design Analysis, Preliminary Plans and Completion of Public Meeting (NEPA) Services	60

1.2.3 ENGINEER shall submit to ODOT all required drawings and specifications to achieve an ODOT bid letting. In addition engineer shall submit to OWNER, prior to commencement of the Bidding or Negotiating Phase, four (4) half size sets of drawings, and if requested supply to the OWNER all copies of drawings, specifications, and electronic media diskettes requested until submittal of "Record" drawings and a copy of those electronic media diskette. Prior to receiving final payment, the ENGINEER shall also submit to OWNER one (1) half size set of reproducible original "Record" drawings and an electronic media diskette of "Record" drawings. The "Record" drawings shall represent any changes that occurred during construction. The ENGINEER shall obtain necessary information, including final surveys and meetings with ODOT's resident inspector, to document all changes that occurred during construction to

CITY OF NORMAN**ATTACHMENT "C"**

allow him to prepare the "Record" drawings.

1.3 Man-hour Cost Summary through the Preliminary Design Phase

Preliminary Design Phase		Fee
Topographic Survey	\$40,000.00	Lump Sum
Pedological Soil Survey and Pavement Design	\$20,000.00	Lump Sum
Settlement Analysis	\$15,000.00	Lump Sum
Design Analysis	\$55,000.00	Lump Sum
Preliminary Plans	\$25,000.00	Lump Sum
Public Meeting (NEPA)	\$13,800.00	Lump Sum
Total	\$168,800.00	NTE

The following services and associated fees will be completed in the Final Design Phase by future supplemental agreement

Final Design Phase		Fee
Right-of-Way Staking (as needed) @ \$170.00/hr	\$10,200.00	NTE
Final Plans	\$125,000.00	Lump Sum
Utility Relocation Coordination	\$9,000.00	Lump Sum
Right of Way Plot Plans, Exhibits & Easements	\$12,000.00	Lump Sum
Final Documentation of Project As-Builts	\$2,400.00	Lump Sum
Total	\$158,600.00	NTE

If required, the following services and associated fees will be completed in the Final Design Phase by future supplemental agreement

Final Design Phase (if needed)		Fee
Retaining Wall Geotechnical Services (if needed)	\$9,000.00	Lump Sum
Traffic Signal Plans (if needed)	\$15,000.00	Lump Sum
Retaining Wall Plans (if needed)	\$38,000.00	Lump Sum
Total	\$62,000.00	NTE

ATTACHMENT "D"
to
AGREEMENT
FOR
ENGINEERING SERVICES

OWNER shall do the following in a timely manner so as not to delay the services of ENGINEER:

1. Designate in writing a person to act as OWNER's representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER's policies and decisions with respect to ENGINEER's service for the Project.
2. Provide all criteria and full information as to OWNER's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, and any budgetary limitations; and furnish one (1) copy of all design and construction standards which OWNER will require to be included in the Drawings and Specifications. The City's construction standards and specifications shall be incorporated by reference where appropriate.
3. Assist ENGINEER by placing at ENGINEER's disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
4. Furnish to ENGINEER, as required for performance of ENGINEER's Basic Services the following:
 - 4.1 data in the Owner's possession previously prepared by other, including without limitation borings, probings and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;
 - 4.2 appropriate professional interpretations of all of the foregoing;
 - 4.3 previous environmental assessment and impact statements in Owner's possession;
 - 4.4 zoning, deed and other land use restriction; and
 - 4.5 City standards and construction specifications as required.
5. Arrange for access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under this Agreement.
6. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by ENGINEER, obtain advice of an attorney, insurance counselor and other consultants as OWNER deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of ENGINEER.

CITY OF NORMAN**ATTACHMENT "D"**

7. Attend the pre-bid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completion inspections and final payment inspections.
8. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any development that affects the scope or timing of ENGINEER's services or any defect or non-performance in the work of any Contractor.

**AMENDMENT NO. 1
TO CONTRACT NO. K-1617-103**

Amendment 1 of the Contract K-1617-103 between EST, Inc. (CONSULTANT) the City of Norman (OWNER) is amended to include the following agreement of the parties.

1. SPECIAL CULVERT DESIGN

- a. CONSULTANT will design a special culvert drainage system at the intersection of Cedar Lane Road and 36th Ave SE to accommodate the proposed roadway profile that is approximately 20 feet higher than the existing intersection. This design will consist of multiple drain pipes connecting to a special junction box labeled Structure No. 12 on the Preliminary Plans. The special junction box will be approximately 8' x 8' x 17' tall with a fill height above the top of the footing of approximately 15'.

ATTACHMENT C COMPENSATION

COMPENSATION of the AGREEMENT is amended and supplemented to include the following agreement of the parties.

The CONSULTANT agrees to perform the SERVICES identified above in accordance with the limitations and conditions set forth in the AGREEMENT. The OWNER agrees, in accordance with the limitations and conditions set forth in the AGREEMENT to pay an amount not to exceed \$230,659.00 unless changed or modified by a mutually executed contact amendment between the OWNER and the CONSULTANT.

Final Design Phase	Fee
Original Contract items for Final Design	\$220,600.00 Lump Sum
Special Culvert Design	\$10,059.00 Lump Sum
Total	\$230,659.00 Not to Exceed

Payment claims or invoices for incremental work completed on each task may be submitted by the CONSULTANT to the OWNER for prompt payment on a monthly basis. Final payment shall not be deemed to waive any rights or obligation of the OWNER or the CONSULTANT to this AGREEMENT.

The Services provided for in this Agreement are for the sole use and benefit of OWNER and CONSULTANT. Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than OWNER and CONSULTANT.

IN WITNESS WHEREOF, OWNER and EST, Inc. have executed this Agreement.

DATED this 27th day of November, 2018

The City of Norman
(OWNER)

Signature [Signature]

Name Lynne Miller

Title Mayor

Date 11/27/18

Attest:

[Signature]
City Clerk

Approved as to form and legality this 29 day of November 2018.

[Signature]
City Attorney



EST, Inc.

Signature [Signature]

Name MICHAEL VAHABZADEGAN

Title President

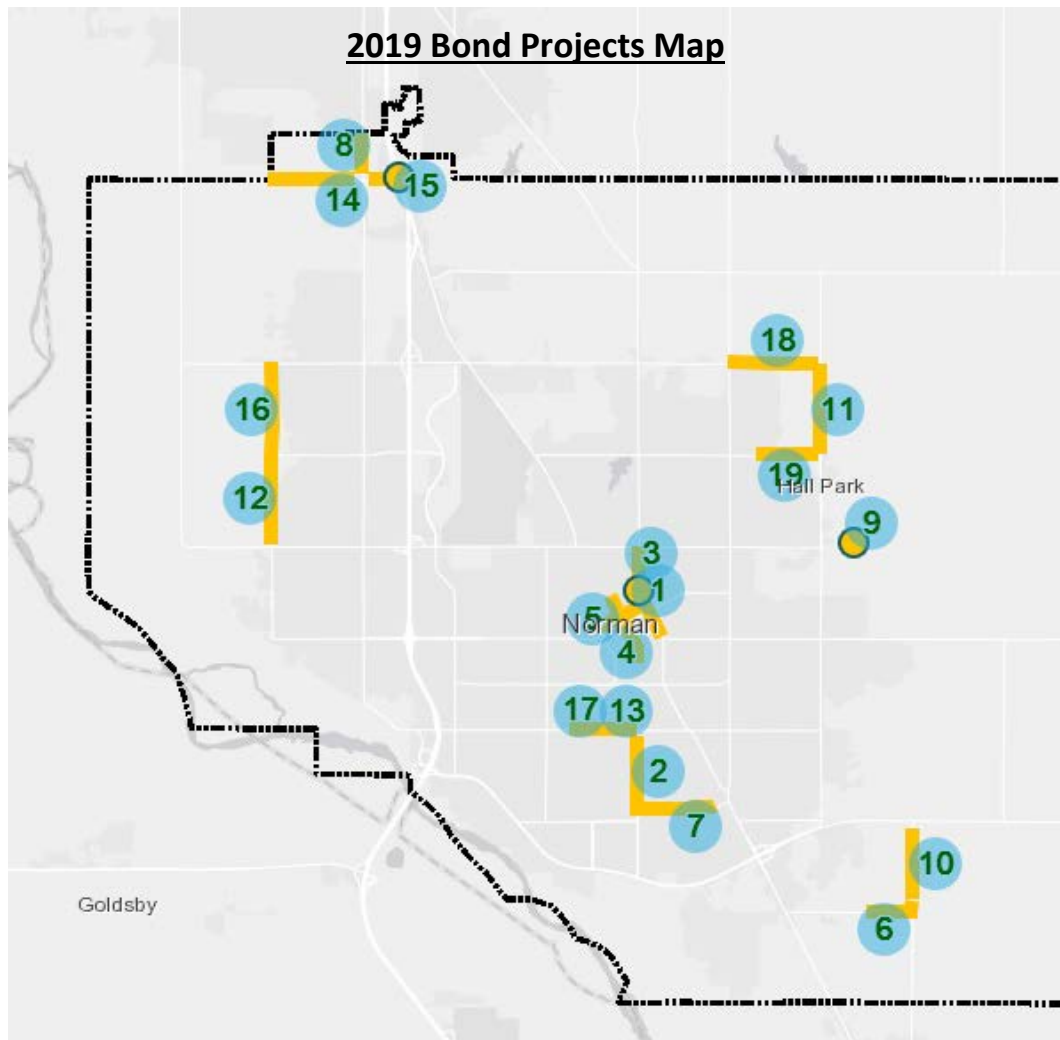
Date 11-15-18

Attest:

[Signature]
Secretary



2019 Bond Projects List		
Construction Year	Project No. on Map	Project Location
2020	1	Porter Avenue and Acres Street
2021	2	Jenkins Avenue - Imhoff Road to Lindsey Street
2021	3	Porter Avenue Streetscape
2022	4	James Garner Avenue - Acres to Duffy
2022	5	Gray Street Two-Way Conversion
2023	6	Cedar Lane Road - East of 24th Avenue SE to 36th Avenue SE
2023	7	Constitution Street - Jenkins to Classen
2024	8	36th Avenue NW - North of Indian Hills Road to Moore City Limit
2024	9	Traffic Management Center
2025	10	36th Avenue SE - Cedar Lane Road to State Highway 9
2025	11	24th Avenue NE - Rock Creek Road to Tecumseh Road
2026	12	48th Avenue NW - Phase 1 - Robinson Street to Rock Creek Road
2027	13	Lindsey Street Special Corridor (Elm Avenue to Jenkins Avenue)
2028	14	Indian Hills Road - 48th Avenue NW to Interstate 35
2028	15	Indian Hills Road and I-35 Interchange Match Funds
2029	16	48th Avenue NW - Phase 2 - Rock Creek Road to Tecumseh Road
2029	17	Lindsey Street Special Corridor (Pickard Avenue to Elm Avenue)
2030	18	Tecumseh Road - 12th Ave NE to 24th Ave NE
2030	19	Rock Creek Road - Queenston to 24th Avenue NE



File Attachments for Item:

20. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF FINAL ACCEPTANCE OF CONTRACT K-2122-92: BY AND BETWEEN THE NORMAN MUNICIPAL AUTHORITY AND CROSSLAND CONSTRUCTION COMPANY, INC. AND FINAL PAYMENT IN THE AMOUNT OF \$20,000 FOR THE NEW SANITATION OFFICE BUILDING.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Ken Giannone, PE

PRESENTER: Ken Giannone, PE, Capital Projects Engineer

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF FINAL ACCEPTANCE OF CONTRACT K-2122-92: BY AND BETWEEN THE NORMAN MUNICIPAL AUTHORITY AND CROSSLAND CONSTRUCTION COMPANY, INC. AND FINAL PAYMENT IN THE AMOUNT OF \$20,000 FOR THE NEW SANITATION OFFICE BUILDING.

BACKGROUND:

In recent years, the office space for the City of Norman Solid Waste Division had become too small to properly accommodate current staff size, and this condition was projected to worsen. Because the former facility could not be readily expanded due to space constraints and because the facility was not laid out in a way that would allow for interior renovations to create a more efficient workspace, a new facility was deemed necessary. A design contract for the New Sanitation Office Building (Project SA0021) was awarded to The McKinney Partnership (TMP) on January 12, 2021, and final design was complete in late January 2022. Bids were opened for construction of the project on March 3, 2022. Crossland Construction Company, Inc. (Crossland) was deemed the lowest and best bidder, and Contract K-2122-92 in the amount of \$2,782,000 was awarded to Crossland on April 12, 2022.

Notice to Proceed was issued, and work commenced on April 29, 2022. During the course of construction, three (3) change orders were approved that resulted in a net additional cost to the contract of \$31,937.38, which is a total increase of 1.15% over the original contract cost. Final contract cost was \$2,813,937.38. The three (3) approved change orders also added a net total of 1 Calendar Day to the project duration for a revised total contract duration of 366 Calendar Days; substantial completion of the construction was achieved on April 30, 2023.

DISCUSSION:

Work on the project is now complete. A Punchlist Inspection convened on February 27, 2023 with representatives from Crossland, TMP, Norman Utilities Engineering and Norman Solid Waste Division participating. On April 11, 2023, the project was deemed substantially complete with all work including all punchlist items confirmed as satisfactorily completed except for installation of three (3) interior window shades that were added to the project by Change Order 3, which was executed after the punchlist inspection. On May 19, 2023, the three (3) window shades were installed and a final walkthrough on that date with Crossland, TMP and Norman Utilities Engineering confirmed project was complete. Based on this walkthrough, the architect,

TMP, has also recommended acceptance of the project and payment of the final payment application.

RECOMMENDATION:

Staff recommends that the New Sanitation Office Building (Project SA0021) be accepted and final payment be authorized in the amount of \$20,000.

File Attachments for Item:

21. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CHANGE ORDER NO. 2 TO CONTRACT K-2223-2:
BY AND BETWEEN THE CITY OF NORMAN AND NASH CONSTRUCTION COMPANY DECREASING THE CONTRACT AMOUNT BY \$1,858.87 FOR A REVISED AMOUNT OF \$1,299,392.63 AND FINAL ACCEPTANCE AND FINAL PAYMENT IN THE AMOUNT OF \$64,969.63 FOR THE URBAN CONCRETE, FYE 2023 LOCATIONS, BID 2 PROJECT.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Joseph Hill, Streets Program Manager

PRESENTER: Shawn O'Leary, Director of Public Works

TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CHANGE ORDER NO. 2 TO CONTRACT K-2223-2: BY AND BETWEEN THE CITY OF NORMAN AND NASH CONSTRUCTION COMPANY DECREASING THE CONTRACT AMOUNT BY \$1,858.87 FOR A REVISED AMOUNT OF \$1,299,392.63 AND FINAL ACCEPTANCE AND FINAL PAYMENT IN THE AMOUNT OF \$64,969.63 FOR THE URBAN CONCRETE, FYE 2023 LOCATIONS, BID 2 PROJECT.

BACKGROUND:

On Tuesday, April 6, 2021, Norman residents voted to approve the issuance of \$27 million in bonds to fund the resurfacing, rehabilitation and reconstruction of neighborhood streets as part of a 5-year, 5-category program. The five categories include (1) Asphalt Pavement Street Rehabilitation, (2) Urban Concrete Street Rehabilitation, (3) Urban Road Reconstruction, (4) Rural Road Rehabilitation, and (5) Preventive Maintenance. The FYE 2023 urban concrete street rehabilitation locations were bid out in two separate bid packages.

The project included select concrete panel replacement on existing streets. Curb replacement and ADA sidewalk improvements were completed as necessary for compliance with standards. The project provided maintenance to 4.3 lane miles of city streets.

Council awarded the contract to Nash Construction Company in the amount of \$1,203,819 at the July 26, 2022 meeting. Change Order 1 increasing the contract amount to \$1,301,251.50, adding repair of concrete "pop-ups" at 11 locations, was approved by City Council on September 13, 2022. The project was completed within the allotted 285-day contract period, plus weather days for a total of \$1,299,392.63.

DISCUSSION:

Construction projects are awarded to the lowest responsible bidder. Contractor bids are determined using estimated plan quantities multiplied by the contractor's unit prices for all bid items of the contract. The total of all of these costs represents the contractor's bid. During construction, each quantity is verified in the field and the contractor is to be reimbursed based on the actual quantity of materials and/or labor used.

Of the twenty-five (25) bid items, twenty-three (23) items had a quantity change. Five (5) quantity changes resulted in increased cost, while eighteen (18) quantity changes resulted in decreased cost for an overall contract decrease of \$1,858.87 or 0.14%. The contract decreased from \$1,301,251.50 to \$1,299,392.63. Please see the attached Change Order No. 2 for a complete list of bid item cost increases and decreases.

The final payment amount owed to Nash Construction Company is \$64,969.63, which includes the full 5% retainage.

The project was funded as follows:

Project	Project Number and Account Number	Amount
Americana Estates Addition	BP0529 ACCT#505093393-46101	\$21,000.00
Colonial Estates Addition	BP0530 ACCT#505093393-46101	\$71,400.00
Forest Hills Addition	BP0531 ACCT#505093393-46101	\$325,000.00
Lincoln Terrace Addition	BP0535 ACCT#505093393-46101	\$147,000.00
Willow Brook Additions	BP0536 ACCT#505093393-46101	\$60,010.00
Lakeview Terrace	BP0537 ACCT#505093393-46101	\$50,600.00
Hardie-Rucker Addition	BP0538 ACCT#505093393-46101	\$210,000.00
Woodslawn Additon	BP0539 ACCT#505093393-46101	\$349,413.00
Total:		\$1,234,423.00
Final Retainage:		\$64,969.63
Project Total:		1,299,392.63

RECOMMENDATION 1:

Staff recommends that Change Order 2, decreasing Contract K-2223-2 for the Urban Concrete, FYE 2023 Locations, Bid 2 project with Nash Construction Company by \$1,858.87 from \$1,301,251.50 to \$1,299,392.63, be approved.

RECOMMENDATION 2:

Staff further recommends final acceptance of the Urban Concrete, FYE 2023 Locations, Bid 2 project, Contract K-2223-2, and final payment in the amount of \$64,969.63 to Nash Construction Company, be approved.

Reviewed by: Joseph Hill, Streets Program Manager
 Scott Sturtz, City Engineer
 Shawn O'Leary, Director of Public Works
 Clint Mercer, Chief Accountant
 Anthony Francisco, Director of Finance
 Kathryn Walker, City Attorney
 Darrel Pyle, City Manager

CHANGE ORDER SUMMARY
CITY OF NORMAN
CLEVELAND COUNTY, OKLAHOMA

CHANGE ORDER NO. 2DATE: June 14, 2023CONTRACT NO.: K-2223-2SUBMITTED BY: Joseph HillPROJECT: Street Maintenance Bond Program – Urban Concrete Pavement, FYE 2023 Locations, Bid 2

CONTRACTOR: Nash Construction Company
700 South Irving
Oklahoma City, Oklahoma 73129

Original Contract Time: 285 daysOriginal Contract Amount: \$1,301,251.50

DESCRIPTION	INCREASE	DECREASE
Change in Pay Quantities	\$0.00	\$(1,858.87)
Change in Contract Time	0 Days	0 Days

NET CHANGE \$(1,858.87)REVISED CONTRACT TIME: 285 daysREVISED CONTRACT AMOUNT: \$1,299,392.63

See Detailed Quantity Change on Page 2 of 2:

Detailed Quantity Change:

ITEM	DESCRIPTION	UNIT	CONTRACT + CO #1 QUANTITY	CO #2 QUANTITY	QUANTITY CHANGE	COST CHANGE
1	Mobilization	L.S.	1	1	0	\$0.00
2	Traffic Control (1,2,3)	L.S.	1.45	1.45	0.00	\$0.00
3	Undercut (4)	C.Y.	300	0	(300)	(\$4,500.00)
4	Saw Cut Pavement Full Depth (5)	L.F.	500	21	(479)	(\$2,395.00)
5	Remove Curb & Gutter (6)	S.Y.	100	45	(55)	(\$440.00)
6	Remove integral curb with slab (6)	L.F.	7,375	8,109	734	\$733.68
7	Remove existing pavement (6, 7)	S.Y.	17,880	19,262	1,382	\$12,440.16
8	Remove Asphalt Speed Table (6)	S.Y.	140	158	18	\$157.50
9	Type A ODOT Aggregate base	S.F.	200	37	(163)	(\$6,031.00)
10	3000 PSI Concrete for 6" pavement (8, 9, 10,	L.F.	16,650	17,587	937	\$51,520.70
11	3000 PSI high-early strength concrete 6"	EA.	2,060	1,662	(398)	(\$25,858.95)
12	Remove Sidewalk (6)	EA.	50	0	(50)	(\$450.00)
13	3000 PSI Concrete 4" Sidewalk (10, 12)	EA.	34	0	(34)	(\$1,530.00)
14	3000 PSI Concrete sidewalk ramps (10, 12)	L.F.	16	0	(16)	(\$1,200.00)
15	Detectable Warning Surface	C.Y.	20	0	(20)	(\$540.00)
16	Clean Topsoil	S.Y.	260	10	(250)	(\$5,000.00)
17	Slab Sod (13)	EA.	2,335	0	(2,335)	(\$11,675.00)
18	Adjust Manhole Ring to Grade	S.Y.	4	1	(3)	(\$1,263.00)
19	Adjust water valve	EA.	4	2	(2)	(\$808.00)
20	Repair existing Sprinkler head	EA.	15	0	(15)	(\$1,275.00)
21	Repair existing sprinkler line	L,F,	15	0	(15)	(\$855.00)
22	6" Integral curb	L,F,	7,475	8,153	678	\$2,033.04
23	Repair inlet box and adjust to grade (14)	EA.	3	2	(1)	(\$988.00)
24	Replace Inlet Grate (15)	EA,	5	0	(5)	(\$1,655.00)
25	Replace Inlet hood (15)	EA,	5	0	(5)	(\$2,280.00)
	TOTAL COST CHANGE					(\$1,858.87)

CONTRACTOR: William K NashDATE: 15 Jun 2023ENGINEER: [Signature]DATE: 6-27-23CITY ATTORNEY: [Signature]DATE: 7-6-23ACCEPTED BY: _____
(Mayor)

DATE: _____

File Attachments for Item:

22. CONSIDERATION OF APPROVAL, ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-3: A PROJECT MAINTENANCE, FINANCING, AND RIGHT-OF-WAY AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION FOR PROJECT TAP3-7981(004)TP, STATE JOB 37981(04), TO PROVIDE TWO MILES OF MULTIMODAL PATH ALONG STATE HIGHWAY 9 BETWEEN 48th AVENUE SE AND 72nd AVENUE SE AND RESOLUTION R-2324-3 WITH CAPITAL FUND BALANCE APPROPRIATION OF \$529,492 AS OUTLINED IN THE STAFF REPORT.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Katherine Coffin

PRESENTER: David Riesland, Transportation Engineer

ITEM TITLE: CONSIDERATION OF APPROVAL, ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-3: A PROJECT MAINTENANCE, FINANCING, AND RIGHT-OF-WAY AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION FOR PROJECT TAP3-7981(004)TP, STATE JOB 37981(04), TO PROVIDE TWO MILES OF MULTIMODAL PATH ALONG STATE HIGHWAY 9 BETWEEN 48th AVENUE SE AND 72nd AVENUE SE AND RESOLUTION R-2324-3 WITH CAPITAL FUND BALANCE APPROPRIATION OF \$529,492 AS OUTLINED IN THE STAFF REPORT.

BACKGROUND:

The Oklahoma Department of Transportation (ODOT) Transportation Alternative Program has historically provided funding for projects and programs defined as transportation alternatives that advance non-motorized transportation opportunities, including on- and off-road pedestrian and bicycle facilities, infrastructure projects for improving non-driver access to public transportation and enhanced mobility, community improvement activities, historic transportation preservation, environmental mitigation and vegetation management activities; recreational trail programs; safe routes to school projects; and projects for planning, designing, or constructing boulevards and other roadways largely in the right-of-way of former Interstate System routes or other divided highways. The Transportation Alternatives Program continues to build upon the legacy of prior programs by providing funding opportunities for local projects that support additional transportation options, strengthen local economies, improve quality of life, protect the natural environment, and enhance transportation infrastructure.

Funds set aside for the ODOT Transportation Alternatives Grant program include projects and activities encompassing a variety of transportation projects that prioritize safety, comfort, and connectivity to destinations for all people who use the street network such as pedestrian and bicycle facilities, recreational trails, safe routes to school projects, community improvements such as historic preservation and vegetation management, and environmental mitigation related to Stormwater and habitat connectivity. The call for projects, through ODOT, closed on November 30, 2022. Awards were announced on April 3, 2023. Norman was awarded two

miles of multimodal path along the north side of State Highway 9 between 48th Avenue SE and 72nd Avenue SE (a location map is attached).

DISCUSSION:

The Oklahoma Department of Transportation (ODOT) requires the City to execute a project agreement and to adopt it by resolution before letting the project to contract. The agreement addresses the responsibilities of the City and the Department during and after the construction of the project. Both the resolution and agreement have been reviewed by staff and approved by the City Attorney's Office. Based upon the preliminary cost estimates submitted with the grant application, the City's financial obligation in this agreement, shown on page 6 of the attached agreement, is \$529,491.66. In addition, the City is obligated to:

- Finance and prepare engineering design plans
- Finance and acquire any necessary rights-of-way and easements
- Finance and relocate any potential utility conflicts
- Finance and prepare applicable NEPA environmental assessments

The City's financial obligation of \$529,491.66 is not currently allocated in any account. In order to have this agreement signed and returned to ODOT, an appropriation of funds will be required. The total of the local share, \$529,491.66, is requested to be appropriated from the Capital Fund Balance (Account 50-29000) to SH 9 Multimodal Path 48th to 72nd, Construction (Account 50596688-46101; Project TR0125).

If approved, the two new miles of multimodal path should be let for construction in early fall of 2024. This would mean that the two miles of path would be under construction in early 2025 with completion before the end of 2025.

RECOMMENDATION 1:

Staff recommends approval of Contract K-2324-3 and Resolution R-2324-3 with ODOT for two miles of multimodal path along State Highway 9 between 48th Avenue SE and 72nd Avenue SE.

RECOMMENDATION 2:

Staff recommends approval of the appropriation of Capital Fund balance (Account 50-29000) for the total local share of construction costs, \$529,491.66, for the two miles of State Highway 9 multimodal path to SH 9 Multimodal Path 48th to 72nd Construction (Account 50596688-46101; Project TR0125).

**STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION
PROJECT MAINTENANCE, FINANCING, AND RIGHT-OF-WAY AGREEMENT**

NORMAN: SH-9 MULTIMODAL PATH FROM 48TH AVE E. TO 72ND AVE. E.

Project No.: TAP3-7981(004)TP

State Job No.: 37981(04)

This Agreement, made the day and year last written below, by and between the City of **Norman**, hereinafter referred to as the Sponsor, and the Department of Transportation of the State of Oklahoma, hereinafter referred to as the Department, for the following intents and purposes and subject to the following terms and conditions, to wit:

WITNESSETH

WHEREAS, The Sponsor requested that certain street improvements be approved by the Oklahoma Transportation Commission, as were previously programmed by the Sponsor and described as follows:

Project Type	Div.	County	JP No	Project No.	Work Type	Description
Multimodal Path	03	CLEVELAND	37981(04)	TAP3-7981(004)TP	ENHANCEMENT	NORMAN: SH-9 MULTIMODAL PATH FROM 48TH AVE E. TO 72ND AVE. E.

WHEREAS, the Department is charged under the laws of the State of Oklahoma with construction and maintenance of State Highways; and,

WHEREAS, the Department is, by terms of agreements with the Federal Highway Administration, responsible for the management and construction of certain federally funded projects within the corporate limits of cities within the State of Oklahoma; and,

WHEREAS, the Sponsor has been identified as the beneficiary and sub-recipient of such federally funded project; and,

WHEREAS, receipt of the benefits of this project will require that the Sponsor assume certain financial responsibilities; and,

WHEREAS, the Sponsor is a municipal corporation created and existing under the constitution and laws of the State of Oklahoma; and

WHEREAS, the laws and constitution of the State of Oklahoma impose financial restrictions on the Sponsor and its ability to ensure financial obligations; and,

WHEREAS, the Parties hereto recognize those financial limitations and agree that the financial obligations assumed by the Sponsor, by the terms of this Agreement, are enforceable only to the extent as may be allowed by law or as may be determined by a court of competent jurisdiction; and,

WHEREAS, it is understood that, by virtue of the Article 10, Section 26 of the Oklahoma Constitution, the payment of Sponsor funds in the future will be limited to appropriations and available funds in the then current Sponsor fiscal year.

NOW, THEREFORE: the Department and the Sponsor, in consideration of the mutual covenants and stipulations as set forth herein, do mutually promise and agree as follows:

SECTION 1: PROJECT AGREEMENT

1.1 If applicable, the Department will recommend approval of the project by the Federal Highway Administration.

1.2 The Sponsor agrees to comply with Title VI of the Civil Rights Act of 1964, 78 Stat. § 252, 42 U.S.C. § 2000d et seq., and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Part 21 - "Nondiscrimination in federally assisted programs of the Department of Transportation - effectuation of Title VI of the Civil Rights Act 1964".

1.3 The DEPARTMENT and SPONSOR mutually recognize that each party is a governmental entity subject to the provisions of the Governmental Tort Claims Act (51 O.S. § 151 et seq.). The DEPARTMENT and SPONSOR hereby mutually agree that each is and may be held severally liable for any and all claims, demands, and suits in law or equity, of any nature whatsoever, paying for damages or otherwise, arising from any negligent act or omission of any of their respective employees, agents or contractors which may occur during the prosecution or performance of this Agreement to the extent provided in the Governmental Tort Claims Act. Each party agrees to severally bear all costs of investigation and defense of claims arising under the Governmental Tort Claims Act and any judgments which may be rendered in such cause to the limits provided by law. Nothing in this section shall be interpreted or construed to waive any legal defense which may be available to a party or any exemption, limitation or exception which may be provided by the Governmental Tort Claims Act.

1.4 The Sponsor understands that should it fail to fulfill its responsibilities under this Agreement, such a failure will disqualify the Sponsor from future Federal-aid funding

participation on any proposed project. Federal-aid funds are to be withheld until such a time as an engineering staff, satisfactory to the Department has been properly established and functioning, the deficiencies in regulations have been corrected or the improvements to be constructed under this Agreement are brought to a satisfactory condition of maintenance.

SECTION 2: ENGINEERING RESPONSIBILITIES

2.1 The Sponsor shall provide professional engineering services for the development of the Plans, Specifications and Estimates (PS&E) for this project. Design engineering for this project will be performed under the supervision of the Sponsor. Sponsor warrants to the Department that they will review the plans and will certify that the plans are acceptable to the Sponsor and are in full compliance with current standards and specifications.

2.2 Progress payments will be made to the consultant by the DEPARTMENT upon receipt of a properly executed claim form, approved by the SPONSOR, accompanied by suitable evidence of the completion of the work claimed, as detailed in the engineering contract.

2.3 The SPONSOR agrees to hold the Federal Government and the DEPARTMENT harmless from, and shall process and defend at its own expense, all claims, demands, or suits, whether at law or equity brought against the SPONSOR, the DEPARTMENT, or Federal Government, arising from the SPONSOR's execution, performance, or failure to perform any of the provisions of this Agreement, or arising by reason of the participation of the DEPARTMENT or Federal Government in the project, provided nothing herein shall require the SPONSOR to reimburse the DEPARTMENT or Federal Government for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence of the Federal Government or the DEPARTMENT.

2.4 When any alleged act, omission, negligence, or misconduct may be subject to the limitations, exemptions, or defenses which may be raised under the Governmental Tort Claims Act, 51 O.S. Sec. 151, et seq., all such limitations, exemptions, and defenses shall be available to and may be asserted by the SPONSOR. No liability shall attach to the DEPARTMENT or Federal Government except as expressly provided herein.

2.5 The Sponsor agrees to the location of the subject project and agrees to adopt the final plans for said project as the official plans of the Sponsor for the streets, boulevards, arterial highways and/or other improvements contained therein; and further, the Sponsor affirmatively states that it has or shall fully and completely examine the

plans and shall hereby warrant to the Department, the Sponsor's complete satisfaction with these plans and the fitness of the plans to construct aforesaid project.

2.6 The Sponsor certifies that the project design plans shall comply, and the project when completed will comply, with the requirements of the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. §§ 12101 – 12213), 49 CFR Parts 27, 37 and 38 and 28 CFR parts 35 and 36. The Sponsor shall be exclusively responsible for integrated ADA compliance planning for all Sponsor streets, sidewalks and other facilities provided for public administration, use and accommodation, which is required of recipients and sub-recipients by 49 CFR § 27.11. State highways continued through corporate limits of the Sponsor shall be included in the Sponsor's comprehensive compliance plans.

2.7 To the extent permitted by law, all data prepared under this Agreement shall be made available to the Department without restriction or limitation on their further use, with exception of any documents or information that would be considered attorney/client privileged by the Sponsor.

2.8 The Department will conduct the environmental studies and prepare the National Environmental Protection Act documents as required for federally funded projects.

2.9 The Department will forward the environmental documents to FHWA for approval if applicable.

SECTION 3: LAND ACQUISITION AND UTILITY RELOCATION

3.1 The Sponsor warrants to the Department that, they have or will acquire all land, property, or rights-of-way needed for complete implementation of said project, free and clear of all obstructions and encumbrances and in full accordance with the Department's guidelines for Right-of-Way Acquisition on Federal-Aid Projects, the Uniform Relocation Act, the National Environmental Protection Act and all other applicable local, state and federal regulations.

3.2 The Sponsor shall be responsible for ensuring all proper tax documentation is filed and issued to recipients of funds paid on behalf of the Sponsor for Right-of-Way acquisition for this project.

3.3 The Sponsor warrants to the Department that it is knowledgeable of and will comply with the provisions of 42 U.S.C.A., Section 4601-4655 and 23 U.S.C.A., Section 323 (as amended) and 49 C.F.R. Part 24 in the acquisition of all right-of-way and the relocation of any displacees.

3.4 The Sponsor shall remove, at its own expense, or cause the removal of, all encroachments on existing streets as shown on said plans, including all buildings, porches, fences, gasoline pumps, islands, and tanks, and any other such private installations and shall further remove or remediate any existing environmental contamination of soil and water from any source, known or unknown.

3.5 If the acquisition of right-of-way for this project causes the displacement of any person, business or non-profit organization, the Sponsor warrants it will provide and be responsible for the Relocation Assistance Program and all costs associated with the Relocation Assistance Program. The Department, upon request, will provide a list of service providers who have been prequalified to administer the Relocation Assistance Program. The Sponsor agrees to employ a service provider from the prequalified list provided by the Department. Prior to any relocation assistance payments to the Sponsor, all files with parcels requiring relocation assistance shall be submitted to the Department for audit and compliance review. The Sponsor shall notify the Department within seven (7) days of the date of an offer to acquire being provided to a property owner(s) on any parcel which will require relocation assistance. Written notifications regarding service providers, in-house personnel, appeals, offers to acquire or other related correspondence shall be properly addressed and remitted as follows:

Oklahoma Department of Transportation
Operations Division
200 N.E. 21st Street
Oklahoma City, Oklahoma 73105-3204

3.6 The Sponsor warrants that any procurement, using federal funds, of property, goods or professional and personal services required for this project will be acquired by the Sponsor in compliance with the federal procurement Regulations at 40 USC 1101-1104 (Brooks Act) and the Regulations for Administration of Engineering and Design Related Service Contracts at 23 C.F.R. Part 172, as well as provisions of State purchasing laws applicable to the Sponsor.

3.7 The Sponsor will certify to the Department prior to establishing a letting date that all existing utility facilities (if any) have been properly adjusted in full accordance with the Department's Right-of-Way and Utilities Division policies and procedures to accommodate the construction of said project; and will be solely responsible for payment of any and all contractor expenses, claims, suits and/or judgments directly resultant from any actual utility relocation delays.

3.8 The Sponsor shall have the authority pursuant to 69 O.S. § 1001 and 69 O.S. § 1004 to sell any lands, or interest therein, which were acquired for highway purposes as long as such sale is conducted in accordance with the above cited statutes.

3.9 The Sponsor agrees that if any property acquired utilizing Federal funding is disposed of or is no longer used in the public interest the Sponsor shall reimburse the Department at the current fair market value.

3.10 The Sponsor agrees to;

- Transmit copies of the instruments, including all deeds and easements, to the Department prior to the advertisement of bids for construction.
- Comply with the provisions of 42 U.S.C.A. § 4601-4655 and 23 U.S.C.A. § 323 (as amended) and, further comply with 49 C.F.R. Part 24 in the acquisition of all necessary right-of-way and relocation of all displacees.
- Convey title to the State of Oklahoma on all tracts of land acquired in the name of the Sponsor if the project is located on the State Highway System.

SECTION 4: FUNDING SUMMARY

4.1 The Department and the Sponsor agree that the project will be financed at a **not-to-exceed**, TAP total estimated cost of **\$2,647,458.33**, as described below:

FUNDING SOURCE =>			TAP		Sponsor	
STATE JOB PIECE NO.	DESCRIPTION	TOTAL ESTIMATED COST	SHARE (%)	AMOUNT	SHARE (%)	AMOUNT
	Design -					
	Right-of-Way -					
	Utilities -					
37981(04)	Construction - (With 6% Inspection)	\$2,647,458.33	80 up to a limit of	\$2,117,966.67	Remainder	\$529,491.66
Total		\$2,647,458.33	Total=>	\$2,117,966.67	Total=>	\$529,491.66

4.2 Furthermore, the Department and the Sponsor agree that actual TAP costs incurred by project phase **JP37981(04)** may exceed initial estimates. Costs between these project phases will be administratively adjusted based on actual cost of each phase, within the total cost of this Agreement, without formal supplemental Agreement, in so far as the total project agreement is not exceeded.

4.3 It is understood by the Sponsor and the Department that the funding participation stipulated herein may be altered due to bid prices, actual construction supervision costs and non-participating costs incurred during construction. The Sponsor will be responsible for payment of any estimated local funding prior to advertising the project for bid. Upon final acceptance of this project, the total project cost will be determined, and the final amount of local funds (if any) will be determined by the Department's Comptroller per the terms of this Agreement. A refund will then be made by the Department to the Sponsor or additional funding will be requested. The Sponsor agrees to make arrangements for payment of any Department invoice within 45 days of receipt.

SECTION 5: CONSTRUCTION RESPONSIBILITIES

5.1 The Sponsor agrees to comply with all applicable laws and regulations necessary to meet the Oklahoma Department of Environmental Quality (ODEQ) requirements for pollution prevention including discharges from storm water runoff during the planning and design of this project. Further, the Sponsor agrees and stipulates as stated in the ODEQ's *General Permit OKR10*, dated September 13, 2017 or latest revision, to secure a storm water permit with the ODEQ for utility relocations, when required. It is also agreed that the storm water management plan for the project previously described in the document includes project plans and specifications, required schedules for accomplishing the temporary and permanent erosion control work, the site specific storm water pollution prevention plan and the appropriate location map contained in the utility relocation plans.

5.2 The Sponsor's responsibility for environmental cleanup will be a continuing responsibility to remediate any and all known and unknown environmental damage throughout the duration of this agreement with the Department in compliance with State and federal regulations.

5.3 The roadway improvements and all devices specified herein shall not be altered, removed, or cease to be operative without mutual written consent of the Department and the Sponsor.

5.4 Upon approval of this agreement and the plans, specifications, and estimates by the Sponsor, the Department, and the Federal Highway Administration (if applicable), the Department will advertise and let the construction contract for this project in the usual and customary legal manner. It is agreed that the projects herein contemplated are proposed to be financed as previously described, and that this Agreement, all plans, specifications, estimate of costs, acceptance of work, payments, and procedure in

general hereunder are subject in all things at all times to all local, state and federal laws, regulations, orders, approvals as may be applicable hereto.

5.5 The Department shall provide a copy of the executed construction contract to the Sponsor, upon receipt of a written request.

5.6 The Department will notify the Sponsor of pre-bid dates, bid opening dates, and Transportation Commission award dates in writing upon receipt of a written request.

5.7 The Sponsor agrees that prior to the Department's advertising of the project for bids (as to that part of the project lying within the present corporate limits) it will:

- Grant to the Department and its contractors, the right-of-entry to all existing streets, alleys, and Sponsor owned property when required, and other rights-of-way shown on said plans.
- Remove at its own expense, or cause the removal of, all encroachments on existing streets as shown on said plans, including all signs, buildings, porches, awnings, porticos, fences, gasoline pumps and islands, and any other such private installations.
- Prohibit parking on that portion of the project within the corporate limits of the Sponsor, except as may be indicated in the plans or hereafter approved by agreement with the Department. The Sponsor further agrees not to install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the Federal Highway Administration and Manual on Uniform Traffic Control Devices (MUTCD).
- Comply with the Department's standards for construction of driveway entrances from private property to the highway, in accordance with the Department's manual entitled "Policy on Driveway Regulation for Oklahoma Highways", Rev. 5/96, 69 O.S. (2001) § 1210.
- Maintain all right-of-way acquired for the construction of this project, as shown on said plans, in a manner consistent with applicable statutes, codes, ordinances and regulations of the Department and the State of Oklahoma.
- Have the authority pursuant to 69 O.S. 2001 § 1001 and 69 O.S. 2001 § 1004 to sell any lands, or interest therein, which were acquired for highway purposes as long as such sale is conducted in accordance with the above cited statutes. Prior

written approval by the Chief, Right-of-Way Division for the Department shall be required before any sale is made.

5.8 The Sponsor further agrees and warrants to the Department that, subsequent to the construction of said project, the Sponsor will:

- 1) Erect, maintain and operate traffic control devices, including signals, signs and pavement markings only in accordance with 47 O.S. 2011 §§ 15-104- 15-106, and subject to agreement of the Department:
 - a) In the event that any traffic signal installed hereunder is no longer needed for the purposes designated herein, then the traffic signal installed hereunder shall not be moved by the Sponsor to any other point other than that which is approved by the Department prior to such removal.
 - b) In the event there is no mutually agreed location for the reinstallation, the Sponsor will assume complete ownership of the equipment following removal, if the installation is ten (10) years old or older. If the installation is less than ten (10) years old and:
 - 1) In the event the Sponsor desires total ownership of the equipment, the Sponsor shall reimburse the Department the original federal funding percentage share for the original equipment cost only, amortized for a ten(10) year service life, interest ignored, and assuming straight line depreciation.
 - 2) In the event the Sponsor does not desire total ownership of the equipment, the Sponsor shall sell the equipment at public auction to the highest bidder. The Sponsor shall reimburse the Department the original federal funding percentage share of the proceeds of such sale.
- 2) Subject to agreement with the Department, regulate and control traffic on said project, including but not limited to, the speed of vehicles, parking, stopping and turns only in accordance with 47 O.S. 2011 §§ 15-104- 15-106, and to make no changes in the provisions thereof without the approval of the Department. It shall be the responsibility of the Sponsor to notify the Department of any changes necessary to ensure safety to the traveling public.
- 3) Maintain all drainage systems and facilities constructed, installed, modified or repaired in conjunction with this project or as may be otherwise necessary to

ensure proper drainage for road surfaces constructed under the terms of this agreement.

- 4) Maintain all curbs and driveways abutting road surfaces constructed under the terms of this Agreement and all sidewalks adjacent thereto.
 - 5) Maintain all right-of-way areas adjacent to road surfaces, including erosion control and periodic mowing of vegetation, in a manner consistent with applicable codes, ordinances and regulations.
 - 6) For any portion of the project encompassed under this Agreement that is part of the State Highway System, the Sponsor shall maintain all that part of said project within the corporate limits of the Sponsor between the gutter lines and the right-of-way lines, and if no gutter exists, between the shoulder lines and the right-of-way lines, including storm sewers, all underground facilities, curbs and mowing, all in accordance with 69 O.S. Supp. 1994 §901 and all other applicable law.
 - 7) On limited access highways where county roads or city streets extend over or under the highway or public roads are constructed on state rights-of-way but there is no immediate ingress and egress from the highway, responsibility shall be as follows:
 - a. The public roads as defined in OAC 730:35-1-2 shall be maintained by the city or county and shall be included in their roadway mileage inventory.
 - b. Where county roads or city streets extend over the highway, the roadway, approaches and bridge surfaces, including the deck, shall be maintained by the city or county. The approach guardrail, bridge structure, and highest clearance posting on the structure shall be maintained by the Department.
 - c. Where county roads or city streets extend under the highway, the roadway approaches and advance signing shall be maintained by the city or county. The Department shall maintain the approach guardrail, bridge structure and surface, and the height clearance posting on the structure.
- 5.9 The Sponsor further agrees and warrants to the Department concerning any sign and highway facility lighting included as part of this project:

- 1) The Sponsor will, upon notice from the Department Engineer, provide at its own expense all required electrical energy necessary for all preliminary and operational tests of the highway lighting facilities.
- 2) Upon completion of the construction of said project, the Sponsor will be responsible for the maintenance and cost of operation of these highway lighting facilities, including all appurtenances thereto and including the sign lighting facilities.
- 3) It is specifically understood and agreed that the highway lighting and sign lighting facilities specified hereunder shall be continuously operated during the hours of darkness, between sunset and sunrise, and shall not be altered, removed or be allowed to cease operation without the mutual written consent of the Department and the Sponsor.
- 4) The Sponsor agrees to provide, on a periodic schedule, an inspection, cleaning and re-lamping maintenance program to assure the maximum efficiency of the highway lighting facilities.
- 5) In the event that the highway lighting facilities installed hereunder are no longer needed for the purposes designated herein, then the highway lighting facilities installed hereunder shall not be moved by the Sponsor to any point other than which is approved by the Department prior to such removal.
- 6) In the event there is no mutually agreed location for reinstallation, the Sponsor will assume complete ownership of the equipment following removal if the installation is twenty (20) years old or older. If the installation is less than twenty years old and:
 - a) In the event the Sponsor desires total ownership of the equipment, the Sponsor shall reimburse the Department the original federal funding percentage share of the original equipment costs only, amortized for a twenty (20) year service life, interest ignored, and assuming straight line depreciation.
 - b) In the event the Sponsor does not desire total ownership of the equipment, the Sponsor shall sell the equipment at public auction to the highest bidder. The Sponsor shall reimburse the Department the original federal funding percentage share of the proceeds of such sale.

5.10 The Department will appoint competent supervision and inspection of the construction work performed by the construction contractor and will provide such engineering, inspection and testing services as may be required to ensure that the construction of the project is accomplished in accordance with the approved Plans, Specifications and Estimates. The Department reserves the right to make such changes in said plans as may be necessary for the proper construction of said project.

- 1) The Sponsor agrees to provide such competent supervision as the Sponsor deems necessary during times that the work is in progress to ensure the completion of the project to the Sponsor's satisfaction and the Sponsor's representatives and the Department's representatives will cooperate fully to the end of obtaining work strictly in accordance with the plans and specifications.
- 2) The Sponsor will make ample provisions annually for the proper maintenance of said project, including the provision of competent personnel and adequate equipment, specifically, to provide all required maintenance of the project during the critical period immediately following construction and to keep the facility in good and safe condition for the benefit of the traveling public.
- 3) The Sponsor warrants to the Department that it will periodically review the adequacy of the aforesaid project to ensure the safety of the traveling public and should the Sponsor determine that further modifications or improvements be required, the Sponsor shall take such actions as are necessary to make such modifications or improvement. When operation modifications are required which in the opinion of the Department exceed the capability of the Sponsor's staff, the Sponsor agrees to retain, at the sole expense of the Sponsor, competent personnel for the purpose of bringing the improvement up to the proper standard of operation.
- 4) The Sponsor warrants and agrees that upon completion of the aforesaid project, the Sponsor assumes any and all financial obligations for the operation, use, and maintenance of the aforesaid project.

SECTION 6: NON-DISCRIMINATION CLAUSE

1. During the performance of this agreement, the Sponsor, for itself, its assignees and successors in interest, agrees as follows:

1) **Compliance with Regulations:**

The Sponsor shall comply with the regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time

(hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this agreement.

2) **Nondiscrimination:**

The Sponsor, with regard to the work performed by it during the agreement, shall not discriminate on the grounds of race, color, sex, age, national origin, disability/handicap, or income status, in the selection and retention of contractors or subcontractors, including procurements of materials and leases of equipment. The Sponsor shall not participate either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in appendix B of the Regulations.

3) **Solicitations for Subcontracts, Including Procurement of Materials and Equipment:**

In all solicitations, either by competitive bidding or negotiation, made by the Sponsor for work to be performed under a contract or subcontract, including procurements of materials or leases of equipment, each potential contractor or subcontractor or supplier shall be notified by the Sponsor of the Sponsor's obligations under this agreement and the Regulations relative to nondiscrimination on the grounds of race, color, sex, age, national origin, disability/handicap, or income status.

4) **Information and Reports:**

The Sponsor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a Sponsor is in the exclusive possession of another who fails or refuses to furnish this information, the Sponsor shall so certify to the State Department of Transportation, or the Federal Highway Administration, as appropriate, and shall set forth what efforts it has made to obtain the information.

5) **Sanctions for Noncompliance:**

In the event of the Sponsor's noncompliance with the nondiscrimination provisions of this agreement, the State Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

- a. Withholding of payments to the Sponsor under the agreement until the Sponsor complies and/or
- b. Cancellation, termination, or suspension of the agreement in whole or in part.

6) **Incorporation of Provisions:**

The Sponsor shall include the provisions of sub paragraphs 1) through 5) in every contract or subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The Sponsor shall take such action with respect to any contract or subcontract or procurement as the State Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Sponsor becomes involved in, or is threatened with, litigation by a subcontractor or supplier as a result of such direction, the Sponsor may request the State Department of Transportation to enter into such litigation to protect the interests of the State; and, in addition, the Sponsor may request the United States to enter into such litigation to protect the interests of the United States.

SECTION 7: TERMINATION

7.1 This Agreement may be terminated by any of the following conditions:

- a) By mutual agreement and consent, in writing of both parties.
- b) By the Department by written notice to the Sponsor as a consequence of failure by the Sponsor to perform the services set forth herein in a satisfactory manner.
- c) By either party, upon the failure of the other party to fulfill its obligations as set forth herein.
- d) By the Department for reasons of its own and not subject to the mutual consent of the Sponsor upon five (5) days written notice to the Sponsor.
- e) By satisfactory completion of all services and obligations described herein.

7.2 The termination of this Agreement shall extinguish all rights, duties, obligations and liabilities of the Department and the Sponsor under this agreement. If the potential termination of this Agreement is due to the failure of either the Department or the Sponsor to fulfill their obligation as set forth herein, the non-breaching party will notify the party alleged to be in breach that possible breach of agreement has

occurred. The party alleged to be in breach should make a good faith effort to remedy that breach as outlined by non-breaching party within a period mutually agreed by each party in writing.

SECTION 8: GOVERNING LAW AND VENUE

- 8.1 Any claims, disputes or litigation relating to the solicitation, execution, interpretation, performance, or enforcement of this Agreement shall be governed by the laws of the State of Oklahoma and the applicable rules, regulations, policies and procedures of the Oklahoma Transportation Commission. Venue for any action, claim, dispute or litigation, mediation or arbitration shall be in Oklahoma County, Oklahoma.

SECTION 9: DISPUTE RESOLUTION

- 9.1 The parties hereto have entered into this agreement in the State of Oklahoma and the laws of the State of Oklahoma shall apply. The parties agree to bargain in good faith in direct negotiation to achieve resolutions of any dispute and, if such efforts are unsuccessful, to retain a neutral mediation service to mediate the dispute prior to the filing of any court action. Mediation shall be conducted in the Oklahoma City area and the costs of such mediation shall be borne equally by the parties. If mediation is not successful, venue for any action brought to enforce the terms of this agreement shall be in Oklahoma County, State of Oklahoma. Each party shall bear any cost and attorney fees incurred by the party in such litigation.

SECTION 10: PRIOR UNDERSTANDINGS

- 10.1 This agreement incorporates and reduces to writing all prior understandings, promises, agreements, commitments, covenants or conditions and constitutes the full and complete understanding and contractual relationship of the parties.

SECTION 11: AMENDMENTS OR MODIFICATIONS OF AGREEMENT

- 11.1 No changes, revisions, amendments or alterations in the manner, scope of type of work or compensation to be paid by the DEPARTMENT shall be effective unless reduced to writing and executed by the parties with the same formalities as are observed in the execution of this Agreement.

SECTION 12: RECORDS

12.1 The Sponsor is to maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available at its respective offices at all reasonable times, during the agreement period and for three (3) years from the date of final payment under the agreement for inspection by the DEPARTMENT and the State Auditor and Inspector, and copies thereof shall be furnished to the DEPARTMENT, if requested.

SECTION 13: HEADINGS

13.1 Article headings used in this Agreement are inserted for convenience of reference only and shall not be deemed a part of this agreement for any purpose.

SECTION 14: BINDING EFFECTS

14.1 This Agreement shall be binding upon and inure to the benefit of the ODOT and the Sponsor and shall be binding upon their successors and assigns subject to the limitations of Oklahoma law.

SECTION 15: SEVERABILITY

15.1 If any provision, clause or paragraph of this Agreement or any document incorporated by reference shall be determined invalid by a court of competent jurisdiction, such determination shall not affect the other provisions, clauses or paragraphs of this Agreement which are not affected by the determination. The provisions, clauses or paragraphs of this Agreement and any documents incorporated by reference are declared severable.

SECTION 16: EFFECTIVE DATE

16.1 This Agreement shall become effective on the date of execution by the Department's Director or his designee.

IN WITNESS WHEREOF, the Director of the Department of Transportation, pursuant to authority vested in him by the State Transportation Commission, has hereunto subscribed his name as Director of the Department of Transportation and the Sponsor has executed same pursuant to authority prescribed by law for the Sponsor.

The Sponsor, _____ on this _____ of _____, 20____, and the Department on the _____ day of _____, 20____.

THE CITY OF NORMAN

APPROVED AS TO FORM
AND LEGALITY

By  _____
City Attorney

By _____
Mayor

By _____
Attest: City Clerk

(SEAL): Approved – THE CITY OF NORMAN

STATE OF OKLAHOMA
DEPARTMENT OF TRANSPORTATION

Recommended for Approval

Local Government Division Engineer Date

Director of Project Delivery Date

APPROVED AS TO FORM
AND LEGALITY

APPROVED

General Counsel Date

Deputy Director Date

RESOLUTION NO. R-2324-3

BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

THAT, WHEREAS it is in the best interest of the City of Norman, Oklahoma, to execute that certain Project Agreement for Federal-aid Project No. TAP3-7981(004)TP, State Job Number 37981(04), by and between the City of Norman and the Oklahoma Department of Transportation;

NOW, THEREFORE, it is hereby resolved that the Mayor is hereby authorized and directed to execute the above described agreement on behalf of the City of Norman, and duly signed by the Mayor on this ____ day of _____, 2023.

CITY OF NORMAN

Mayor

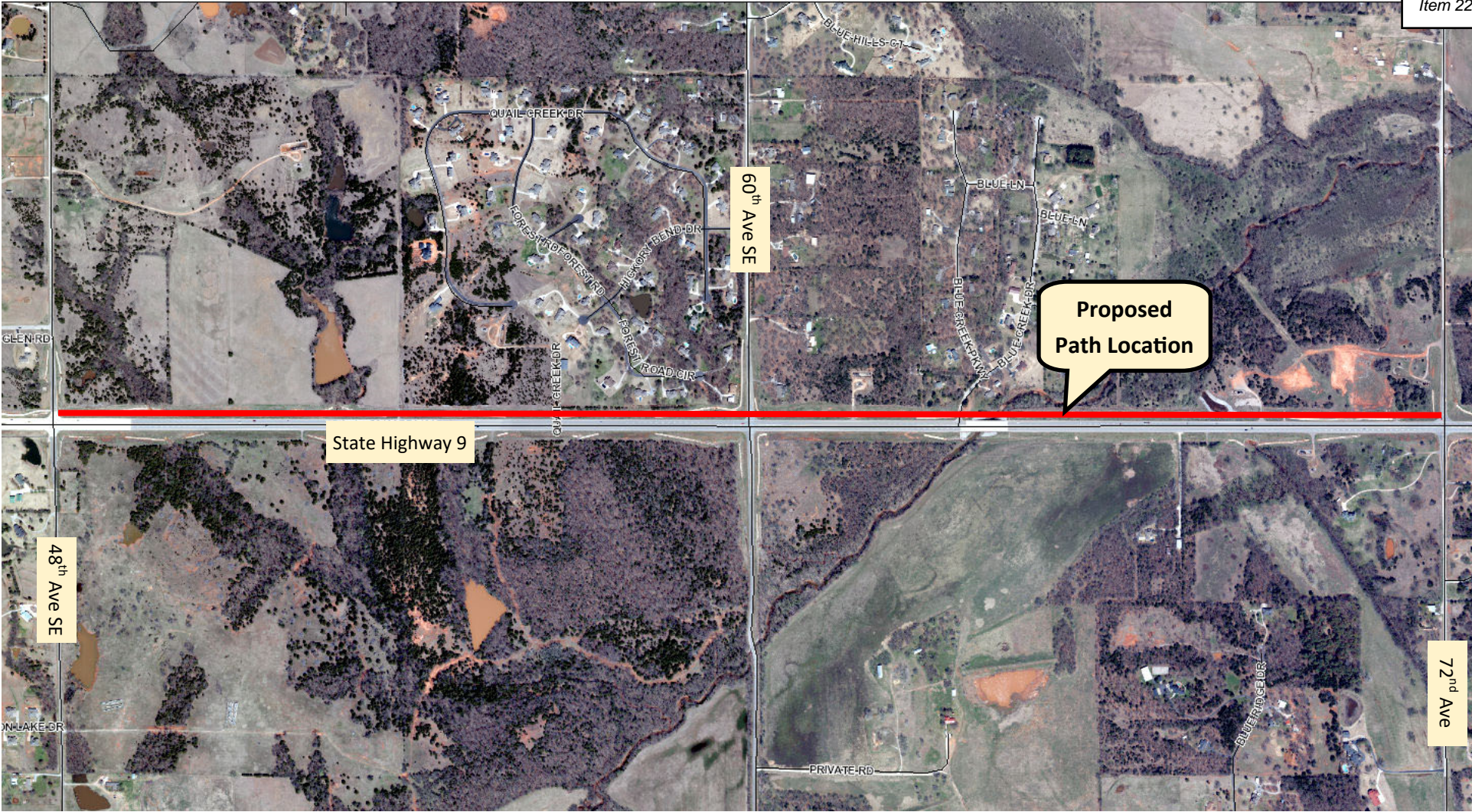
ATTEST:

City Clerk

Approved as to form and legality this 7 day of July, 2023.



City Attorney



Location Map: Proposed State Highway 9 Multimodal Path (48th Ave SE to 72nd Ave SE)

File Attachments for Item:

23. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-9: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THUNDERBIRD CLUBHOUSE BOARD, INC., IN THE AMOUNT OF \$50,000 FOR THE COORDINATION OF ACTIVITIES FOR THE OK504 NORMAN/CLEVELAND COUNTY CONTINUUM OF CARE.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Lisa D. Krieg

PRESENTER: Lisa D. Krieg, CDBG Grants Manager

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-9: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THUNDERBIRD CLUBHOUSE BOARD, INC., IN THE AMOUNT OF \$50,000 FOR THE COORDINATION OF ACTIVITIES FOR THE OK504 NORMAN/CLEVELAND COUNTY CONTINUUM OF CARE.

BACKGROUND:

Since 2009, the City of Norman has served the Norman/Cleveland County Continuum of Care (CoC) as the designated Collaborative Applicant (CA). The general duties of the CA include the formal designation as the applicant for the CoC to collect and submit the CoC registration, CoC Consolidated Application (which includes the CoC Application and Priority Listing) and apply for CoC Planning funds on behalf of the CoC during the CoC Program Competition. The duties of this responsibility have been undertaken by multiple City of Norman staff within the Planning Department over this time period.

The CoC program was authorized within the McKinney-Vento Homeless Assistance Act of 2009 as Amended and is funded by the U.S. Department of Housing and Urban Development. The program requires that the coordination of activities be within a defined geographic area, OK504 encompasses Cleveland County, and the program further requires that a Collaborative Applicant be established for the geographic area by the relevant parties of the geographic area with the specific duties to:

- Design a collaborative process for the development of an application(s) for funding, and for evaluating the outcomes for projects for which funding is awarded in such a manner as to provide information necessary to determine compliance with:
 - Program requirements of potential funding,
 - Selection criteria for funding,
 - Establishment of priorities for funding projects for the geographic area involved.
- Participation in the Consolidated Plan for the Geographic Area(s) served by the Continuum.
- Ensure operation of, and consistent participation by, project sponsors in a community wide homeless management information system (HMIS), that
 - Collects unduplicated counts of individuals and families experiencing homelessness
 - Analyzes patterns of use of assistance provided for the geographic area involved
 - Provides information to project sponsors and applicants for needs analysis and funding priorities

In March 2022, the City of Norman resigned as the Collaborative Applicant for OK504 Norman/Cleveland County CoC. The CoC solicited letters of intent from potential applicants with Food and Shelter, Inc. and Thunderbird Clubhouse Board, Inc. both submitting Letters of Intent. Food and Shelter, Inc. later withdrew from consideration. On March 29, 2022, the CoC Executive Board selected Thunderbird Clubhouse Board, Inc. as the Collaborative Applicant and formally registered this entity with the U.S. Department of Housing and Urban Development.

In April 2022, City Manager Darrel Pyle approved the Letter of Intent and the associated Norman/Cleveland County CoC Collaborative Applicant Job Description with the agreed upon price of \$12,500 per quarter in compensation for duties as defined. As a part of the FYE 24 Budget Process, this activity was approved and funded as a new/expanded program.

DISCUSSION:

The proposed contract represents activities described within the contract and associated Job Description. The Job Description is codified within the CoC Governance Documents and has been approved by the CoC Executive Committee and reviewed annually for any needed amendments.

Since the designation of Thunderbird Clubhouse Board, Inc. as the Collaborative Applicant, the CoC has experienced better communication and an increase in participating agencies. In June 2023, for the first time, a formal report was made available to the City Council Oversight Committee with the methodology and results of the 2023 Point in Time Count with a total count of 199 persons experiencing homelessness, 74 unsheltered, 125 emergency shelter, on January 26, 2023.

It needs to be stated that the duties of the Collaborative Applicant are limited in that they are focused on the Coordination of Continuum of Care activities, not in direct client services to address homelessness.

RECOMMENDATION:

Staff has reviewed the proposed contract and recommends approval of Contract K-2324-9 in the amount of \$50,000 to Thunderbird Clubhouse Board, Inc. Funds are available in the General Fund, City Manager, Other Business Services (account 10110110 44199).

Contract No. K-2324-9

This Agreement, made and entered into this, **11th day of July, 2023** by and between the **City of Norman, Oklahoma**, a municipal corporation, hereinafter referred to as "City" and **Thunderbird Clubhouse Board, Inc.**, hereinafter referred to as "Agency."

For and in consideration of the activities agreed to be performed herein, by Agency, City agrees to distribute to Agency the total sum of \$50,000 for the OK504 Norman/Cleveland County Continuum of Care Collaborative Applicant. The Agency will provide a monthly detail of activities with an itemized invoice. Said funds to be distributed by City to Agency pursuant to the terms and conditions for the funding period of July 1, 2023, through June 30, 2024.

Budget

Norman/Cleveland County CoC Collaborative Applicant	\$50,000
Total Budget	\$50,000

General Provisions -- Records & Reports:

Records must also be maintained by Agency documenting all activities required under this contract. These records shall be kept for a period of five (5) years after completion of this Contract.

Agency will make all required records available for inspection by the City of Norman Community Development Division for monitoring purposes.

Agency shall ensure recognition of the role of the grantor Agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, Agency will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

Suspension and Termination:

In accordance with 24 CFR 85.43, suspension or termination may occur if Agency materially fails to comply with any term of the award, and the award may be terminated for convenience in accordance with 24 CFR 85.44.

Payment:

Agency agrees to submit an invoice which reflects the direct costs under this Contract. The City will make payments from these invoices. Each invoice in excess of \$25,000 must be accompanied by a notarized affidavit provided by the City. The City will provide to Agency invoices to be used with payment requests.

This contract made and entered into by and between the parties the day and year first above written and shall be binding upon the successors and assigns thereof.

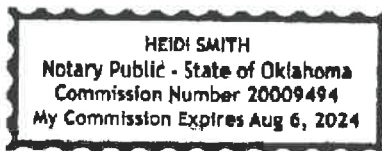
Thunderbird Clubhouse Board, Inc.

Joseph H. Napoli
President

Attest:

Ann Tiff
Secretary

Subscribed and sworn to before me this 21st day of JUNE, 2023.



Heidi Smith
Notary Public
My Commission expires: 8/6/2024

The City of Norman, Oklahoma

Larry Heikkila, Mayor

Attest:

Brenda Hall, City Clerk

Approved as to form and legality this 6 day of July, 2023.

Elizabeth Luckala
City Attorney's Office

Appendix E – 2 Pages

OK 504 Continuum of Care Collaborative Applicant Job Description

The Collaborative Applicant (CA) for the OK 504 Continuum of Care (CoC) is the designated liaison to the Department of Housing and Urban Development (HUD). The CA is a unit of local or state government, private entity, non-profit organization, or public housing agency that combines administrative and organizational duties to support the mission and operation of the CoC.

The CA's responsibilities are to:

1. Organize and assist the Executive Committee with an annual gaps analysis of the homeless needs and services available within the geographic area.
2. Create a Point In Time (PIT) plan and communicate with General Members to conduct the annual PIT count. Create PIT and Housing Inventory Chart (HIC) reports as required by HUD. Report PIT data back to the Executive Committee, prepare a public announcement and update CoC website.
3. Organize and manage the collaborative application in response to HUD's annual CoC Program competition. Upon approval from the Executive Committee submit the application and any amendments, updates or changes to HUD. Complete all required HUD reports. Apply for and manage HUD planning grant on behalf of CoC.
4. Manage and communicate a fair and transparent process to award Emergency Solutions Grant (ESG) funds.
5. Quarterly review of funds usage and progress toward program goals with grant recipients and sub-recipients. In coordination with HMIS Lead facilitate outcomes evaluation process and designate action, as defined within the funds request process, to be taken against poor performers in future funding cycles.
6. Consultation with the City of Norman to ensure that the Consolidated Plan is aligned with the CoC's strategies and plans to allocate resources that meet the needs of homeless individuals and families and persons at risk of homelessness. Is this CA or a CoC committee?
7. On behalf of the Executive Committee, organize meetings of the full CoC membership, with published agendas and Open Meeting Act notices. Issue a public invitation for new members at least annually.
8. Management of CoC committees and workgroups:
 1. Management of shared calendar.
 2. Management of distribution lists in conjunction with the Executive Committee.
 3. Communication of meeting details and distribution of agendas in conjunction with committee, sub-committee and work group chairs.
 4. Organization of records and meeting minutes as provided by the committee chairs.
 5. Production of CoC website updates.

6. In conjunction with HMIS Lead and Executive Committee, facilitation of annual update of CoC Charter. including compliance with all HEARTH Act requirements
9. In collaboration with the HMIS Lead:
 1. Monitor data quality and submission of all required annual reports
 2. Assist with invoicing, communication and training for HMIS users.
10. Facilitation of Coordinated Entry / Coordinated Case Management System
 1. Evaluate and, as needed, recommend revisions to the current process/system. This will include organization and process of prioritization with in the By-Name List.
 2. Maintenance of By-Name List. Update list prior to Coordinated Case Management (CCM) meetings as/if information is provided by participating agencies.
 3. Facilitate CCM meetings. Scheduling, communication, and coordination of meetings, including production of an agenda that prioritizes housing placement.

File Attachments for Item:

24. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-10 BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY, WILDLIFE SERVICES DIVISION IN THE AMOUNT OF \$20,000 FOR CONTROL OF AQUATIC RODENT SERVICES THROUGH JUNE 30, 2024 AS OUTLINED IN THE STAFF REPORT.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 7/11/2023

REQUESTER: Jason Murphy, Stormwater Program Manager

PRESENTER: Shawn O'Leary, Director of Public Works

TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-10 BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY, WILDLIFE SERVICES DIVISION IN THE AMOUNT OF \$20,000 FOR CONTROL OF AQUATIC RODENT SERVICES THROUGH JUNE 30, 2024 AS OUTLINED IN THE STAFF REPORT.

BACKGROUND:

In order to provide for the free flow of streams and stormwater infrastructure in the urban area of Norman, it is necessary to remove aquatic rodents from the environment of these streams periodically. The Oklahoma Department of Agriculture, Food and Forestry (ODAFF), Wildlife Services Division, has a program to provide for the control of these rodents. In addition, ODAFF is the organization that implements proper treatment of these animals. As a result, the City can be assured that the ODAFF officials will proceed with the proper degree of care and respect for the animals that are removed from local urban streams and stormwater infrastructure.

DISCUSSION:

This Cooperative Agreement has been renewed annually for a number of years at the beginning of each fiscal year. If approved, ODAFF personnel will monitor activity and respond to requests from Public Works Department, Stormwater Division staff to remove rodents in areas where problems with flooding of adjacent structures could occur without this intervention. In FYE 2023, \$20,000 was expended in order to respond to numerous staff-generated requests for service on this Contract from multiple departments, including Parks and Recreation and NUA. Additional calls for service and reports of damage came from all parts of Norman including Brookhaven Creek, Imhoff Creek, Merkle Creek, Bishop Creek, Dave Blue Creek and various culverts and other stormwater infrastructure.

Beginning in FYE 2021, based on discussions between City of Norman staff and ODAFF personnel, an increase in the Cooperative Agreement budget of \$7,500 was added. Since this increase, ODAFF has been able to dedicate staff to provide a more concentrated focus on aquatic rodent activity within the City of Norman. We have seen a considerable improvement in the response and management of aquatic rodents. Typical response time has decreased from

up to 7 days to response within 24 hours. The operating budget of the Stormwater Division contains funding for this agreement in Other Professional Services (Account 10550222-44099).

RECOMMENDATION 1:

Staff recommends approval of Contract K-2324-10, between the City of Norman and the Oklahoma Department of Agriculture, Food and Forestry, Wildlife Services Division for control of aquatic rodents.

Reviewed by: Jason Murphy, Stormwater Program Manager
Shawn O'Leary, Director of Public Works
Clint Mercer, Chief Accountant
Anthony Francisco, Director of Finance
Kathryn Walker, City Attorney
Darrel Pyle, City Manager

COOPERATIVE AGREEMENT
OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY
WILDLIFE SERVICES DIVISION
AND
City of Norman

In accordance with 2 O.S. § 12-1, 29 O.S. § 5-201.1, 5-502, and 63 O.S. § 123.8, the Wildlife Services Division of the Oklahoma Department of Agriculture, Food, and Forestry (ODAFF, WS) located at 2800 N. Lincoln Blvd. P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804, is authorized to conduct and enter into cooperative agreements for wildlife damage management activities and programs in the state to protect agriculture, property, human health and safety and natural resources. This Cooperative Agreement (Agreement) is made to augment the wildlife damage management program in Oklahoma.

Therefore, it is mutually agreed that:

1. The wildlife damage management programs conducted under the terms of this Agreement shall be conducted by the ODAFF, WS or employees of the U.S. Department of Agriculture, Wildlife Services as defined in 2 O.S. § 12-1. These same entities shall determine the appropriate salaries, employee expenses, plans and procedures necessary to best serve the interests of the parties hereto.
2. The Cooperator shall provide funds as outlined in the supplement to this cooperative agreement.
3. The Wildlife Services Division Director or designee shall certify the correctness of all claims paid by any party to this Agreement and shall perform such other administrative functions as are agreed upon provided that no funds of the cooperator will be collected or disbursed by any employee working under the terms of this agreement, or transferred to any such employee except in payment for salaries and expenses in accordance with the plans and procedures formulated and agreed to under paragraph 1, above.
4. Nothing in this Agreement shall prohibit or prevent the ODAFF, WS or the cooperator from entering into cooperative agreements with other entities.
5. The parties mutually agree to comply with 43 CFR 17 of the provisions of Title VI of the Civil Rights Act of 1964 (78 U.S.C. § 252).
6. All captured wildlife, wildlife parts, or naturally occurring part or product relating to their life history, including, but not limited to, eggs, nest, or other items ancillary to the wildlife species, shall be property of the ODAFF, WS.
7. This Agreement, and any continuation thereof, shall be contingent upon availability of appropriated or cooperative funds. It is understood and agreed that any monies allocated for the purpose of this Agreement shall be expended in accordance with its terms and in the manner prescribed by the fiscal rules and regulations and administrative policies of the agency making the funds available. No provision of this agreement shall be interpreted to

require the obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341 or any other applicable provision of law.

DURATION

This Agreement shall become effective when signed and dated, and shall end on June 30, 2024.

TERMINATION AND AMENDMENTS

This Agreement may be modified by mutually acceptable written amendments, and an addendum shall be duly executed by the ODAFF, WS and the Cooperator. Either party may request termination of this Agreement upon thirty (30) days written notice to the other party.

COMPLIANCE

This Agreement is made expressly subject to applicable law and is to be construed in a manner consistent with applicable laws and regulations. The Parties expressly agree to comply with all of the laws of the United States, the State of Oklahoma, and any political subdivision where any portion of the Agreement is to be performed, including all statutes, rules, or regulations now existing or that may be promulgated in the future including, but not limited to, the Occupational Safety and Health Act and the Fair Labor Standards Act. The parties shall comply with all local, state, and federal laws regulating employment practices, including those prohibiting discrimination based on sex, race, religion, creed, color, ethnic background, age, and disabilities. Acceptance of this Agreement constitutes awareness of and compliance with the requirements of the aforementioned laws and the Americans with Disabilities Act.

The parties certify that they and all proposed subcontractors, whether known or unknown at the time this contract is executed or awarded, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S. §1312 and includes but is not limited to the free Employee Verification Program (E-Verify) available at www.dhs.gov/E-Verify

SEVERABILITY

If any provision of this Agreement is found to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Agreement or any renewal or extension of this Agreement, then it is the intention of the undersigned parties that the remainder of this Agreement that is not found to be illegal, invalid, or unenforceable shall remain in full force and effect.

SEVEN YEAR RECORD RETENTION POLICY

Cooperator agrees to retain all necessary records, books, and any other reasonably necessary documentation relating to the nature, time, and scope of the Agreement, regardless of form, for a period of seven (7) years following completion or termination of the Agreement. If an audit, litigation, or other action involving the records is commenced before the end of the seven (7) year retention period, the records shall be maintained for three (3) years from the date that all issues arising out of the action are resolved.

ADDITIONAL TERMS AND CONDITIONS

Any and all tort claims by the Cooperator against the ODAFF, WS shall be governed by the Oklahoma Governmental Tort Claims Act, 51 O.S. § 151 et seq.

STATEMENT OF WORK AND REIMBURSEMENT

The Cooperator agrees to provide funds in the amount of Twenty Thousand Dollars (\$20,000.00) billed in Five Thousand Dollar (\$5,000.00) increments to be paid quarterly as their contribution to the ODAFF, WS for the period to be utilized for the purpose outlined below:

ODAFF WS will conduct wildlife damage management for the City of Norman through a variety of wildlife damage management abatement methods and techniques to help aid in the reduction of lost resources and the protection of human health and safety.

The ODAFF, WS agrees to furnish supervision of the project and terms as outlined in the Cooperative Agreement.

Points of contact for the administration of this support agreement are as follows:

- a. City of Norman, PO Box 370, Norman, OK 73070, (405) 329-2524 ext. 2, amy.shepard@normanok.gov
- b. Scott Alls, Director, Wildlife Services, Oklahoma Department of Agriculture, Food, and Forestry (405) 522-5464, scott.a.alls@usda.gov

AGREED AND EFFECTIVE as of the date of the latter signature below.

Date _____, 20____ Cooperator Representative

Date 5-8, 2023 Oklahoma Department of Agriculture, Food, and Forestry

Blayne Arthur

Blayne Arthur, Secretary and Commissioner of Agriculture/Designee

File Attachments for Item:

25. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-11: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NEIGHBORHOOD ALLIANCE, INC. IN THE AMOUNT OF \$100,000 FOR THE NORMAN NEIGHBORS ACTIVITIES.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Lisa D. Krieg, CDBG Grants Manager

PRESENTER: Jane Hudson, Director of Planning and Community Development

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-11: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NEIGHBORHOOD ALLIANCE, INC. IN THE AMOUNT OF \$100,000 FOR THE NORMAN NEIGHBORS ACTIVITIES.

BACKGROUND:

In the summer of 2020 Mayor Breea Clark assembled the Mayor's Task Force of over 50 individuals representing the population of Norman to explore various subjects as a result of comments that were received during the Fiscal Year 2020-2021 (FYE 2021) Budget Process. This group met multiple times over a six-month period and heard presentations from selected entities on a wide range of subjects regarding opportunities that the City of Norman had to improve interactions with the public.

As a result of this effort, Contract K-2122-17 with Neighborhood Alliance, Inc. was approved on July 13, 2021 to launch the Norman Neighbors Project. In FYE 23 a subsequent contract K-2223-24 was approved. Completed activities included several workshops specific to Norman including Maintaining Private Roads and Waterways; Norman Streetwise; Legal Issues for Homeowner's Associations (HOA); How to be a better Voluntary Neighborhood Leader; and How to be a better HOA Leader. To determine the focus of what the citizens of Norman were interested in, Neighborhood Alliance held two focus groups which included a wide range of citizens and interests. The result of these focus groups suggested that, unlike in Oklahoma City where the consensus is that citizens want to focus on individual neighborhoods, in Norman the interest is that the citizens want to discuss and learn better how to address citywide neighborhood issues. From the suggestions of those focus groups the workshops were developed and executed. In the upcoming year, the workshops will be repeated and expanded.

DISCUSSION:

The proposed contract represents a total of \$100,000 for activities described within the contract. The Norman Neighbors Program continues a re-visioning initiative in Norman and is tasked with finding the right people, with the right skills to ultimately create a safer and more nurturing City for all; one that, among other things, could lessen unwarranted police interaction as neighborhood issues are addressed in effective ways. Included with Contract K-2324-11 are the opportunities and strategies that Neighborhood Alliance will utilize with this contract.

Included in this contract, the Norman "Streetwise" program will be conducted over two sessions. One session will highlight programs of the City's development departments (Planning, Utilities, Public Works,

and Parks). The second session will highlight programs of the City's public safety departments (Police, Fire, Municipal Court, City Clerk, and City Attorney). These two sessions will be an opportunity for citizens to interact face to face with City Staff in a round table format.

A new program will be the Norman Neighbors Academy which will be a full day of training for residents of Norman on the importance and benefits of neighborhood organization, including effective methods of communicating with governmental entities regarding neighborhood issues.

The proposal includes employment of a dedicated staff person by Neighborhood Alliance who will be primarily responsible for the Norman activities, but will have the resources of the entire Neighborhood Alliance staff and Board of Directors at their disposal for support.

RECOMMENDATION:

Staff has reviewed the proposed contract and recommends approval of Contract K-2324-11 in the amount of \$100,000 to Neighborhood Alliance of Central Oklahoma, Inc. Funds are available in the General Fund, City Council, Other Business Services (account 10110101 44199).

Contract No. K-2324-11

This Agreement, made and entered into this, 11th day of July, 2023 by and between the **City of Norman, Oklahoma**, a municipal corporation, hereinafter referred to as "City" and **Neighborhood Alliance, Inc.** hereinafter referred to as "Agency."

For and in consideration of the activities agreed to be performed herein, by Agency, City agrees to distribute to Agency the total sum of \$100,000 for the Norman Neighbors Program. The Agency will provide a monthly detail of activities with an itemized invoice. Said funds to be distributed by City to Agency pursuant to the terms and conditions for the funding period of July 1, 2023, through June, 2024.

The following information outlines the specific activities that Neighborhood Alliance will conduct during the first year of the Norman Neighbors Program:

City Wide Neighborhood Capacity Building Includes the Following:

- A dedicated staff person for Norman as described above
- Neighborhood/Community capacity building including meeting and establishing partners and collection/organization of neighborhood contacts
- Community engagement through all public relations activities
- Organizing new neighborhoods, goal is to assist three new voluntary neighborhood associations

City Wide Educational Workshops Includes the Following:

All workshops can be virtual or in person depending on the current situation and demand. In person workshops always have light refreshments and can be 1.5 to 2 hours long whereas virtual workshops need to be 1 to 1.5 hours max.

- How to Organize a Neighborhood:
This intensive workshops will provide the basics of organizing
 - ✓ What is a voluntary neighborhood association?
 - ✓ Benefits of organized neighborhood associations
 - ✓ Demystifying the process of incorporation, bylaws, electing officers, bank accounts, etc.
 - ✓ Hosting that first Neighborhood wide meeting
 - ✓ Running and effective meeting
 - ✓ New Officer Training:
- Norman Streetwise:
The format will consist of two evening workshops to introduce citizens to the multiple departments within the City. Citizens will

be able to spend time with representatives from each department in an organized table format. After 20 minutes at one table, the citizen can change tables and move to another table for a discussion with a different department. There is an opportunity to have 3 and maybe 4 different table discussions during the evening. One workshop will be dedicated to Public Safety: Police; Animal Control; Fire; City Attorney; Municipal Court; and Code Compliance. A second workshop will be dedicated to Development: Public Works; Planning; Utilities; Parks; and Code Enforcement.

- Legal Issues for HOA's:
 2 part-series held on 2 separate nights. Taught by a local attorney whose practice is nothing but HOA's, Condo's and Townhomes. This is like the Bible for a person's service on HOA Boards or just living in an HOA.
- Norman Neighbors Academy
 A daylong conference designed to give citizens the confidence and tools they need to create, promote and sustain productive citizen-based neighborhood associations.
- Maintaining Private Roads
 An online workshop facilitated by professionals including City of Norman Staff to educate the ins and outs of maintaining and maintenance of private roads within Norman.
- Maintaining Private Waterways
 An online workshop facilitated by professionals including City of Norman Staff to educate the ins and outs of maintaining and maintenance of private waterways within Norman.

Budget

Norman Neighbors Program	\$100,000
Total Budget	\$100,000

General Provisions -- Records & Reports:

Agency shall maintain financial records documenting actual expenditures related to these activities performed under this contract. Records must also be maintained by Agency documenting all activities required under this contract. These records shall be kept for a period of five (5) years after completion of this Contract.

Agency will make all required records available for inspection by the City of Norman Community Development Division for monitoring purposes.

Agency shall ensure recognition of the role of the grantor Agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, Agency will include a reference to the

support provided herein in all publications made possible with funds made available under this contract.

Suspension and Termination:

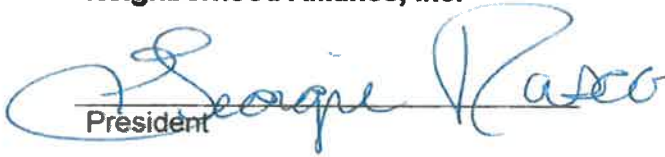
In accordance with 24 CFR 85.43, suspension or termination may occur if Agency materially fails to comply with any term of the award, and the award may be terminated for convenience in accordance with 24 CFR 85.44.

Payment:

Agency agrees to submit an invoice which reflects the direct costs under this Contract. The City will make payments from these invoices. Each invoice in excess of \$25,000 must be accompanied by a notarized affidavit provided by the City. The City will provide to Agency invoices to be used with payment requests.

This contract made and entered into by and between the parties the day and year first above written and shall be binding upon the successors and assigns thereof.

Neighborhood Alliance, Inc.




President

Attest:



Secretary

Subscribed and sworn to before me this 29 day of June, 2023.

 JESSICA L. KOPACKA
Notary Public
State of Oklahoma
Commission # 15007295 Expires 8/1/23



Notary Public

My Commission expires: 8/1/23

The City of Norman, Oklahoma

Larry Heikkila, Mayor

Attest:

Brenda Hall, City Clerk

Approved as to form and legality this 6 day of July, 2023.



City Attorney's Office

NORMAN NEIGHBORHOOD CAPACITY BUILDING PROGRAM

In addition to the specific activities listed below, Neighborhood Alliance, Inc. will also provide the listed workshops within their services for Norman:

- Legal Issues for Home Owner's Associations;
- Jumpstart Training for Home Owner's Associations;
- Jumpstart Trainings for Voluntary Neighborhood Associations; will be offered three times.

The Norman Neighborhood Capacity Building Program will provide the specific billable activities:

1. Community Engagement
 - a. Public relations activities averaging 6.5 hours/week; \$25,000
 - b. Meeting and establishing partners for successful neighborhood capacity building average 5 hours/week; \$19,500
2. Organizing New Neighborhoods
 - a. Goal is to organize/reorganize three (3) new voluntary neighborhoods with one on one time with each; \$6,200
3. Special Events – One-time events
 - a. Workshop – How to Organize a Voluntary Neighborhood, \$1,250
 - b. Workshop – Norman Streetwise – Public Safety (Police, Fire Public Safety, Animal Welfare); \$2,500
 - c. Workshop – Norman Streetwise – Development (Code Enforcement, Planning, Parks, Utilities); \$2,500
 - d. Workshop – Maintaining Private Roads; \$1,250
 - e. Workshop – Maintaining Private Waterways; \$1,250
4. Norman Neighbors Academy – Daylong conference; \$3,500
5. Community and Capacity Building – Activities occurring outside the above specific categories 250 hours; \$18,750
6. General Administration
 - a. Collecting neighborhood contacts/data average 4 hours/week; \$15,600
 - b. Reporting/billing – average 3 hours/month; \$2,700

File Attachments for Item:

26. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-12: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NEIGHBORHOOD ALLIANCE, INC. IN THE AMOUNT OF \$73,137 FOR THE STRONG NEIGHBORHOODS INITIATIVE PROGRAM.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Lisa D. Krieg

PRESENTER: Lisa D. Krieg, CDBG Grants Manager

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-12: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NEIGHBORHOOD ALLIANCE, INC. IN THE AMOUNT OF \$73,137 FOR THE STRONG NEIGHBORHOODS INITIATIVE PROGRAM.

BACKGROUND:

In the summer of 2020 Mayor Breea Clark assembled the Mayor's Task Force of over 50 individuals representing the population of Norman to explore various subjects as a result of the comments that were received during the Fiscal Year 2020-2021 (FYE2021) Budget Process. This group met multiple times over a six-month period and heard presentations from selected entities on a wide range of subjects regarding opportunities that the City of Norman had to improve interactions with the public.

As a result of this effort, Contract K-2122-17 with Neighborhood Alliance, Inc. was approved on July 13, 2021 to launch the Norman Neighbors Project. In addition, Contract K-2223-23 was also approved by the Norman City Council to continue this program. A subsequent contract K-2324-11 is slated for consideration to continue this effort. The collaborative partnership with Neighborhood Alliance has resulted in direct benefits to the Community Development Block Grant Program (CDBG). Collaborating on the specific needs of low and moderate citizens who reside within the designated CDBG Target Area led to the designation of the Strong Neighborhoods Initiative (SNI) being included within the FYE24 Fourth Year Action Plan. Following the lead of this successful program that is long standing in Oklahoma City, the Norman SNI project will concentrate revitalization efforts within the East Main District which includes the First Courthouse Neighborhood, Original Townsite Neighborhood and the EDO, East Downtown Commercial Corridor.

DISCUSSION:

Strong Neighborhoods host institutions and norms that encourage cooperation, trust, and mutual support among residents and businesses; nurture a sense of security, belonging, and meaning, promote skills and standards that help residents thrive in the broader society; attract investment and different types of residents; and maintain social networks that help residents access opportunities and resources locally as well as externally as needed. Fragile neighborhoods, by contrast, do the reverse.

The Strong Neighborhoods Initiative (SNI) works to help improve struggling neighborhoods by connecting residents, businesses, non-profit organizations, and schools as a way to further

engage with these communities and work on projects together. Utilizing funding from the Community Development Block Grant Program, these identified neighborhoods will have a dedicated staff person to work on both individual activities and neighborhood projects over a three –five year period. This approach will put the collective assets and energy of residents/neighborhoods to bear in tailoring long term neighborhood solutions that are owned by residents through partnerships with fellow neighbors, businesses, local agencies and the City of Norman. The first year of the SNI will be developed and implemented by Neighborhood Alliance of Central Oklahoma, Inc. with subsequent years being administered in house by the CDBG Program.

Developed jointly by the City of Norman Community Development Block Grant Program and Neighborhood Alliance, Inc., the objectives of the East Main District SNI are to:

- Assist neighborhood stakeholders within selected neighborhood boundaries, including residents, business owners, nonprofit organizations, faith-based institutions, and schools, in identifying neighborhood issues and concerns.
- Educate neighborhood stakeholders to preserve and strengthen their neighborhoods by connecting them with City and nonprofit organizations and resources.
- Actively engage neighborhood stakeholders as leaders in addressing negative conditions and taking ownership of their neighborhoods.
- Enhance resident-to-resident and resident-to-City-staff communication for the betterment of the neighborhood.
- Develop and implement a series of neighborhood improvement programs to address both individual properties and the neighborhood as a whole.

Encourage ongoing community involvement of stakeholders beyond the program timeframe.

The proposed contract represents a total of \$73,137 for activities described within the contract. The proposal includes employment of a dedicated staff person by Neighborhood Alliance who will be primarily responsible for the Norman activities, but will have the resources of the entire Neighborhood Alliance staff and Board of Directors at their disposal for support.

RECOMMENDATION:

Staff has reviewed the proposed contract and recommends approval of Contract K-2324-12 in the amount of \$73,137 to Neighborhood Alliance of Central Oklahoma, Inc. Funds are available in the Community Development Fund, fiscal year 2023-2024, Consultant-Planning (account 21240029 44003; \$73,137).

Contract No. K-2324-12

This Agreement, made and entered into this, 11th day of July, 2023 by and between the **City of Norman, Oklahoma**, a municipal corporation, hereinafter referred to as "City" and **Neighborhood Alliance of Central Oklahoma, Inc.** hereinafter referred to as "Agency."

WHEREAS, the City has received grant funds from the U.S. Department of Housing and Urban Development in conjunction with the Community Development Block Grant Program under Grant Number B-23-MC-40-0002 a portion of which are to be distributed to Agency for the uses provided herein;

For and in consideration of the activities agreed to be performed herein, by Agency, City agrees to distribute to Agency as its portion of the funds received, the total sum of \$73,137. Said funds to be distributed by City to Agency pursuant to the terms and conditions of Grant Number B-23-MC-40-0002 by and between the U.S. Department of Housing and Urban Development and the City for the funding period of July 1, 2023, through June 30, 2024.

Agency further agrees that the above-mentioned activities will be completed by and that all necessary information and activities will be completed by Agency and reported to City no later than June 30, 2024.

As further consideration for the disbursement of said funds by City to Agency, Agency agrees to abide by all the terms and conditions of the Community Development Block Grant Program, the HOME Investment Partnerships Program and the 2 CFR Part 200 Uniform Administrative Requirements to use funds distributed pursuant to this contract to improve the quality of services to program participants. Particular attention should be paid to purchasing and record-keeping requirements.

It is further understood by and between the parties hereto that all the provisions of the Community Development Block Grant and HOME Investment Partnerships Program Contract described above are incorporated herein by reference and made a part of this contract and specifically that all provisions regarding modification, termination, and/or suspension of said Community Development Block Grant Program and HOME Investment Partnerships Program Contract are applicable hereto.

Budget

Strong Neighborhoods Initiative	\$73,137
Total Budget	<u>\$73,137</u>

Neighborhood Alliance, Inc. will provide the services for The East Main District Strong Neighborhoods Initiative Program:

- A dedicated full time Neighborhood Alliance staff person for this specific geographic area concentrating on the development Strong Neighborhood Initiative programs;
- The specific geographic area is comprised of the First Courthouse Neighborhood, the Original Townsite Neighborhood, and the East Downtown Commercial Corridor;
- The name East Main District is a tentative name until formally decided upon by the identified neighborhoods and stakeholders;

The Norman Strong Neighborhoods Initiative Program will provide the specific billable activities:

- Salary and Benefits \$59,337
- Miscellaneous Expenses (mileage, supplies, etc.) \$4,200
- Oversight and Coordination with Neighborhood Alliance Norman Neighbors Programs \$9,600

General Provisions -- Records & Reports:

Agency shall maintain financial records documenting actual expenditures related to these activities performed under this contract. Records must also be maintained by Agency documenting all activities required under this contract. These records shall be kept for a period of five (5) years after completion of this Contract.

Agency will make all required records available for inspection by the City of Norman Community Development Division for monitoring purposes.

Agency shall ensure recognition of the role of the grantor Agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, Agency will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

Program Income:

Program income generated by Agency from the use of City of Norman funds shall be recorded. Agency may retain program income and expend it only on those activities noted in this contract. Any program income on hand when this contract expires, or received after the contract expiration, shall be paid to the City of Norman; or if a subsequent contract is executed, shall be applied to the terms of the subsequent contract. (In accordance with 24 CFR 570.504(c).)

Uniform Administrative Requirement:

Agency shall carry out all activities in compliance with all Federal laws and regulations described in Sub-part & of 24 CFR Part 560 except 570.604. Agency does not assume responsibility of 24 CFR Part 52.

Neighborhood Alliance of Central Oklahoma, Inc.

Debbie Kasco
President

Attest:

Debbie Kasco
Secretary

Subscribed and sworn to before me this 29 day of June, 2023.



JESSICA L. KOPACKA

Notary Public
State of Oklahoma

Commission # 15007295 Expires 8/12/23

[Signature]
Notary Public

My Commission expires: 08/12/2023

The City of Norman, Oklahoma

Larry Heikkila, Mayor

Attest:

Brenda Hall, City Clerk

Approved as to form and legality this 7 day of July, 2023.

Disabeth Heikkila
City Attorney's Office

EAST MAIN DISTRICT STRONG NEIGHBORHOODS INITIATIVE PROGRAM

Strong Neighborhoods host institutions and norms that encourage cooperation, trust, and mutual support among residents and businesses; nurture a sense of security, belonging, and meaning, promote skills and standards that help residents thrive in the broader society; attract investment and different types of residents; and maintain social networks that help residents access opportunities and resources locally as well as externally as needed. Fragile neighborhoods, by contrast, do the reverse.

The Strong Neighborhoods Initiative (SNI) works to help improve struggling neighborhoods by connecting residents, businesses, non-profit organizations, and schools as a way to further engage with these communities and work on projects together. Utilizing funding from the Community Development Block Grant Program, these identified neighborhoods will have a dedicated staff person to work on both individual activities and neighborhood projects over a three –five year period. This approach will put the collective assets and energy of residents/neighborhoods to bear in tailoring long term neighborhood solutions that are owned by residents through partnerships with fellow neighbors, businesses, local agencies and the City of Norman.

Developed jointly by the City of Norman Community Development Block Grant Program and Neighborhood Alliance, Inc., the objectives of the East Main District SNI are to:

- Assist neighborhood stakeholders within selected neighborhood boundaries, including residents, business owners, nonprofit organizations, faith-based institutions, and schools, in identifying neighborhood issues and concerns.
- Educate neighborhood stakeholders to preserve and strengthen their neighborhoods by connecting them with City and nonprofit organizations and resources.
- Actively engage neighborhood stakeholders as leaders in addressing negative conditions and taking ownership of their neighborhoods.
- Enhance resident-to-resident and resident-to-City-staff communication for the betterment of the neighborhood.
- Develop and implement a series of neighborhood improvement programs to address both individual properties and the neighborhood as a whole.
- Encourage ongoing community involvement of stakeholders beyond the program timeframe.

Neighborhood Alliance, Inc. will provide the services for The East Main District Strong Neighborhoods Initiative:

- A dedicated full time Neighborhood Alliance staff person for this specific geographic area concentrating on the development Strong Neighborhood Initiative programs;
- Encompassing the First Courthouse Neighborhood, the Original Townsite Neighborhood, and the East Downtown Commercial Corridor;
- The name East Main District is a tentative name until formally decided upon by the identified neighborhoods and stakeholders;

The Norman Neighborhood Capacity Building Program will provide the specific billable activities:

1. Salary and Benefits \$59,337
2. Miscellaneous Expenses (mileage, supplies, etc.) \$4,200
3. Oversight and Coordination with Neighborhood Alliance Norman Neighbors Programs \$9,600

File Attachments for Item:

27. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-13: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND METROPOLITIAN FAIR HOUSING, INC. IN THE AMOUNT OF \$30,000 FOR THE FAIR HOUSING ACTIVITIES.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Lisa D. Krieg

PRESENTER: Lisa D. Krieg, CDBG Grants Manager

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-13: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND METROPOLITAN FAIR HOUSING, INC. IN THE AMOUNT OF \$30,000 FOR THE FAIR HOUSING ACTIVITIES.

BACKGROUND:

On May 9, 2023, Council approved the CDBG and HOME Fourth Year Action Plans in the total amount of \$1,400,424. The funding for this contract was detailed within the CDBG Action Plan. The funding for the CDBG and HOME Programs is provided by the U.S. Department of Housing and Urban Development (HUD).

The CDBG and HOME budgets were developed over a series of meetings of the Community Development Block Grant Policy Committee. This Committee consists of fifteen members that are elected as designated in the Citizen Participation Plan. The proposed budget was unanimously approved by the Policy Committee on May 3, 2023.

DISCUSSION:

The funding requested by Metropolitan Fair Housing Council (MFHC) will provide fair housing services for residents of Norman. Those services include educational outreach, investigation of fair housing complaints, and other related activities.

The proposed contract represents a total of \$30,000 for fair housing activities that are a required part of the CDBG and HOME Programs. The contract has been developed in conjunction with all City of Norman and HUD requirements.

RECOMMENDATION:

Staff has reviewed the proposed contract and recommends approval of Contract K-2324-13 in the amount of \$30,000 to MFHC. Funds are available in the Community Development Fund, fiscal year 2023-2024, Consultant-Other (account 21240027 44009; \$15,000; and account 21240030 44009; \$15,000).

Contract No. K-2324-13

This Agreement, made and entered into this, **13th day of July, 2023** by and between the **City of Norman, Oklahoma**, a municipal corporation, hereinafter referred to as "City" and **Metropolitan Fair Housing Council, Inc.** hereinafter referred to as "Agency."

WHEREAS, the City has received grant funds from the U.S. Department of Housing and Urban Development in conjunction with the Community Development Block Grant Program under Grant Number B-23-MC-40-0002 and the HOME Investment Partnerships Program M-23-MC-40-0204, a portion of which are to be distributed to Agency for the uses provided herein;

For and in consideration of the activities agreed to be performed herein, by Agency, City agrees to distribute to Agency as its portion of the funds received, the total sum of \$30,000. Said funds to be distributed by City to Agency pursuant to the terms and conditions of Grant Number B-23-MC-40-0002 and M-23-MC-40-0204 by and between the U.S. Department of Housing and Urban Development and the City for the funding period of July 1, 2023, through June 30, 2024.

Agency further agrees that the above-mentioned activities will be completed by and that all necessary information and activities will be completed by Agency and reported to City no later than June 30, 2024.

As further consideration for the disbursement of said funds by City to Agency, Agency agrees to abide by all the terms and conditions of the Community Development Block Grant Program, the HOME Investment Partnerships Program and the 2 CFR Part 200 Uniform Administrative Requirements to use funds distributed pursuant to this contract to improve the quality of services to program participants. Particular attention should be paid to purchasing and record-keeping requirements.

It is further understood by and between the parties hereto that all the provisions of the Community Development Block Grant and HOME Investment Partnerships Program Contract described above are incorporated herein by reference and made a part of this contract and specifically that all provisions regarding modification, termination, and/or suspension of said Community Development Block Grant Program and HOME Investment Partnerships Program Contract are applicable hereto.

Budget

Fair Housing Services	\$30,000
Total Budget	\$30,000

General Provisions -- Records & Reports:

Agency shall maintain financial records documenting actual expenditures related to these activities performed under this contract. Records must also be maintained by Agency documenting all activities required under this contract. These records shall be kept for a period of five (5) years after completion of this Contract.

Agency will make all required records available for inspection by the City of Norman Community Development Division for monitoring purposes.

Agency shall ensure recognition of the role of the grantor Agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, Agency will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

Program Income:

Program income generated by Agency from the use of City of Norman funds shall be recorded. Agency may retain program income and expend it only on those activities noted in this contract. Any program income on hand when this contract expires, or received after the contract expiration, shall be paid to the City of Norman; or if a subsequent contract is executed, shall be applied to the terms of the subsequent contract. (In accordance with 24 CFR 570.504(c).)

Uniform Administrative Requirement:

Agency shall carry out all activities in compliance with all Federal laws and regulations described in Sub-part & of 24 CFR Part 560 except 570.604. Agency does not assume responsibility of 24 CFR Part 52.

Suspension and Termination:

In accordance with 24 CFR 85.43, suspension or termination may occur if Agency materially fails to comply with any term of the award, and the award may be terminated for convenience in accordance with 24 CFR 85.44.

Reversion of Assets:

Upon expiration of this contract Agency shall transfer to the City of Norman any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of City of Norman CDBG funds. Any real property under Agency control that was acquired or improved in whole or in part with City of Norman CDBG funds in excess of \$25,000 must either:

"Be used to meet one of the national objectives in 570.208 until five years after expiration of this contract; or disposed of in a manner that results in the City of Norman being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-City of Norman CDBG funds for acquisition of or improvements to, the property. (Reimbursement is not required five years front date of expiration of this contract.)"

Payment:

Agency agrees to submit an invoice which reflects the direct costs under this Contract. The City will make payments from these invoices. Each invoice in excess of \$25,000 must be accompanied by a notarized affidavit provided by the City. The City will provide to Agency invoices to be used with payment requests.

This contract made and entered into by and between the parties the day and year first above written and shall be binding upon the successors and assigns thereof.

City of Norman, Oklahoma
Community Development Block Grant Program
K-2223-23

Metropolitan Fair Housing Council, Inc.

Richard Marshall

President

Attest:

Jeff Hughes

Secretary



Subscribed and sworn to before me this 29 day of June, 2023.

Lorena Machado

Notary Public

My Commission expires: 10-14-24

The City of Norman, Oklahoma

Larry Heikkila, Mayor

Attest:

Brenda Hall, City Clerk

Approved as to form and legality this 6 day of July, 2023.

[Signature]
City Attorney's Office

File Attachments for Item:

28. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-14: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NORMAN AFFORDABLE HOUSING CORPORATION, INC. IN THE AMOUNT OF \$100,000 FOR THE ACQUISITION OF PROPERTY FOR AFFORDABLE HOUSING.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Lisa D. Krieg

PRESENTER: Lisa D. Krieg, CDBG Grants Manager

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-14: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NORMAN AFFORDABLE HOUSING CORPORATION, INC. IN THE AMOUNT OF \$100,000 FOR THE ACQUISITION OF PROPERTY FOR AFFORDABLE HOUSING.

BACKGROUND:

On May 9, 2023, Council approved the CDBG and HOME Fourth Year Action Plans for the Community Development Block Grant (CDBG) and HOME Investment Partnerships Programs in the total amount of \$1,400,424. Included in this Action Plan was an activity to provide a total of \$100,000 for property acquisition to the Norman Affordable Housing Corporation, Inc. (NAHC). These funds were designated for acquisition of property for affordable housing. The FYE19 thru FYE23 Action Plans contained identical items to provide \$100,000 also to Norman Affordable Housing Corporation for acquisition of property for the development of affordable housing.

Since the spring of 2013 when the CDBG Policy Committee realigned the program priorities to focus on affordable housing, there have been nineteen projects, consisting of fifty-four units that have been completed in partnership with the Norman Affordable Housing Corporation. Twice, Requests for Proposals have been administered to solicit other entities having an interest in participating, with no other proposals received other than from NAHC. Each year during the development of the Annual Action Plan, the CDBG Policy Committee reviews documentation from each of the developments that have been completed.

The CDBG and HOME budgets were developed over a series of meetings of the Community Development Block Grant Policy Committee. This Committee consists of fifteen members that are elected as designated in the Citizen Participation Plan. The proposed budget was unanimously approved by the Policy Committee on May 3, 2023.

DISCUSSION:

Discussions pertaining to the long standing, beneficial partnership between the City of Norman and the Norman Affordable Housing Corporation, Inc. resulted in the CDBG Policy Committee recommending that \$100,000 of funding be designated within the FYE24 Fourth Year Action Plan to the Norman Affordable Housing Corporation, Inc. for additional acquisition of property to be utilized for affordable housing. This line item designation was included as such within the

FYE24 Action Plan and subsequently approved by the Norman City Council and the U.S. Department of Housing and Urban Development (HUD).

Once this contract is awarded, prior to distribution of funds, NAHC will be required to provide documentation to the City of Norman of any intended property for purchase. This documentation will require an appropriate appraisal for cost reasonableness and evaluation of the site for appropriateness. An Environmental Review will be completed in accordance with HUD regulations prior to distribution of funds.

RECOMMENDATION:

Staff has reviewed the proposed contract and recommends approval of Contract K-2324-14 in the amount of \$100,000 to Norman Affordable Housing Corporation. Funds are available in the Community Development Fund, fiscal year 2023-2024, CDBG Land Acquisition Project GC0096, account 21240027 46001; \$100,000.

Contract No. K-2324-14

This Agreement, made and entered into this, **13th day of July, 2023** by and between the **City of Norman, Oklahoma**, a municipal corporation, hereinafter referred to as "City" and **Norman Affordable Housing Corporation, Inc.**, hereinafter referred to as "Agency."

WHEREAS, the City has received grant funds from the U.S. Department of Housing and Urban Development in conjunction with the Community Development Block Grant Program under Grant Number B-23-MC-40-0002, a portion of which are to be distributed to Agency for the uses provided herein;

Further, whereas Agency agrees, upon receipt of a portion of said funds, to provide for activities to purchase property, either developed or undeveloped, for the end use of provision of affordable rental housing. Affordable rental housing is hereby defined as housing whereas the rent being charged does not exceed 30% of the gross income for a household that is at or below 80% of median family income as defined by HUD. Each prospective acquisition must be approved in writing for compliance with CDBG Part 35 Environmental Requirements by the CDBG Grants Manager prior to purchase offer.

For and in consideration of the activities agreed to be performed herein, by Agency, City agrees to distribute to Agency as its portion of the funds received, the total sum of \$40,000. Said funds to be distributed by City to Agency pursuant to the terms and conditions of Grant Number B-23-MC-40-0002 by and between the U.S. Department of Housing and Urban Development and the City for the funding period of July 1, 2023, through June 30, 2024.

As further consideration for the disbursement of said funds by City to Agency, Agency agrees to abide by all the terms and conditions of the Community Development Block Grant Program and the 2 CFR Part 200 entitled Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Grants to use funds distributed pursuant to this contract to improve the quality of services to program participants. Particular attention should be paid to purchasing and record-keeping requirements.

It is further understood by and between the parties hereto that all the provisions of the Community Development Block Grant Program Contract described above are incorporated herein by reference and made a part of this contract and specifically that all provisions regarding modification, termination, and/or suspension of said Community Development Block Grant Program Contract are applicable hereto.

Budget

Acquisition of Property	\$100,000
Total Budget	\$100,000

General Provisions -- Records & Reports:

Agency shall maintain financial records documenting actual expenditures related to CDBG activities performed under this contract. Records must also be maintained by Agency documenting all activities required under this contract. These records shall be kept for a period of five (5) years after completion of this Contract.

Agency will submit copies of all property transaction documents to the Community Development Division detailing all activities performed with the use of City of Norman CDBG funds. Agency will make all required records available for inspection by the City of Norman Community Development Division for monitoring purposes.

Agency shall ensure recognition of the role of the grantor Agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, Agency will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

Program Income:

Any program income generated by Agency from this use of City of Norman CDBG funds within the designated five-year period shall be recorded. Agency may retain program income and expend it only on Affordable Housing Activities and documented as such. Use of Program Income will be included in the annual monitoring.

Uniform Administrative Requirement:

Agency shall carry out all activities in compliance with all Federal laws and regulations described in Sub-part & of 24 CFR Part 570 except 570.604. Agency does not assume responsibility of 24 CFR Part 52.

Suspension and Termination:

In accordance with 24 CFR 85.43, suspension or termination may occur if Agency materially fails to comply with any term of the award, and the award may be terminated for convenience in accordance with 24 CFR 85.44.

Reversion of Assets:

Any real property under Agency control that was acquired or improved in whole or in part with City of Norman CDBG funds in excess of \$25,000 must either:

"Be used to meet one of the national objectives in 570.208 until five years after expiration of this contract; or disposed of in a manner that results in the City of Norman being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-City of Norman CDBG funds for acquisition of or improvements to, the property. A Deed Restriction will be filed at the Cleveland County Courthouse to insure compliance. (Reimbursement is not required five years from date of expiration of this contract. Deed restriction will be released at this time)"

[Signature]
Vice-President

Subscribed and sworn to before me this 16th day of June, 2023.



Approved as to form and legality this 7 day of July, 2023.

Elizabeth Luchessa
City Attorney's Office

File Attachments for Item:

29. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-15: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND ROSE ROCK HABITAT FOR HUMANITY, INC. IN THE AMOUNT OF \$40,000 FOR THE ACQUISITION OF PROPERTY FOR AFFORDABLE HOUSING.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Lisa D. Krieg

PRESENTER: Lisa D. Krieg, CDBG Grants Manager

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-15: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND ROSE ROCK HABITAT FOR HUMANITY, INC. IN THE AMOUNT OF \$40,000 FOR THE ACQUISITION OF PROPERTY FOR AFFORDABLE HOUSING.

BACKGROUND:

On May 9, 2023 the Norman City Council approved the fiscal year ending June 30, 2024 (FYE24) Fourth Year Action Plan for the Community Development Block Grant (CDBG) and HOME Investment Partnerships Programs. Included in this Action Plan was an activity to provide a total of \$40,000 for property acquisition to Rose Rock Habitat for Humanity, Inc. (RRHH). These funds were designated for acquisition of property for affordable housing.

DISCUSSION:

Discussions pertaining to the long standing, beneficial partnership between the City of Norman and RRHH, resulted in the CDBG Policy Committee recommending that \$40,000 of funding be designated within the FYE24 Fourth Year Action Plan to RRHH for additional acquisition of property to be utilized for affordable housing. This line item designation was included as such within the FYE24 Fourth Year Action Plan and subsequently approved by the Norman City Council and the U.S. Department of Housing and Urban Development (HUD).

Once this contract is awarded, prior to distribution of funds, RRHH will be required to provide documentation to the City of Norman of any intended property for purchase. This documentation will require an appropriate appraisal for cost reasonableness and evaluation of the site for appropriateness. An Environmental Review will be completed in accordance with HUD regulations prior to distribution of funds.

RECOMMENDATION:

Staff recommends approval of Contract K-2324-15 with Rose Rock Habitat for Humanity, Inc. in the amount of \$40,000 for the Acquisition of Property as described. Funds are available in CDBG Land Acquisition B23 (account 21240027 46001; project GC0095).

Contract No. K-2324-15

This Agreement, made and entered into this, 11th day of July, 2023 by and between the **City of Norman, Oklahoma**, a municipal corporation, hereinafter referred to as "City" and **Rose Rock Habitat for Humanity, Inc.**, hereinafter referred to as "Agency."

WHEREAS, the City has received grant funds from the U.S. Department of Housing and Urban Development in conjunction with the Community Development Block Grant Program under Grant Number B-23-MC-40-0002, a portion of which are to be distributed to Agency for the uses provided herein;

Further, whereas Agency agrees, upon receipt of a portion of said funds, to provide for activities to purchase property, either developed or undeveloped, for the end use of provision of affordable housing. Affordable housing is hereby defined as housing whereas the monthly cost charged does not exceed 30% of the gross income for a household that is at or below 80% of median family income as defined by HUD. Each prospective acquisition must be approved in writing for compliance with CDBG Part 35 Environmental Requirements by the CDBG Grants Manager prior to purchase offer.

For and in consideration of the activities agreed to be performed herein, by Agency, City agrees to distribute to Agency as its portion of the funds received, the total sum of \$40,000. Said funds to be distributed by City to Agency pursuant to the terms and conditions of Grant Number B-23-MC-40-0002 by and between the U.S. Department of Housing and Urban Development and the City for the funding period of July 1, 2023, through June 30, 2024.

As further consideration for the disbursement of said funds by City to Agency, Agency agrees to abide by all the terms and conditions of the Community Development Block Grant Program and the 2 CFR Part 200 entitled Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Grants to use funds distributed pursuant to this contract to improve the quality of services to program participants. Particular attention should be paid to purchasing and record-keeping requirements.

It is further understood by and between the parties hereto that all the provisions of the Community Development Block Grant Program Contract described above are incorporated herein by reference and made a part of this contract and specifically that all provisions regarding modification, termination, and/or suspension of said Community Development Block Grant Program Contract are applicable hereto.

Budget

Acquisition of Property		\$40,000
Total Budget		\$40,000

General Provisions -- Records & Reports:

Agency shall maintain financial records documenting actual expenditures related to CDBG activities performed under this contract. Records must also be maintained by Agency documenting all activities required under this contract. These records shall be kept for a period of five (5) years after completion of this Contract.

Agency will submit copies of all property transaction documents to the Community Development Division detailing all activities performed with the use of City of Norman CDBG funds. Agency will make all required records available for inspection by the City of Norman Community Development Division for monitoring purposes.

Agency shall ensure recognition of the role of the grantor Agency in providing services through this contract. All activities, facilities and items utilized pursuant to this contract shall be prominently labeled as to funding source. In addition, Agency will include a reference to the support provided herein in all publications made possible with funds made available under this contract.

Program Income:

Any program income generated by Agency from this use of City of Norman CDBG funds within the designated five-year period shall be recorded. Agency may retain program income and expend it only on Affordable Housing Activities and documented as such. Use of Program Income will be included in the annual monitoring.

Uniform Administrative Requirement:

Agency shall carry out all activities in compliance with all Federal laws and regulations described in Sub-part & of 24 CFR Part 570 except 570.604. Agency does not assume responsibility of 24 CFR Part 52.

Suspension and Termination:

In accordance with 24 CFR 85.43, suspension or termination may occur if Agency materially fails to comply with any term of the award, and the award may be terminated for convenience in accordance with 24 CFR 85.44.

Reversion of Assets:

Any real property under Agency control that was acquired or improved in whole or in part with City of Norman CDBG funds in excess of \$25,000 must either:

"Be used to meet one of the national objectives in 570.208 until five years after expiration of this contract; or disposed of in a manner that results in the City of Norman being reimbursed in the amount of the current fair market value of the property less any portion of the value attributable to expenditures of non-City of Norman CDBG funds for acquisition of or improvements to, the property. A Deed Restriction will be filed at the Cleveland County Courthouse to insure compliance. (Reimbursement is not required five years from date of expiration of this contract. Deed restriction will be released at this time)"

Plummer

Attest:

Gerica Ford



Subscribed and sworn to before me this 30 day of June, 2023.

Cheryl Darlene Lee
Notary Public

My Commission expires: October 10, 2023

Larry Heikkla, Mayor

Attest:

Brenda Hall, City Clerk

Approved as to form and legality this 6 day of July, 2023.

Elizabeth C. Muchala
City Attorney's Office

File Attachments for Item:

30. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-18, A CONTRACT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY, THE OKLAHOMA WATER RESOURCES BOARD AND THE U.S. GEOLOGICAL SURVEY IN THE AMOUNT OF \$6,500 TO PROVIDE FOR CANADIAN RIVER WATER QUALITY AND WATER QUANTITY MONITORING.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Nathan Madenwald

PRESENTER: Nathan Madenwald, Utilities Engineer

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-18, A CONTRACT BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY, THE OKLAHOMA WATER RESOURCES BOARD AND THE U.S. GEOLOGICAL SURVEY IN THE AMOUNT OF \$6,500 TO PROVIDE FOR CANADIAN RIVER WATER QUALITY AND WATER QUANTITY MONITORING.

BACKGROUND:

In July 2003, the Water Resources Division of the U.S. Geological Survey (USGS) requested the City of Norman / Norman Utilities Authority (NUA) provide partial funding for certain river gauging stations that would otherwise be eliminated because of funding shortfalls within State and Federal agencies. The gauging stations provide water flow, depth, velocity, and water quality data for use by the Water Reclamation Facility (WRF). The Norman WRF, and other similar facilities, utilizes the data to help determine the maximum allowable levels for discharge of pollutants under our Oklahoma Pollution Discharge Elimination System (OPDES) permit.

On September 14, 2004, the City executed Contract K-0405-64 with the Oklahoma Water Resources Board (OWRB) agreeing to provide \$6,450 toward funding of the Bridgeport gauging station. The NUA continued this agreement by executing Contract K-0506-50 and providing \$7,050 to fund the Bridgeport gauging station.

On November 14, 2006, the NUA executed Contract K-0607-93 with OWRB and the USGS with the NUA providing a portion of the cost to construct and maintain two gauging stations along the Canadian River at Mustang Road and the bridge at I-35. These stations are more useful than the Bridgeport station due to their close proximity. The NUA share was \$14,000. Since 2006, annual contracts have been approved for operating costs of the Mustang Road and I-35 Bridge gauging stations. The cost was significantly lower than in 2006 since there was no new construction. Below are the contracts approved since K-0607-93'S approval:

- Contract K-0708-34 - \$4,800;
- Contract K-0809-38 - \$5,100;
- Contract K-0910-01 - \$5,300;
- Contract K-1011-43 - \$5,600;
- Contract K-1112-03 - \$5,600;

- Contract K-1213-36 - \$5,600;
- Contract K-1314-25 - \$5,900;
- Contract K-1415-04 - \$5,900;
- Contract K-1516-32 - \$5,900;
- Contract K-1617-39 - \$5,900;
- Contract K-1718-44 - \$5,900;
- Contract K-1819-05 - \$5,900;
- Contract K-1920-24 - \$5,900;
- Contract K-2021-27 - \$5,900;
- Contract K-2122-09 - \$5,900; and
- Contract K-2223-09 - \$5,900.

DISCUSSION:

Proposed Contract K-2324-18 for the Fiscal Year Ending June 30, 2024 (FYE24) requires the NUA to contribute \$6,500 for continued operational costs of the Canadian River gauging stations at Mustang Road and the I-35 Bridge. The NUA cost share is an increase of \$600 from previous contracts but this cost has not increased since FYE14 and is reasonable. A similar agreement with Moore is pending. Funding is available in the Wastewater Treatment Administration Operation and Maintenance budget; Services & Maintenance/Hydrological Monitoring (account 32955341-44123) for the Canadian River gauging stations.

RECOMMENDATION:

Staff recommends approval of Contract K-2324-18, a cooperative agreement between the OWRB, the USGS, and the NUA for maintaining the Canadian River gauging stations at Mustang Road and the I-35 Bridge during FYE24.

MEMORANDUM AGREEMENT

THIS AGREEMENT, dated as of the date of the last signature herein but to be effective as provided below, by and between the Oklahoma Water Resources Board, hereinafter referred to as "Board", and the Norman Utilities Authority, hereinafter referred to as "Cooperator",

WITNESSETH:

WHEREAS, Title 27A O.S. Section 1-3-101 and other state statutes provide to the effect that the Board is the State agency possessing primary jurisdiction, authority and control of water resources management and development, and the coordination of activities in connection therewith, within the state of Oklahoma, and the Board is authorized to coordinate with other public entities of water resource investigations conducted by the federal United States Geological Survey ("USGS") for water quality and quantity monitoring in the state; and,

WHEREAS, in order to carry out its functions, the Board cooperates with the USGS in a program of collection of data concerning the water resources of the state of Oklahoma; and

WHEREAS, the Cooperator has an important interest in said cooperative program, particularly regarding the determination of available water supplies in its general vicinity.

NOW, THEREFORE, in consideration of the above, it is agreed:

1. The water data collection activities required by the Cooperator shall be included in the cooperative program being maintained by the Board and the USGS.
2. Within thirty (30) days after receipt of an invoice from the Board, the Cooperator shall contribute and pay to the Board in one lump sum the amount of Six Thousand Five Hundred Dollars (\$6,500.00) to cover costs of necessary field and office work directly related to the collection and computation of continuous record of inflow, storage and outflow from the Canadian River near Mustang and Norman, or other water data collection sites or activities as may be agreed by the respective representatives of the Cooperator and the Board, for the fiscal year beginning July 1, 2023.
3. Funds advanced by the Cooperator for the above purposes will be supplemented by matching funds appropriated by Congress of the United States for cooperation with the States on water resources investigations, insofar as available funds will permit, and will be covered by the cooperative agreement between the Board and the USGS; and the same being contemplated within the "Proposed Cooperative Program between the Oklahoma Water Resources Board and the U.S. Geological Survey for the Cities of Moore and Norman for the Fiscal Year Ending June 30, 2024", which attached proposal is incorporated by reference herein and made a part hereof for all purposes.

OKLAHOMA WATER RESOURCES BOARD NORMAN UTILITIES AUTHORITY

**Proposed
Cooperative Program
between the Oklahoma Water Resources Board
and the U.S. Geological Survey
for the Cities of Moore and Norman
for the Fiscal Year Ending June 30, 2024**

Program Description:

The existing program, initiated June 2006, is for two surface-water discharge stations on the Canadian River. The information supplied by this station will benefit the Cities of Moore, Norman, and Oklahoma City* by providing river discharge statistics to compute current seven-day, two year low flows required for permitted discharges of the Cities' sewage treatment plant. Critical information provided by this station will be used to determine flood predictions and warnings, furnished by the National Weather Service to all downstream communities.

This station provides real-time and historic information that is served on the U.S. Geological Survey Web pages for the water user community and the general public.

We propose the continuation of the above data collection program for the period July 1, 2023 through June 30, 2024 as summarized in below:

<u>Station No.</u>	<u>Station Name</u>	<u>Operation and Maintenance</u>
07228940	Canadian River near Mustang	\$16,300
07229050	Canadian River near Norman	<u>\$16,300</u>
Total Program		\$32,600*
City of Moore's share through the OWRB		\$ 6,500
U.S. Geological Survey Federal Matching Funds		\$ 4,800
City of Norman's share through the OWRB		\$ 6,500
U.S. Geological Survey Federal Matching Funds		<u>\$ 4,800</u>
City of Moore, Norman, and USGS Total		\$22,600

*Includes City of Oklahoma City's share of \$10,000 under separate agreement.

File Attachments for Item:

31. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-19: BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND BIOSTAR E LIGHT JV, LLC., IN AN AMOUNT NOT TO EXCEED \$160,000 FOR TAX ASSISTANCE SERVICES.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Nathan Madenwald, P.E., Utilities Engineer

PRESENTER: Nathan Madenwald, P.E., Utilities Engineer

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-19: BY AND BETWEEN THE NORMAN UTILITIES AUTHORITY AND BIOSTAR E LIGHT JV, LLC., IN AN AMOUNT NOT TO EXCEED \$160,000 FOR TAX ASSISTANCE SERVICES.

BACKGROUND:

On January 12, 2021, the City Council adopted Ordinance O-2021-28, which amended the City Code, Section 8-204 to allow performance-based efficiency contracts as an exception to competitive bidding requirements for City contracts. Performance-based efficiency contracts are contracts “for the design, development, financing, installation and service of any improvement, repair, alteration or betterment of any building or facility owned, operated or planned by a public entity; or any equipment, fixture or furnishing to be added or used in any such building or facility; or any maintenance or operational strategy that is designed and implemented that will reduce utility consumption or lower operating costs, result in annual cost savings, generate additional revenues or avoid capital cost incurrence” {Oklahoma Statutes, Title 62. Section 318(A)(2)}.

Performance-based Efficiency Contracts are designed for a certain type of project; primarily projects where benefit exists in the form of savings or reduction in costs that offset the cost of the contract or service. The current version of Section 318 was adopted by the State Legislature in 2018 and made these types of contracts available to political subdivisions and public trusts, operating essentially as an exception to competitive bidding requirements.

With performance-based efficiency contracts, the public entity enters into a contract with a provider deemed by the public entity to be qualified to, among other things, finance performance-based efficiency projects for the greater of 20 years or the useful life of the project. In the case of a project that produces cost savings, the qualified provider must provide a guarantee of the anticipated savings over the term of the contract. If such savings are not achieved, the public entity is made whole by the payment of the difference between anticipated and guaranteed savings and the actual savings.

The City adopted Resolutions R-1718-119 and R-1718-120 on May 22, 2018. The first resolution (R-1718-119) was brought forth adopting the Environmental Control Advisory Board’s (ECAB) updated recommendations to implement the Mayors’ Climate Agreement. One of the Mayors’

Climate Agreement recommendations focused on increasing renewable energy throughout the city and its utility enterprises with a goal of reaching 100 percent renewable energy consumption by the year 2050. This goal seemed achievable in step with OG&E efforts to replace their electric generation efforts with renewable energy as their large facilities are updated and large existing machinery is retired.

The second resolution (R-1718-120) was brought forth by the Sierra Club's "Ready for 100" Initiative. Their initiative is for the City and its utility enterprises to achieve 100 percent renewable energy by the year 2035. This initiative is more aggressive and, either way, the City of Norman is heading towards utilizing more renewable energy as we go into the future.

On March 2, 2021, the Norman Utilities Authority (NUA) received a presentation from Connor Energy of San Diego, California, and BioStar Renewables, LLC of Overland Park, Kansas, regarding a proposal to locate solar energy production facilities at the NUA's Water Treatment and Wastewater Reclamation facilities. On May 11, 2021, the NUA approved Contract K-2021-121 with BioStar E Light JV, LLC, (BioStar E Light) for the design, construction, operation and maintenance of a solar photovoltaic system to provide energy savings and production guaranty at the Wastewater Reclamation Facility (WRF) and the Water Treatment Plant (WTP). As the result of this contract, approximately 36 and 21 percent of the electrical usage will be offset at the WRF and WTP facilities, respectively.

On April 26, 2022, the NUA approved Amendment No. 1 with BioStar E Light to authorize completion of site preparation work at the WRF that was not included within the original contract but was separately budgeted by the City. As design progressed, City staff and BioStar E Light determined that including this work in BioStar E Light's scope would be the most efficient method to accomplish the work by only having one civil contractor working at the site. Costs for this work were to be excluded from the performance guaranty calculation. On June 27, 2023, Amendment 2 was approved by the NUA to reduce the scope of the project in regards to replanting of materials for erosion control and final acceptance of the project.

In August 2022, the federal government passed the Inflation Reduction Act of 2022. Included within this legislation are tax incentives for solar projects with the NUA project potentially capable of recovering an estimated 30 percent of the eligible project costs which could be in excess of \$1 million.

DISCUSSION:

Under the proposed contract, BioStar E Light will provide services to assist the NUA to obtain all available tax incentives for the completed solar project. BioStar E Light is an expert in the industry and can provide value to the NUA in this effort.

This work will be completed by BioStar E Light at risk with the exception of the third party services which are capped at \$5,000. Compensation to BioStar E Light, with the exception of the third party services, will be ten percent (10%) of the tax incentives received.

Funds for the proposed contract will be from the Solar Construction account within the Water Fund. This account (31993395-46101; Project WA0370) has an available balance of \$24,500 which is sufficient to fund the authorized work of \$5,000. The amount of \$5,000 will be the only amount initially encumbered for this work. Upon receipt of tax incentives, ten percent of the received funds will be transferred to this account for payment to BioStar E Light.

RECOMMENDATION:

Staff recommends the NUA approve Contract K-2324-19 with BioStar E Light JV, LLC in an amount not to exceed \$160,000 for tax assistance services.

AGREEMENT
FOR
CONSULTING SERVICES

This AGREEMENT, between the Norman Utilities Authority (OWNER) and BIOSTAR E LIGHT JV, LLC,
(CONSULTANT);

WITNESSETH

WHEREAS, OWNER intends to gather and submit the required information and documentation necessary under the Inflation Reduction Act of 2022 for reimbursement on the solar project completed at the Water Treatment Plant and Water Reclamation Facility;

WHEREAS, OWNER requires consulting expertise and guidance in this effort to ensure a timely and correct submittal to reduce the overall cost of the project (the SERVICES); and,

WHEREAS, CONSULTANT is prepared to provide said SERVICES; and.

NOW THEREFORE, in consideration of the promises contained in this AGREEMENT, OWNER and CONSULTANT agree as follows:

ARTICLE 1 - EFFECTIVE DATE

The effective date of this AGREEMENT shall be _____.

ARTICLE 2 - COMPLETION DATE

CONSULTANT shall complete the SERVICES in accordance with Attachment A, Project Schedule.

ARTICLE 3 - GOVERNING LAW

The laws of the state of Oklahoma shall govern this AGREEMENT.

ARTICLE 4 - SERVICES TO BE PERFORMED BY CONSULTANT

CONSULTANT shall perform the SERVICES described in Attachment B, Scope of Services.

ARTICLE 5 - COMPENSATION

OWNER shall pay CONSULTANT in accordance with Attachment C, Compensation.

ARTICLE 6 - OWNER'S RESPONSIBILITIES

- 6.1. OWNER-Furnished Data: Upon request, OWNER will provide to CONSULTANT all data in OWNER's possession relating to CONSULTANT's SERVICES on the PROJECT. CONSULTANT will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by OWNER. OWNER's data is provided for temporary use or copying by CONSULTANT.
- 6.2. Costs. OWNER is responsible for all costs including but not limited to: filing fees, filing preparation, tax professional service fees, legal fees for tax preparation, and other fees or costs incurred by CONSULTANT, as approved by OWNER with prior written consent in which OWNER shall not unreasonably withhold the approval of aforementioned costs should they be necessary for CONSULTANT to complete the SERVICES.
- 6.3. Access to Facilities and Property: OWNER will make its facilities accessible to CONSULTANT as required for CONSULTANT's performance of its SERVICES.
- 6.4. Timely Review: OWNER will examine CONSULTANT's studies, reports, sketches, drawings, specifications, proposals, and other documents; and transmit OWNER comments or other decisions to CONSULTANT in a timely manner.
- 6.5. Meetings: OWNER will participate in monthly progress meetings or other meetings with CONSULTANT or contractor(s) defined in Scope of Services.

- 6.6. Advertisements, Permits, and Access: Unless otherwise agreed to in the Scope of Services, OWNER will obtain, arrange, and pay for all advertisements for bids; permits and licenses required by local, state, or federal authorities; and land, easements, rights-of-way, and access necessary for CONSULTANT's SERVICES or PROJECT construction.
- 6.7. Hazardous Substances: If hazardous substances in any form are encountered or suspected, CONSULTANT will stop its own work in the affected portions of the PROJECT to permit testing and evaluation. CONSULTANT will, if requested by OWNER, conduct tests to determine the extent of the problem and will perform the necessary studies and recommend necessary remedial measures at an additional fee with contract terms to be negotiated.

ARTICLE 7 - STANDARD OF CARE

CONSULTANT shall exercise the same degree of care skill and diligence in the performance of the SERVICES as is ordinarily possessed and exercised by a consultant under similar circumstances. CONSULTANT shall correct the SERVICES that fail to satisfy this standard of care. No warranty, express or implied is included in this AGREEMENT or in any drawing, specifications, report or opinion produced pursuant to this AGREEMENT.

ARTICLE 8 - LIABILITY AND INDEMNIFICATION

- 8.1 General. Having considered the potential liabilities that may exist during the performance of the SERVICES, the benefits of the PROJECT, the CONSULTANT's fee for the SERVICES and in consideration of the promises contained in this AGREEMENT, OWNER and CONSULTANT agree to allocate and limit such liabilities in accordance with this Article.
- 8.2 Indemnification and Liability. The CONSULTANT agrees to defend, indemnify, and hold harmless the OWNER, its officers, servants, and employees, from and against legal liability for all claims, losses, damage, cost, and expense (including reasonable attorneys' fees and accountants' fees) caused by a negligent act, error, or omission of the CONSULTANT in the performance of services under this Agreement. OWNER agrees to defend, indemnify, and hold harmless the CONSULTANT, its officers, servants, and employees, from and against legal liability for all claims, losses, damage, cost, and expense (including reasonable attorneys' fees and accountants' fees) caused by a negligent act, error, or omission of the OWNER in the performance of services under this Agreement, provided such indemnification shall be applicable only to the extent sovereign immunity has been waived pursuant to Oklahoma law. The CONSULTANT and the OWNER each agree to promptly service notice on the other party of any claims arising hereunder, and shall cooperate in the defense of such claims. The acceptance by OWNER or its representatives of any certification of insurance providing for coverage other than as required in this Agreement to be furnished by the CONSULTANT shall in no event be deemed a waiver of any of the provisions of this indemnity provision. None of the foregoing provisions shall deprive the OWNER of any action, right, or remedy otherwise available to OWNER at common law.
- 8.3 Employee Claims. CONSULTANT shall indemnify OWNER against legal liability for damages arising out of claims by CONSULTANT's employees. OWNER shall indemnify CONSULTANT against legal liability for damages arising out of claims by OWNER's employees.
- 8.4 Consequential Damages. To the fullest extent permitted by law, CONSULTANT shall not be liable to OWNER for any special, indirect or consequential damages resulting in any way from the performance of the SERVICES.
- 8.5 Survival. Upon completion of all SERVICES obligations and duties provided for in this AGREEMENT or if this AGREEMENT is terminated for any reason the terms and conditions of this Article shall survive.

ARTICLE 9 - INSURANCE

During the performance of the SERVICES under this AGREEMENT CONSULTANT shall maintain the following insurance:

- 9.1 Worker's compensation insurance for CONSULTANT's employees as required by Oklahoma Workers Compensation Statutes.
- 9.2 Comprehensive general liability insurance with a minimum of \$125,000 per accident for bodily injury or death and \$25,000 per occurrence for property damage.
- 9.3 Comprehensive automobile liability insurance with a minimum of \$125,000 per accident for bodily injury or death and \$25,000 for property damage.
- 9.4 Professional Liability (errors and omissions) insurance with a minimum policy value of \$1,000,000.

CONSULTANT shall furnish OWNER certificates of insurance that shall include a provision that such insurance shall not be canceled without at least thirty days written notice to OWNER. All PROJECT contractors shall be required to include OWNER and CONSULTANT as additional insured on their General Liability Insurance policies.

CONSULTANT and OWNER each shall require its insurance carriers to waive all rights of subrogation against the other and its directors, officers, partners, commissioners, officials, agents and employees for damages covered by property insurance during and after the SERVICES. A similar provision shall be incorporated into all contractual arrangements entered into by OWNER and shall protect OWNER and CONSULTANT to the same extent.

ARTICLE 10 - LIMITATIONS OF RESPONSIBILITY

CONSULTANT shall not be responsible for: (1) construction means, methods, techniques, sequences, procedures or safety precautions and programs in connection with the PROJECT; (2) the failure of any contractor, subcontractor, vendor or other PROJECT participant, not under contract to CONSULTANT, to fulfill contractual responsibilities to the OWNER or to comply with federal, state or local laws, regulations, and codes; or (3) procuring permits, certificates and licenses required for any construction unless such responsibilities are specifically assigned to CONSULTANT in Attachment B, Scope of Services.

ARTICLE 11 - OPINIONS OF COST AND SCHEDULE

Since CONSULTANT has no control over the cost of labor, materials or equipment furnished by others or over the resources provided by others to meet PROJECT schedules, CONSULTANT's opinion of probable costs and of PROJECT schedules shall be made on the basis of experience and qualifications as a consultant. CONSULTANT does not guarantee that proposals, bids, or actual PROJECT costs will not vary from CONSULTANT's cost estimates.

ARTICLE 12 - REUSE OF DOCUMENTS

Upon OWNER's request CONSULTANT shall furnish OWNER with deliverables and/or other data on electronic media. All documents, including but not limited to, drawings, specifications and computer software prepared by CONSULTANT pursuant to this AGREEMENT are instruments of Service in respect to the PROJECT. Said documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the PROJECT or on any other PROJECT.

ARTICLE 13 - TERMINATION

This AGREEMENT may be terminated by either party upon written notice in the event of substantial failure by the other party to perform in accordance with the terms of this AGREEMENT. The non-performing party shall have fifteen (15) calendar days from the date of the termination notice to cure or to submit a plan for cure acceptable to the other party.

OWNER may terminate or suspend performance of this AGREEMENT for OWNER's convenience upon written notice to CONSULTANT. CONSULTANT shall terminate or suspend performance of the SERVICES on a schedule acceptable to OWNER. If termination or suspension is for OWNER's convenience, OWNER shall pay CONSULTANT for all the SERVICES performed to date, amount not to exceed the normal fee amount due for the SERVICES rendered and termination or suspension expenses. Upon restart, an equitable adjustment shall be made to CONSULTANT's compensation.

ARTICLE 14 - DELAY IN PERFORMANCE

Neither OWNER nor CONSULTANT shall be considered in default of this AGREEMENT for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this AGREEMENT, such circumstances include, but are not limited to abnormal weather conditions; floods; earthquakes; fire; epidemics; war; riot and other civil disturbances; strikes, work slowdowns and other labor disturbances; sabotage; judicial restraint; and inability to procure permits, licenses, or authorizations from any local, state, or federal agency for any of the supplies, materials, accesses, or SERVICES required to be provided by either OWNER or CONSULTANT under this AGREEMENT.

Should such circumstances occur the non-performing party shall, within a reasonable period after being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this AGREEMENT.

ARTICLE 15 - COMMUNICATIONS

Any communication required by this AGREEMENT shall be made in writing to the address specified below:

CONSULTANT: Andy Stancati, Senior V.P. Underwriting
BIOSTAR E LIGHT JV, LLC
9400 Reeds Road, Suite 150
Overland Park, KS 66207
913-369-4114
astancati@biostarrenewables.com

OWNER: Nathan Madenwald, Utilities Engineer
City of Norman – Utilities Department
225 N Webster Avenue
P.O. Box 370
Norman OK 73069 / 73070
405-366-5426
nathan.madenwald@normanok.gov

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of CONSULTANT and OWNER.

ARTICLE 16 - WAIVER

A waiver by either OWNER or CONSULTANT of any breach of this AGREEMENT shall be in writing. Such a waiver shall not affect the waiving party's rights with respect to any other or further breach.

ARTICLE 17 - SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this AGREEMENT or the occurrence of any event rendering any portion or provision of this AGREEMENT void shall in no way affect the validity or enforceability of any other portion or provision of this AGREEMENT. Any void provision shall be deemed severed from this AGREEMENT, and the balance of this AGREEMENT shall be construed and enforced as if this AGREEMENT did not contain the particular portion or provision held to be void. The parties further agree to amend this AGREEMENT to replace any stricken provision with a valid Provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire AGREEMENT from being void should a provision, which is of the essence of this AGREEMENT, be determined void.

ARTICLE 18 – NON-DISCRIMINATION

In connection with the performance of work under this contract, the CONSULTANT agrees as follows:

- A. The CONSULTANT agrees not to discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, age, place of birth, disability, sex, sexual orientation, gender

identity or expression, familial status, or marital status, including marriage to a person of the same sex. The CONSULTANT shall take affirmative action to ensure that employees are treated without regard to their race, color, religion, ancestry, national origin, age, place of birth, disability, sex, sexual orientation, gender identity or expression, familial status, or marital status, including marriage to a person of the same sex. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, lay-off, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The CONSULTANT and any companies subcontracted shall agree to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the City Clerk of the City of Norman setting forth the provisions in this section.

- B. In the event of the CONSULTANT's noncompliance with this nondiscrimination clause, the contract may be canceled or terminated by the City Council. The CONSULTANT may be declared by the City Council ineligible for further contracts with the said agency until satisfactory proof of intent to comply shall be made by the CONSULTANT.
- C. The CONSULTANT agrees to include this nondiscrimination clause in any subcontracts connected with the performance of this agreement.

ARTICLE 19 - INTEGRATION

This AGREEMENT represents the entire and integrated AGREEMENT between OWNER and CONSULTANT. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this AGREEMENT. This AGREEMENT, including its attachments and schedules, may only be changed by a written amendment executed by both parties. The following attachments and schedules are hereby made a part of this AGREEMENT:

- Attachment A - Schedule
- Attachment B - Scope of Services
- Attachment C - Compensation


ARTICLE 20 - SUCCESSORS AND ASSIGNS

OWNER and CONSULTANT each binds itself and its directors, officers, partners, successors, executors, administrators, assigns, and legal representatives to the other party to this AGREEMENT and to the directors, officers, partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all provisions of this AGREEMENT.


IN WITNESS WHEREOF, OWNER and CONSULTANT have executed this AGREEMENT.

DATED this 20 day of June 2023.

BIOSTAR E LIGHT JV, LLC - CONSULTANT

By: 
Title: CEO

ATTEST


Executive Coordinator

NORMAN UTILITIES AUTHORITY - OWNER

APPROVED as to form and legality this _____ day of _____, 20____.

City Attorney

APPROVED by the Trustees of the Norman Utilities Authority this _____ day of _____, 20____.

ATTEST

By: _____
Title: _____

ATTACHMENT A
SCHEDULE

Contract and services will be from July 1, 2023 through receipt of Federal reimbursement.

ATTACHMENT B
SCOPE OF SERVICES

Provider agrees to provide the following services per the Agreement:

1. Summarize all project costs for tax professional review.
2. Provide supporting evidence for tax professional review.
3. Introduce Owner to a certified tax professional to assist the Owner with the filing of IRS forms necessary to claim the direct pay of the investment tax credit.
4. Assist Owner and tax professional in answering any questions relevant to the project costs for the filing of the IRS forms to claim the direct pay investment tax credit per the Inflation Recovery Act of 2022.

Provider hereby agrees to provide these services but in no way guarantees, certifies, or warrants that OWNER will receive the direct pay investment tax credit from the IRS, nor does it guarantee, certify, or warrant that OWNER will receive a specific dollar amount for the investment tax credit. OWNER expressly agrees that Provider is not providing any tax opinion or tax advice and that OWNER should rely solely on the opinion and advice of certified tax professionals.

ATTACHMENT C

COMPENSATION

The OWNER agrees to compensate CONSULTANT for these services at a rate not to exceed ten percent funds reimbursed for the project or one hundred sixty thousand dollars, whichever is less. If no funds are received by the OWNER, no compensation to the CONSULTANT will be provided. The CONSULTANT agrees that any work completed is done at risk and no compensation may be received. If funds are received by OWNER, the timing of compensation will be within 30 days after funds have been received, deposited and are available for the OWNER to distribute.

Funds for filing fees, filing preparation, tax professional service fees, legal fees for tax preparation, and other fees or costs incurred by CONSULTANT, as approved by OWNER with prior written consent, shall not exceed \$5,000.00.

File Attachments for Item:

32. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF COMPENSATION AGREEMENT K-2324-20 AND EASEMENT E-2324-1: CONVEYING A TRANSMISSION LINE EASEMENT, AND PROVIDING FOR COMPENSATION FOR SAID EASEMENT, FROM THE CITY OF NORMAN TO NEXT ERA ENERGY TRANSMISSION SOUTHWEST, LLC AT PROPERTY LOCATED AT NW CORNER OF FRANKLIN ROAD AND 12TH AVE NE, FOR NEXT ERA'S MINCO-PLEASANT VALLEY-DRAPER TRANSMISSION LINE PROJECT.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Chris Mattingly, Director of Utilities

PRESENTER: Elisabeth Muckala, Asst. City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF COMPENSATION AGREEMENT K-2324-20 AND EASEMENT E-2324-1: CONVEYING A TRANSMISSION LINE EASEMENT, AND PROVIDING FOR COMPENSATION FOR SAID EASEMENT, FROM THE CITY OF NORMAN TO NEXT ERA ENERGY TRANSMISSION SOUTHWEST, LLC AT PROPERTY LOCATED AT NW CORNER OF FRANKLIN ROAD AND 12TH AVE NE, FOR NEXT ERA'S MINCO-PLEASANT VALLEY-DRAPER TRANSMISSION LINE PROJECT.

BACKGROUND:

NextEra Energy Transmission Southwest, LLC ("NEET") is a Delaware Limited Liability Company. NEET and its affiliates have been active in energy generation and transmission projects nationwide, including 15 Wind Energy Centers located across 14 Oklahoma counties. In April of 2022, NEET was awarded the Minco-Pleasant Valley-Draper Project ("Project") by the Southwest Power Pool ("SPP"), to be regulated by the SPP and according to those regulations enforced by the Federal Energy Regulatory Commission ("FERC"). The Project is a 48-mile long 345 kilovolt (kV) transmission line interconnecting Minco, Pleasant Valley and Draper substations owned by OG&E, all located within SPP territory.

The project investment is upwards of \$55 million, and the Project is projected to result in congestion savings to Oklahoma between \$286 million and \$804 million over the next 40 years, as well as inject \$14 million in tax revenue for the state over the next 40 years. The 345 kV lines require an easement width of 100 feet and involve typical pole height of 125 feet. The poles are designed to incorporate a compact footprint, withstand harsh weather conditions, and will incorporate concrete foundations and guyed structures.

NEET has been securing necessary easements for its Project for several months and is currently in the process of finalizing the last of those transactions. One such easement is being acquired from the City of Norman upon property owned by the City at the northwest corner of the intersection of Franklin Road and 12th Avenue NE ("Property"). The Norman City Council will also be asked to consider this easement (Easement E-2324-1), an associated compensation Agreement (Contract K-2324-20), as well as a lease (Contract K-2324-21) on the same property to be used temporarily for a "laydown yard" during NEET's construction of the Project.

As directed by the adopted 2001 Wastewater Master Plan, the Property was acquired for a potential future North Wastewater Reclamation Facility (NWRF) in 2002, using wastewater ratepayer funds. Since the acquisition of the property and as directed by Resolutions R-0506-151 (adopted June 13, 2006) and R-0708-78 (adopted January 22, 2008), Lift Station D was upgraded to act as the headworks for the future NWRF facility, with flows conveyed (pumped under pressure) over the Little River ridge, and ultimately conveyed by gravity to the Wastewater Reclamation (Treatment) Facility south of Highway 9. Current flows show conveyance capacity for Lift Station D to be sufficient past 2030. In 2018, an engineering report for the NWRF was completed and proposed a facility design and layout on the Property.

On April 25, 2023, the City Council considered and approved NEET's requested Road Use Memorandum of Understanding ("RUA"), which set a framework allowing the City and NEET to work together for the ultimate creation of agreements regarding the protection, repair, and maintenance of roadways affected by NEET's project. Exhibit A to the RUA identified roads and crossing potentially affected by the construction, so that the City and NEET could inventory and come to agreements regarding treatment of the same.

Additionally, NEET is in the process of obtaining necessary Floodplain approvals, and anticipates its submission of an agreement to the City Council regarding its aerial crossing and temporary construction needs within existing City rights-of-way. Public Works Staff is diligently coordinating these efforts with NEET at this time.

DISCUSSION:

The Easement and Compensation Agreement presented hereto grants NEET a Transmission Line Easement across the northern boundary line of the Property. The Transmission Line easement area is 70.30' wide at its most western edge, 101.13' wide at its most eastern edge, and is 2581.51' feet (approximately ½ mile) in length. The Transmission Line Easement area (represented on Exhibit C, the Easement Boundary Survey) includes overhang easement and access easement rights. The location of the Easement on the Property is outside of the proposed facility layout from the 2018 NWRF engineering report and therefore would not impact the use of the Property for the potential future NWRF.

The Easement may not be assigned by NEET without the City's consent. NEET must indemnify the City against injuries resulting from NEET's failure to maintain the facilities within the easement. NEET must maintain sufficient liability insurance for its activities and infrastructure within the Easement. Upon any termination of the Easement, NEET must fully restore the Property to its original condition.

The Easement area is 5.22 acres, more or less, including approximately 1.6 acres within the floodplain. NEET has agreed to compensate the City at a negotiated rate, with a total owed of \$125,280. The compensation per acre was determined based on recent land sales in the area and easement purchase price that the City used for the recent water well project. Compensation is due for payment within thirty (30) days of the City Council's approval of the Easement and Compensation Agreement. The payment shall be made to the City of Norman, and shall be deposited in Water Reclamation Fund Reimbursements/Refunds (Account 329-364251).

RECOMMENDATION:

City Staff recommends approval of Easement E-2324-1 and Contract K-2324-20, a Compensation Agreement, relating to the City's grant of a Transmission Line Easement to NEET for its Minco-Pleasant Valley-Draper Transmission Line Project.

COMPENSATION AGREEMENT

In consideration for entering into the Transmission Easement on ("**Agreement**") with NextEra Energy Transmission Southwest, LLC, a Delaware limited liability company ("**Grantee**"), the City of Norman, a municipal corporation ("**Grantor**") shall receive the following compensation:

One-Time Payments:

A one-time payment of \$24,000.00 for each acre of Property within the Easement Area depicted on Exhibit B to the Transmission Easement, or otherwise affected by the Easements, including the Transmission Line Easement, Overhang Easement, and Access Easement, within thirty (30) days after the Effective Date.

Crop Compensation (if applicable):

- (a) Grantee shall pay to Grantor, or their lawful tenants, for all damage to crops of Grantor, or their tenants, caused by Grantee while utilizing the Easements for the purposes being granted herein including any damages due to entering onto the Property to make surveys and investigations related to the Project. Each time Grantee exercises its rights under the Easement it shall compensate Grantor or its tenants for all crops, including native or improved grass pasture, lost or destroyed by reason of the use, but in no case shall Grantee be required to pay more than a single, total crop loss in any one crop year. Damages will be calculated by the following formula: Unit Price x Unit Yield Per Acre x Acres Damaged = Damages. Prices for damaged or destroyed crops will be based on the average of the last previous March 1st and September 1st Chicago Board of Trade prices for that crop. If the crop is not traded on the Chicago Board of Trade, the price shall be based on the dominant trading exchange for that crop, but the formula shall remain the same. Yield will be the average of the previous three (3) years' yields according to Grantor's records for the smallest parcel of land that includes the damaged area. If Grantor does not have yield records available, the parties will use National Agricultural Statistic Services records or other commonly used yield information available for the area.
- (b) The Parties shall try in good faith to agree to the extent of damage and acreage affected. If they cannot agree, they shall have the area measured and extent of damage assessed by an impartial party such as a crop insurance adjuster or extension agent. A crop compensation form shall be completed and delivered to Grantee within two hundred forty (240) days after the damage occurs. Payment shall be made within sixty (60) days after mutual execution of the crop compensation form.

Allocation: Payment due under the Agreement shall be distributed as follows: 100% to the City of Norman, a municipal corporation.

Signed and completed W-9 form required from each payee before payment is due from Grantee.

Grantor:

The City of Norman, a municipal corporation

By: _____
Larry Heikkila, Mayor

Date

ATTEST: _____
Brenda Hall, City Clerk

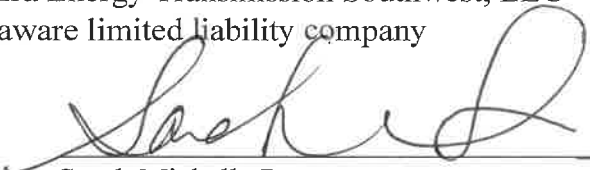
Date

Approved as to form and legality this 30 day of June, 2023.

Elizabeth C. Huchala
City Attorney's Office

Grantee:

NextEra Energy Transmission Southwest, LLC
a Delaware limited liability company

By: 
Sarah Michelle Powers,
Assistant Vice President

6/22/2023
Date

ATTEST: 
Corporate Secretary

6/22/2023
Date

AFTER RECORDING RETURN TO:

Orin Shakerdge
 NextEra Energy Resources, LLC 700 Universe Blvd.,
 LAW/JB Juno Beach, FL 33408
 (561) 694-4678

(This space reserved for recording information)

TRANSMISSION EASEMENT

THIS TRANSMISSION EASEMENT (“**Agreement**”) is dated this ____ day of _____, 2023 (“**Effective Date**”) by and between The City of Norman, a municipal corporation, with an address of P.O. Box 370, Norman, OK 73070-0370 (“**Grantor**”), and NextEra Energy Transmission Southwest, LLC, a Delaware limited liability company, with an address of 700 Universe Blvd., Attn: Land Services Administration, Juno Beach, FL 33408 (“**Grantee**”). Grantor and Grantee are sometimes individually referred to as a “**Party**” and collectively, as the “**Parties**”.

RECITALS

WHEREAS, Grantor is the owner of a certain tract of real property located in Cleveland County, Oklahoma more particularly described on **Exhibit A** attached hereto and made a part hereof (“**Property**”); and

WHEREAS, Grantor desires to grant and convey to Grantee certain easements, including without limitation, an exclusive easement, subject only to potential future crossings for any utility lines necessary to serve Grantor’s future development of the Property, for the erection, installation and maintenance of certain facilities for the transmission of electric power over and across a certain portion of the Property on the terms and conditions contained in this Agreement as depicted in **Exhibit B (“Easement Area”)** and **Exhibit C (“Easement Boundary Survey”)**;

NOW THEREFORE, in consideration of the good and valuable consideration set forth herein, the adequacy and receipt of which is hereby acknowledged, the Parties hereto agree as follows:

1. **Easements.** As used herein, the Transmission Easement, Access Easement, and Overhang Easement shall collectively be referred to as “**Easements**” and the “**Easements shall be confined to the Easement Area** depicted in **Exhibits B and C**. Grantor shall grant to Grantee the right to investigate, inspect, survey, and conduct tests on the Property relating to the Easements, including without limitation, environmental, avian and cultural resource assessments, threatened and endangered species assessments, archeological and geotechnical tests and studies.

a. Grantor grants to Grantee an irrevocable exclusive

easement as depicted in size and dimension on Exhibits B and C for the construction, installation, maintenance, use, operation, repair, replacement, relocation and removal of Facilities ("**Transmission Easement**"). "**Facilities**" shall mean all improvements installed for the purpose of delivering electrical power to an electrical power grid or other system, including without limitation transformers, overhead and underground electrical transmission lines, interconnection facilities, guys, anchors, wires, poles, towers, foundations, footings, cross arms, telecommunication lines, computer data systems, radio relay systems, fiber, cables and other structures related to the transmission of electrical power and other structures related to the transmission of electrical power.

b. Grantor grants to Grantee an irrevocable, non-exclusive easement for vehicular and pedestrian ingress and egress over, across and along the Property, only as depicted on Exhibit C or by means of any existing roads or lanes depicted thereon, for the purposes of constructing, maintaining, removing and operating the Facilities ("**Access Easement**"). Grantee agrees to maintain and repair all roadway improvements located on the Access Easement for the joint use thereof by the Parties for ingress and egress over, across, and along the Access Easement; provided, however, Grantor shall be responsible to repair any damage or perform any special maintenance of the roadway caused by any person using the roadway with Grantor's permission. Grantee shall have the right to install on the Access Road depicted within the Transmission Easement on Exhibit C an access gate with dual locks, at its expense, in order that it, together with its contractors, agents and appointees shall have the right to access the Transmission Easement. Grantee shall be responsible, at its cost and expense for all maintenance and repair for any access gate installed by Grantee.

c. Grantor grants to Grantee a permanent, exclusive easement for the right and privilege to permit the above ground Facilities to overhang the Property within the Transmission Easement ("**Overhang Easement**").

2. **Ownership.** Grantor warrants that it is the holder of fee simple title to all of the Property, and has the right, without the joinder of any other party, to enter into this Agreement and grant the Easements

3. **Interference.** Grantor covenants and agrees that neither Grantor nor its agents, lessees, invitees, guests, licensees, successors or assigns will (i) interfere with, impair or prohibit the free and complete use and enjoyment by Grantee of its rights granted by this Agreement; or (ii) take any action which will interfere with or impair Grantee's access to the Easements for the purposes specified in this Agreement.

4. **Assignment.** Grantee must seek Grantor's consent, to sell, convey, lease, or assign all or any portion of its interest in the Easements, on either an exclusive or a non-exclusive basis, and Grantor's consent shall not be unreasonably withheld. Grantee may not grant subeasements, co-easements, separate leases, easements, licenses or similar rights with respect to the Easements (collectively, "**Assignment**"), to one or more persons or entities (collectively "**Assignee**").

5. **Indemnity & Insurance.** Grantee acknowledges and agrees that it shall hold Grantor and its successors and assigns in interest harmless for any liability whether known or unknown that arises from Grantee exercising its rights under this Agreement including liability resulting in injuries to persons who enter onto the Property in the exercise of its rights or any failure of Grantee to maintain its Facilities. Grantee acknowledges and agrees that it shall maintain sufficient liability insurance that is standard in the industry, and shall list Grantor as an additional insured on said policies with respect to Grantee's interest in the Easements on the Property.

6. **Removal.** Upon any termination of this Agreement, Grantee shall timely remove all Facilities on the Property and restore the Property to its approximate original condition that existed before Grantee constructed its Facilities all at Grantee's sole cost and expense.

7. **Notice.** All notices given or permitted to be given hereunder shall be in writing. Notice is considered given either (i) when delivered in person to the address listed in the Preamble; (ii) upon receipt after deposit in the United States mail in a sealed envelope or container, postage and postal charges prepaid, return receipt requested or certified mail, directed to the party's address as set forth in the preamble; or (iii) upon receipt after deposit with a nationally recognized courier service addressed by name and address to the party named in the Preamble. The names and/or titles of the persons entitled to receive service for each party pursuant to this paragraph are: (a) for Grantor: the City Manager and City Attorney, P.O. Box 370/201 W Gray, Norman, OK 3070/73069; and (b) for Grantee: Nick Fuhr, Project Director Development, NextEra Energy Transmission, LLC, 700 Universe Blvd., Juno Beach, FL 33408. Either Party may, by notice given at any time or from time to time, require subsequent notices to be given to another individual person, whether a party or an officer or representative, or to a different address, or both.

8. **Severability.** If any term or provision of this Agreement, or the application thereof to any person or circumstance shall, to any extent, be determined by judicial order or decision to be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held to be invalid, shall be enforced to the fullest extent permitted by law.

9. **Governing Law.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oklahoma. The Parties agree to first attempt to settle any dispute arising out of or in connection with this Agreement by good faith

negotiation, whether formal or informal. If the Parties are unable to resolve amicably any dispute arising out of or in connection with this Agreement, each shall have all remedies available at law or in equity.

10. **Successors and Assigns.** The Easements and any restrictions of this Agreement shall run with the Property and land affected and shall be binding on, the Parties, together with their mortgagees, assignees, and respective successors and assigns, heirs, personal representatives, tenants or persons claiming through them.

11. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties respecting the subject matter. Any agreement, understanding, or representation with respect to the subject matter of this Agreement not expressly set forth in this Agreement or later in a writing signed by both Parties, is null and void. This Agreement and the easement shall not be modified or amended except for in writing signed by the Parties or their successors in interest.

12. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed the original, and all of which together shall constitute a single instrument.

13. **Compensation.** The compensation due by Grantee to Grantor for this Agreement is set forth in a separate Compensation Agreement between the Parties which the Parties agree shall not be recorded.

[Signatures Follow on Next Pages]

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EXHIBIT A**Legal Description of Property**

The Southeast Quarter (SE $\frac{1}{4}$) of Section 5, in Township 9 North, Range 2 West, of the I. M., Cleveland County, Oklahoma, LESS AND EXCEPT: A strip, piece or parcel of land lying in the Southeast Quarter (SE $\frac{1}{4}$) of Section 5, Township 9 North, Range 2 West, in Cleveland County, Oklahoma, Said Parcel of land being described by metes and bounds as follows: Beginning at the SE Corner of said Southeast Quarter (SE $\frac{1}{4}$), Thence West along the South line of said Southeast Quarter (SE $\frac{1}{4}$) a distance of 150.00 feet, Thence N 00°15'08"W a distance of 33.00 feet, Thence N 66°31'29"E a distance of 81.61 feet, Thence N 00°15'08" W a distance of 850.00 feet, Thence N 13°47'03" E a distance of 103.08 feet, Thence N 00°15'08" W a distance of 1623.58 feet to a point on the North line of said Southeast Quarter (SE $\frac{1}{4}$), Thence East along said North line a distance of 50.00 feet to the Northeast Corner of said Southeast Quarter (SE $\frac{1}{4}$), Thence South along the East line of said SE/4 a distance of 2639.42 feet to point of beginning.

Approximately 158 acres

EXHIBIT B**Legal Description of Easement Area**

An Easement for an Overhead Electric Transmission Line located in part of the Southeast Quarter (SE/4) of Section 5, Township 9 North, Range 2 W, I.M. Cleveland County, Oklahoma, described as follows:

Commencing at the NE Corner of said SE/4;
Thence S89°52'15"W along the North line thereof a distance of 50 feet to a point on the West Right of Way line of Highway 77 and Point of Beginning;
Thence S00°15'28"E along said Right of Way line a distance of 101.3 feet;
Thence S89°49'22" W a distance of 684.64 feet;
Thence N88°50'48"W a distance of 964.05 feet;
Thence N89°31'31"W a distance of 933.34 feet to a point on the West line of SE/4;
Thence N00°21'46"W along the West line thereof, a distance of 70.30 feet to the NW Corner of said SE/4;
Thence N89°52'15"E along the North line thereof, a distance of 2581.51 feet to the Point of Beginning;

The above description contains **5.22 acres** more or less.

City of Norman Easement E-2324-1

EXHIBIT C

Easement Boundary Survey

QLA ID: 17837

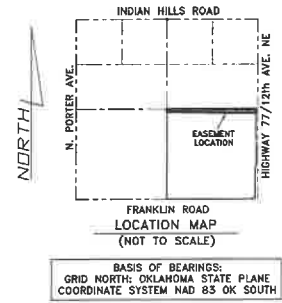
E-2324-1

The City of Norman
Quit Claim Deed, Book 3450, Page 1186
Special Warranty Deed, Book 3450, Page 1184
Special Warranty Deed, Book 3450, Page 1183
Special Warranty Deed, Book 3450, Page 1182
Special Warranty Deed, Book 3450, Page 1181

Parcel Number OK-CLB-132
Tax Assessor Number 76290

EASEMENT BOUNDARY SURVEY
Part of the SE/4 Section 5, T9N R2W, I.M.
Cleveland County, Oklahoma

SECTION 5
Township 9 North, Range 2 West



NW Corner of the SE/4
Section 5, T9N R2W, I.M.
Found #3 Rebar stamped
Hale & Assoc. CA 819.
Controlling Corner used for
this survey.

Point of Commencement for
Transmission Line Easement
and Access Easement
NE Corner of the SE/4
Section 5, T9N R2W, I.M.
Found Mag Nail with shiner
LS1084 at Location Described
in O.C.C.R. dated 9/28/2022
Per PLS# 1522. Controlling
Corner used for this survey.

Point of Beginning
Transmission Line
Easement

Parent Tract Description
(as described in Quit Claim Deed)

The Southeast Quarter (SE/4) of Section Five (5), in Township Nine (9) North, Range Two (2) West, of the I. M., Cleveland County, Oklahoma, LESS AND EXCEPT: A strip, piece or parcel of land lying in the SE/4 of Section 5, T9N, R2W, in Cleveland County, Oklahoma, Said Parcel of land being described by metes and bounds as follows:
Beginning at the SE Corner of said SE/4,
Thence West along the South line of said SE/4 a distance of 150.00 feet,
Thence N 00°15'08" W a distance of 33.00 feet,
Thence N 60°31'29" E a distance of 81.61 feet,
Thence N 00°15'08" W a distance of 850.00 feet,
Thence N 13°47'03" E a distance of 103.08 feet,
Thence N 00°15'08" W a distance of 1623.58 feet to a point on the North line of said SE/4,
Thence East along said North line a distance of 50.00 feet to the NE Corner of said SE/4,
Thence South along the East line of said SE/4 a distance of 2639.42 feet to point of beginning.

Transmission Line Easement Description

An Easement for an Overhead Electric Transmission Line located in a part of the Southeast Quarter (SE/4) of Section 5, Township 9 North, Range 2 West, I.M., Cleveland County, Oklahoma, described as follows:

Commencing at the NE Corner of said SE/4;
Thence S89°52'15"W along the North line thereof a distance of 50.00 feet to a point on the West Right of Way line of Highway 77; and Point of Beginning;
Thence S00°15'28"E along said Right of Way line a distance of 101.13 feet;
Thence S89°49'22" W a distance of 684.64 feet;
Thence N88°50'48"W a distance of 933.34 feet to a point on the West line of SE/4;
Thence N00°21'46"W along the West line thereof, a distance of 70.30 feet to the NW Corner of said SE/4;
Thence N89°52'15"E along the North line thereof, a distance of 2581.51 feet to the Point of Beginning.

The above description contains 5.22 acres more or less.

The field work was completed on 3/03/2023.
Date of Plat or Map: 3/13/2023

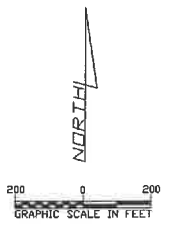
By:
for the firm
Jay Washburn, PLS 1707



Point of Beginning for
Less and Except as described
in Book 3450, Page 1186

SE Corner of the SE/4
Section 5, T9N R2W, I.M.
Found Mag Nail with shiner
LS1084 at Location Described
in O.C.C.R. dated 9/28/2022
Controlling Corner used for
this survey.

SW Corner of the SE/4
Section 5, T9N R2W, I.M.
Found Mag Nail with shiner
LS1084 at Location Described
in O.C.C.R. dated 9/28/2022
Controlling Corner used for
this survey.



Access Easement Description

An Access Easement located in a part of the Southeast Quarter (SE/4) of Section 5, Township 9 North, Range 2 West, I.M., Cleveland County, Oklahoma, described as follows:

Commencing at the NE Corner of said SE/4;
Thence S89°52'15"W along the North line thereof a distance of 50.00 feet to a point on the West Right of Way line of Highway 77;
Thence S00°15'28"E along said Right of Way line a distance of 101.13 feet;
Thence S89°49'22" W a distance of 684.64 feet;
Thence N88°50'48"W a distance of 343.99 feet to the Point of Beginning;
Thence S83°34'40" W a distance of 64.14 feet;
Thence N84°09'17" W a distance of 103.38 feet;
Thence S88°50'48" E a distance of 166.62 feet to the Point of Beginning.
The above description contains 0.02 acres more or less.

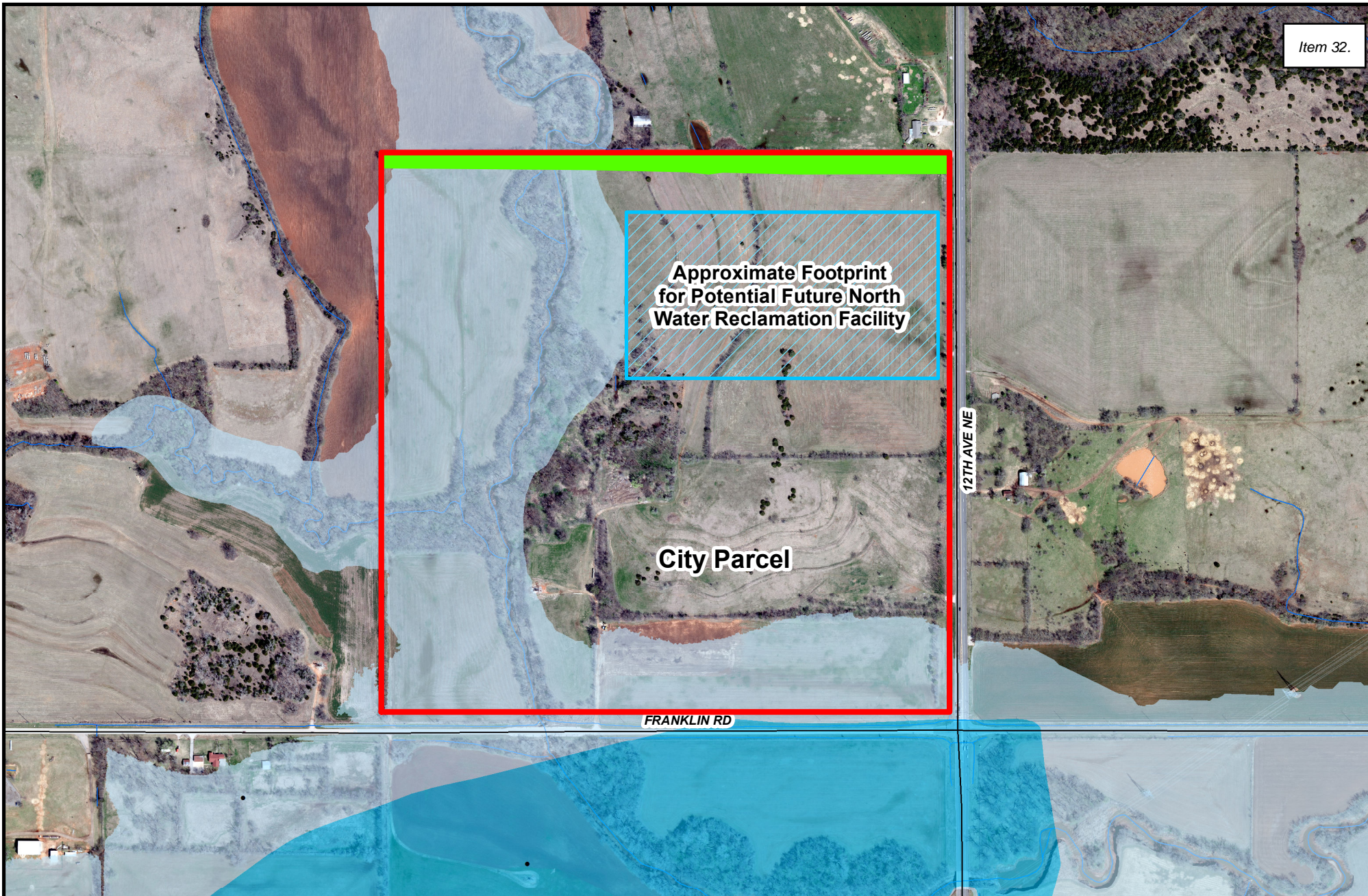
SURVEYED TRACT	
	TRANSMISSION LINE AND C/L
	SECTION LINE
	1/4 SECTION LINE
	RIGHT OF WAY
	TRANSMISSION LINE EASEMENT
	Access Road Easement
	Found monument as stated.
	Set #3 rebar with Cap stamped CPLSN #6035 unless otherwise noted.
R/W	Right of Way
O.C.R.	Oklahoma Certified Corner Record
CO. RD.	County Road
C/L	Centerline
PLS	Professional Land Surveyor
P.O.B.	Point of Beginning
P.O.C.	Point of Commencement
P.O.T.	Point of Terminus

This plat of survey meets the Oklahoma Minimum Standards for the practice of land surveying as adopted by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors.

CookPLS National, Inc.
8213 Glade Ave. Oklahoma City,
OK 73132
405-603-5511
OK CA# 8035 exp. 06-30-2024



WARNING		Project: NEET SOUTHWEST, LLC	Revision/Date
Scale: See Graphic Scale		4/11/2025 for acreage	
Date: 3/2023		6/08/2023 new Legal	
Drafted: CEH			
Checked: JLV			
Book: Neet Southwest, LLC Page: All			
NEET SOUTHWEST-CONDEMNED PARCELS.dwg			



NextEra Easement - E-2324-1 / K-2324-20



Map Produced by the City of Norman
Geographic Information System.

The City of Norman assumes no
responsibility for errors or omissions
in the information presented.

25000 Feet

June 16, 2023



Legend

- NextEra Easement
- 100-Year Floodplain
- Floodway

File Attachments for Item:

33. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF CONTRACT K-2324-21: FOR LEASE OF PROPERTY BY THE CITY OF NORMAN TO NEXT ERA ENERGY TRANSMISSION SOUTHWEST, LLC FOR PROPERTY LOCATED AT NW CORNER OF FRANKLIN ROAD AND 12TH AVE NE, FOR NEXT ERA'S USE AS A MATERIALS LAY-DOWN YARD RELATING TO ITS MINCO-PLEASANT VALLEY-DRAPER TRANSMISSION LINE PROJECT.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Chris Mattingly, Director of Utilities

PRESENTER: Elisabeth Muckala, Asst. City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF CONTRACT K-2324-21: FOR LEASE OF PROPERTY BY THE CITY OF NORMAN TO NEXT ERA ENERGY TRANSMISSION SOUTHWEST, LLC FOR PROPERTY LOCATED AT NW CORNER OF FRANKLIN ROAD AND 12TH AVE NE, FOR NEXT ERA'S USE AS A MATERIALS LAY-DOWN YARD RELATING TO ITS MINCO-PLEASANT VALLEY-DRAPER TRANSMISSION LINE PROJECT.

BACKGROUND:

NextEra Energy Transmission Southwest, LLC ("NEET") is a Delaware Limited Liability Company. NEET and its affiliates have been active in energy generation and transmission projects nationwide, including 15 Wind Energy Centers located across 14 Oklahoma counties. In April of 2022, NEET was awarded the Minco-Pleasant Valley-Draper Project ("Project") by the Southwest Power Pool ("SPP"), to be regulated by the SPP and according to those regulations enforced by the Federal Energy Regulatory Commission ("FERC"). The Project is a 48-mile long 345 kiloVolt (kV) transmission line interconnecting Minco, Pleasant Valley and Draper substations owned by OG&E, all located within SPP territory.

The project investment is upwards of \$55 million, and the Project is projected to result in congestion savings to Oklahoma between \$286 million and \$804 million over the next 40 years, as well as inject \$14 million in tax revenue for the state over the next 40 years. The 345 kV lines require an easement width of 100 feet and involve typical pole height of 125 feet. The poles are designed to incorporate a compact footprint, withstand harsh weather conditions, and will incorporate concrete foundations and guyed structures.

NEET has been securing necessary easements for its Project for several months and is currently in the process of finalizing the last of those transactions. One such easement is being acquired from the City of Norman upon property owned by the City at the northwest corner of the intersection of Franklin Road and 12th Avenue NE ("Property"). The Norman City Council will also be asked to consider this easement (Easement E-2324-1), an associated compensation agreement (Contract K-2324-20), as well as a Lease (Contract K-2324-21) on the same property to be used temporarily for a "laydown yard" during NEET's construction of the Project.

As directed by the 2001 Wastewater Master Plan, the Property was acquired for a potential future North Water Reclamation Facility (NWRF) in 2002, using wastewater (sewer) ratepayer funds. Since the acquisition of the property and as directed by Resolutions R-0506-151 (adopted June 13, 2006) and R-0708-78 (adopted January 22, 2008), Lift Station D was upgraded to act as the headworks for the future facility with sewage flows still conveyed (pumped under pressure) over the Little River ridge, and ultimately conveyed by gravity to the Wastewater Reclamation (Treatment) Facility south of Highway 9. Current flows show capacity for Lift Station D past 2030. In 2018, an engineering report for the NWRF was completed and proposed a facility design and layout on the Property.

On April 25, 2023, the City Council considered and approved NEET's requested Road Use Memorandum of Understanding ("RUA"), which set a framework allowing the City and NEET to work together for the ultimate creation of agreements regarding the protection, repair, and maintenance of roadways affected by NEET's project. Exhibit A to the RUA identified roads and crossing potentially affected by the construction, so that the City and NEET could inventory and come to agreements regarding treatment of the same.

Additionally, NEET is in the process of obtaining necessary Floodplain approvals, and anticipates its submission of an agreement to the City Council regarding its aerial crossing and temporary construction needs within existing City rights-of-way. Public Works Staff is diligently coordinating these efforts with NEET at this time.

DISCUSSION:

The proposed Lease is found upon the same parcel as Easement E-2324-1. The Lease allows only for uses as a "construction laydown area, office trailer area, [and] uses incidental to such use." The Property must be protected against waste, and must be maintained by the Tenant in good repair. Any alterations/additions must be approved by City Staff. NEET may not assign the Lease without the City's consent. Tenant must maintain adequate insurance, must indemnify the City against losses, including environmental damage. Upon a breach, the City may terminate the Lease if the breach is not remedied by Tenant within thirty (30) days.

This lease will not impact the use of the land for the potential future NWRF. Use of the site for the lease will minimally and temporarily alter the site and the timing of the lease use is well before any potential construction activities for the NWRF would be necessary.

The Lease provides for a bonus payment of \$2,000, due within sixty days of the effective date of the Lease, as well as an annual rental of \$2,000 per acre, for a total annual rental of \$36,000/year. The first year's rental is due immediately upon commencement of the Lease. The Lease has an initial term of twelve (12) months and may be extended for as many as twelve (12) additional months on a month-by-month basis with approval of City Staff. Rental for any Additional Terms shall be paid at a rate of \$250/acre per month (for a total of \$4,500 per month, due on the first day of each month). Payments shall be made to the City of Norman, and shall be deposited in the Wastewater Reclamation Fund, Lease Revenue (Account 329-362582).

RECOMMENDATION:

City Staff recommends approval of Contract K-2324-21, a Lease from the City of Norman to NEET for use the referenced property as a "laydown yard" for its Minco-Pleasant Valley-Draper Transmission Line Project.

LEASE AGREEMENT

THIS LEASE AGREEMENT ("**Lease**") is made and entered into as of the _____ day of _____, 2023 ("**Effective Date**") by and between The City of Norman, whose address is: P. O. Box 370, Norman, OK 73070-0370 ("**Landlord**") and NextEra Energy Transmission Southwest, LLC, a Delaware limited liability company, whose address is 700 Universe Blvd., Juno Beach, FL 33408, Attn: Land Services Administration ("**Tenant**").

RECITALS

WHEREAS, Landlord is the fee simple owner of that certain unimproved real property described on the attached **Exhibit A**. A certain portion depicted and described on the **Laydown Yard Exhibit** attached **Exhibit B** hereto, consisting of eighteen acres more or less (the "**Property**" or "**Premises**") is the subject of this Agreement; and

WHEREAS, Tenant desires the option to lease the Property and all of Landlord's right, title and interest in the Existing Driveway (as depicted on Exhibit B) providing ingress to and egress from the Property to Highway 77 (the "**Access Ways**"; the Access Ways and the Property are hereinafter sometimes collectively referred to as the "**Premises**") from Landlord and Landlord desires to grant Tenant the option to lease the Premises to Tenant on the terms set forth in this Lease.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants, agreements and promises contained herein, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, Landlord and Tenant agree as follows:

1. **Signing Bonus**. Tenant shall pay to Landlord a signing bonus of \$2,000.00 ("**Signing Bonus**") within sixty (60) days after the Effective Date.

2. **Term**.

(a) The initial term of this Lease shall commence on the date identified with no less than thirty (30) days' advance written notice by Tenant ("**Commencement Date**"), and shall expire on that date which is twelve (12) months thereafter ("**Initial Term**").

(b) If this Lease shall not have been terminated pursuant to any of the provisions hereof, then Tenant may, with Landlord's approval, extend the Term of this Lease, subject to all of the terms and conditions contained herein, on a month-to-month basis for a term that shall not exceed twelve (12) months (individually and collectively "**Additional Term**"). Tenant may exercise the option of this extension by giving Landlord written notice at least thirty (30) days prior to the expiration of the Initial Term. The Initial Term and any Additional Term ultimately exercised by Tenant shall be collectively referred to as "**Term**".

3. **Lease**. Upon the Commencement Date, Landlord leases to Tenant and Tenant leases from Landlord the Premises.

4. **Use.** The Premises shall be used and occupied by Tenant, or its assignee or subtenant, as a construction laydown area, office trailer area, uses incidental to such use. Tenant shall not allow the Premises to be used for any unlawful purpose. Tenant shall not commit or suffer the commission of any waste in, on, or about the Premises. Tenant shall comply with all governmental laws, ordinances, regulations, directives, covenants and restrictions of record (collectively "**Regulations**") applicable to the use and its occupancy of the Premises.

5. **Rent.** If Tenant exercises the Option during the Option Term, it shall pay to Landlord annual rent in the amount of \$2,000.00 per acre per year. The Rent for the Initial Term shall be paid in its entirety upon the Commencement Date. Following the expiration of the Initial Term, rent for the Additional Term shall be pro-rated based on the amount of \$250.00 per acre per month and paid to Landlord on the first day of each month for the Additional Term.

6. **Maintenance and Repair.** Subject to Landlord's obligations as set forth herein, including its obligations regarding Hazardous Substances (as defined below), Tenant shall at all times keep the Premises in good condition and repair, excluding ordinary wear and tear and damage by the elements. Tenant shall restore topsoil upon the expiration of the Lease and restore the Premises to its original condition. If any improvements on or under the Premises have been damaged as a direct result of Tenant's activities, then Tenant shall pay to Landlord the cost to repair or replace the improvements. Tenant shall install an 8-inch thick concrete drive entrance from 12th Avenue NE with culvert as required by applicable regulations at the Premises in accordance with City and State regulations, permits, and requirements at the Tenant's cost and will not be obligated to remove upon expiration of the Lease.

7. **Alterations and Additions.** Tenant shall be permitted to make any alterations, improvements, additions, or installations in, on or about the Premises, pursuant to such plans and specifications as Tenant may submit to Landlord for Landlord's discretionary review and written approval. Landlord shall have thirty (30) days after receipt of the request to approve. Failure of the Landlord to respond to any request by Tenant for approval within thirty (30) days shall be deemed an approval. Tenant shall be responsible for payment of all governmental fees and costs imposed in connection with such other improvements. All improvements which may be made on the Premises by Tenant or any subtenant shall be made in compliance with all applicable Regulations, and any such improvements shall be the sole and exclusive property of Tenant. Stripped topsoil must be placed in an orderly stockpile for future reclamation/restoration of the area. Aggregate base used for the Premises must be treated with magnesium chloride after initial placement every six months (or more frequently if required to comply with applicable air quality standards, whether state or federal) and aggregate base, at the end of the Term, shall be stockpiled in an orderly manner at the direction of the Landlord at no additional cost to the Landlord.

8. **Liens.** Tenant shall keep the Premises and Tenant's interest in the Premises free from any liens arising out of any work performed, materials furnished, or obligations incurred by Tenant. In the event that Tenant shall not, within sixty (60) days following Tenant's receipt of written notice of the imposition of any such lien, cause the same to be released of record by payment or posting of a proper bond, Landlord shall have the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including payment of the claim

giving rise to such lien and Tenant shall reimburse the Landlord for the costs incurred by Landlord to release such lien. If Tenant shall be responsible for its own defense and to pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof against Landlord or the Premises, and shall ensure that neither the Premises nor any part thereof ever be in any danger of being sold, forfeited, lost or interfered with. If Tenant does not defend such action against its interest in the property, and Landlord does so to maintain the title from any threatened claims or liens, then Tenant shall reimburse Landlord for all costs and fees incurred by Landlord for such defense of the Tenant's interest in the Premises.

9. **Assignment & Subletting.** Tenant may not assign its interest in this Lease or the Premises without Landlord's written consent. Where Tenant seeks to assign to an affiliate or successor in interest, such consent may not be unreasonably withheld. Tenant may not otherwise transfer or sublet all or any part of Tenant's interest in this Lease or the Premises.

10. **Tenant Environmental Representations.**

(a) As used herein, "**Hazardous Substances**" shall mean all hazardous substances, hazardous wastes, hazardous materials, toxic materials, toxic wastes or toxic substances and any other substances, including asbestos, petroleum and its by-products, the remediation, disposal, storage, production, or use of which is regulated by federal, state or local laws, ordinances, regulations, permit conditions, administrative orders and similar requirements pertaining to health, safety and the environment, including, but not limited to, substances listed under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("**CERCLA**"), 42 U.S.C. Section 9601 et seq.; the Hazardous Materials Transportation Act, 42 U.S.C. Section 1801 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; the Toxic Substances Control Act, 15 U.S.C. Section 2601 et seq.; the Clean Water Act, 33 U.S.C. Section 1251 et seq.; the Safe Drinking Water Act, 42 U.S.C. Section 300f et seq.; the Clean Air Act, 42 U.S.C. Section 7401 et seq.; the regulations of the Occupational Safety and Health Administration, 29 C.F.R. Section 1910.1001; and the National Emission Standard for Hazardous Air Pollutants, 40 C.F.R. Part 61, Subpart M, as each may be amended from time to time (herein referred to as the "**Environmental Laws**").

(b) Tenant hereby agrees that:

(i) Any Hazardous Substances used by Tenant or its agents, employees, contractors, subtenants, assignees and invitees on, in, or about the Premises will be contained, treated, stored, used and disposed of in a safe manner and in accordance with all Environmental Laws.

(ii) Subject to Landlord's obligations as set forth in this Lease, Tenant will use, keep and maintain the Premises in compliance with, and shall not cause or permit the Premises to be in violation of, all Environmental Laws, except for violations which are caused by a party other than Tenant or its agents, employees, contractors, subtenants, invitees or successors or assigns.

(iii) Neither Tenant nor its agents, employees, contractors, subtenants,

assignees and invitees will use the Premises in a manner which causes any Hazardous Substance to be deposited, and will not deposit any Hazardous Substance, except in compliance with Environmental Laws, into the atmosphere, into the soil or into the ground water of the Premises. If Tenant or its agents, employees, contractors, subtenants, assignees or invitees has actual knowledge of a “**release**” of a Hazardous Substance, as those terms are defined in the Environmental Laws, Tenant is obligated to promptly notify Landlord in writing of such release, unless the release is the result of a condition existing on or prior to the Commencement Date or occurs after termination of the Lease or from a site other than the Premises.

(iv) Tenant is not responsible for the acts or omissions of any party except Tenant and its agents, employees, contractors, subtenants, invitees and successors and assigns. Hazardous Substances found after the Commencement Date in, on, under or about the Premises or found to have migrated to or from the Premises shall be presumed to have been released prior to the Commencement Date if the Landlord or any third party caused or contributed in any manner to a release of, on, under or about the Premises of Hazardous Substances of the same kind of Hazardous Substances.

(c) Notwithstanding anything herein to the contrary, Tenant shall have no obligation hereunder for releases of Hazardous Substances at locations other than the Premises if such releases contaminate, or have contaminated, any of the Premises.

(d) Tenant shall indemnify, defend and hold harmless Landlord and its officers, directors, employees, shareholders, affiliates, successors and assigns (collectively “**Indemnified Parties**”), against any and all damages, claims (including without limitation, third party claims or personal injury or real or personal property damage), costs, losses, legal, accounting, actions, causes of actions, consulting, engineering, investigation, remediation and removal costs, and other expenses whether at law, in equity or administrative (including without limitation attorneys fees and court costs), including liability under the CERCLA, 42 U.S.C. Section 9601, *et seq.*, as currently written or as it may be amended (hereinafter collectively referred to as “**Claims**”), which may be imposed upon, incurred by or asserted against any of the Indemnified Parties by any other party or parties, including without limitation a governmental entity, arising out of or in connection with (i) the use, generation, manufacture, production, storage, release, threatened release, or presence of a Hazardous Substance on, under or about the Premises as a result of Tenant’s acts or omissions during the term of this Lease or (ii) any violation or claim of violation of any federal, state or local Environmental Law with respect to the Premises by Tenant during the Term of this Lease. This indemnity shall survive the termination or expiration of this Lease.

11. **Insurance.**

(a) Tenant shall, at Tenant’s expense, obtain and keep in force during the entire term of this Lease the following insurance:

(i) Comprehensive general liability insurance. Such policy shall contain inclusive limits per occurrence of not less than \$1,000,000.00 per occurrence/2,000,000.00 annual aggregate, which provides coverage for claims and claims arising from personal injury, bodily injury and property damage, and shall name Landlord as an additional insured.

(ii) Automobile liability coverage, including for non-owned and hired autos, in the amount of \$1,000,000.00 per occurrence which protects from claims for bodily injury and property damage.

(iii) Worker's compensation and employer's liability insurance in compliance with applicable legal requirements.

Tenant hereby indemnifies Landlord for any damage resulting to it from failure of Tenant to obtain and maintain such insurance according to the terms of this agreement. Prior to the Commencement Date, and as needed thereafter, Tenant shall, if requested, provide Landlord with certificates of insurance establishing and attesting to the existence of the insurance coverage required by this Agreement. Such certificates shall provide that no coverage shall be cancelled without 10 days written notice to Landlord. In the event Tenant does not obtain or maintain the coverage required by this Agreement, Landlord may, at its option, immediately terminate this Agreement.

12. **Waiver of Subrogation.** To the extent permitted by each party carrier and to the extent they receive payment for any loss or damage arising out of or incident to the perils insured against under this Lease, which perils occur in, on or about the Premises, Tenant hereby releases and relieves Landlord, and waives its entire right of recovery against Landlord for any and all loss or damage.

13. **Utilities and Services.** Tenant shall, during the entire term of this Lease, procure and pay for electricity, telephone, and trash services supplied to the Premises, together with any taxes thereon.

14. **Condemnation.** If any part of the Premises shall be taken by any public authority under the power of eminent domain or sold to public authority under threat or in lieu of such taking, the Tenant, at its sole discretion, shall have the option to terminate the Lease (subject to Tenant award, as provided below) as of the day possession or title shall be taken by such public authority, whichever is earlier (the "**Taking Date**"), whereupon the Rent and all other charges shall be paid up to the Taking Date. Except as provided otherwise herein, all compensation awarded or paid upon a total or partial taking of the Premises shall belong to and be the property of Landlord without any participation by Tenant. Nothing contained herein, however, shall be construed to preclude Tenant, at its cost, from prosecuting independently any claim directly against the condemning authority in such condemnation proceeding for damage to, or cost of removal of trade fixtures, furniture, and other personal property belonging to Tenant and for the value of the leasehold estate created hereby.

15. **Defaults by Tenant.** A default by Tenant shall be deemed to have occurred hereunder, if and whenever: (i) Any amount due under the Lease is not paid within thirty (30) days of written notice from Landlord; or (ii) Tenant has breached any of its other obligations under this Lease and Tenant fails to remedy such breach within thirty (30) days of notice from Landlord specifying such breach, or fails to remedy the breach within a reasonable time thereafter in cases where the breach cannot be remedied reasonably within such thirty (30) days.

16. **Remedies.** Upon the continuation of a default by Tenant beyond the applicable cure period, Landlord shall be entitled to terminate the Lease and collect any Rent which is due through the date of such termination, and pursue any other such remedies that may exist in law or in equity.

17. **Defaults by Landlord.** If Landlord should be in default in the performance of any of its obligations under this Lease, which default continues for a period of more than thirty (30) days after receipt of written notice from Tenant specifying such default, or if such default is of a nature to require more than thirty (30) days for remedy and continues beyond the time reasonably necessary to cure or Landlord has not undertaken to cure the default within such thirty (30) day period and diligently pursued such efforts to complete such cure, Tenant may, upon written notice to Landlord, terminate this Lease.

18. **No Warranty by Landlord.** Landlord makes no warranties, express or implied, regarding the condition or suitability of the Premises for any uses potentially contemplated by Tenant for the Premises, and as provided for in this Lease.

19. **Indemnity by Tenant.** Lessee shall indemnify, defend and hold harmless the City against all actions or causes of action, claims, liability, loss, cost, damage or expense, or whatever kind or nature, including but not limited to those arising under the Federal Employer's Liability Act, or under any Workers Compensation Act, and any amendment to said Acts now or hereafter in effect, including attorney fees and other expenses of litigation, and including any suit initiated to enforce the obligations of this provision, which the City may sustain or incur, or for which it may become liable, by reason of use of, damage to or destruction of the Property, including the loss thereof and lost profits, or by reason of injuries, including death, to any person or persons including, but not limited to, the person or property of the parties hereto and their employees (hereafter "Loss and Damage"):

- (1) Arising out of any failure by Lessee to satisfy, promptly and faithfully, its obligations under this Lease;
- (2) Arising out of any accident or other occurrence whatsoever causing injury, including death, to any person or persons or damage to or destruction of any property, including the loss or use thereof and lost profits, resulting from the use, occupancy or condition of the Premises and Improvements by Lessee, its employees and invitees; and
- (3) Arising out of any mechanic's lien or other lien, tax assessment or charge or any and every nature that may at any time be established against the Property, or any part thereof including improvements by Lessee, as a consequence, direct or indirect, of the existence of Licensee's interest under this Lease.

20. **Notices.** All notices and demands that may or are required to be given by either party to the other hereunder shall be in writing. All notices and demands shall be personally delivered or sent by United States certified mail, postage prepaid, or by prepaid express mail or overnight courier addressed to Landlord and Tenant according to the information set forth below, or such other person or to such other place as Landlord or Tenant may from time to time designate

in a notice to the other party. Notices and demands delivered personally shall be deemed given on the date of delivery; notices and demands delivered by certified mail shall be deemed given three (3) days after deposit in the United States mail; and notices and demands delivered by express mail or overnight courier shall be deemed given one (1) day after deposit.

City of Norman:

City of Norman
Attn: Director of Utilities and City Attorney
PO Box 370 / 201 W Gray
Norman, OK 73070 / 73069

Tenant:

NextEra Energy Transmission Southwest, LLC
Attn: Land Services Administration
700 Universe Blvd. Juno Beach, FL 33408

21. **Enforceability**. If for any reason whatsoever any of the provisions hereof shall be unenforceable or ineffective, all of the other provisions shall be and remain in force and effect to the fullest extent permitted by law.

22. **Broker Commission**. Landlord and Tenant each represent and warrant to the other that no broker, agent or finder has been engaged by it respectively, in connection with the transactions contemplated by this Lease.

23. **Applicable Law**. This Lease shall in all respects be governed by the laws of the State of Oklahoma.

24. **Successors & Assigns**. The terms, covenants and conditions contained herein shall be binding upon and inure to the benefit of the valid heirs, successors, executors, administrators, and assigns of the parties hereto.

25. **Entire Agreement**. This Lease contains all agreements of the parties hereto and supersedes any previous negotiations. There have been no representations or understandings made between the parties regarding the leasing of the Premises other than those set forth in this Lease.

26. **Survival**. Except as otherwise expressly provided herein, all obligations, covenants, warranties and representations shall survive the expiration or prior termination of this Lease.

27. **Counterparts**. This Lease may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument.

28. **Neutral Interpretation**. This Lease is the product of negotiations of the parties

hereto, and in the enforcement or interpretation hereof, is to be interpreted in a neutral manner, and any presumption with regard to construction or interpretation for or against any party by reason of that party having drafted or caused to be drafted this Lease, or any portion hereof, shall not be effective in regard to the interpretation hereof.

29. **Amendment.** This Lease or any provision hereof may be amended, changed, waived, discharged or terminated only by an instrument in writing signed by both parties to this Lease, subject, however, to Landlord's or Tenant's rights to terminate this Lease as expressly provided herein.

[Remainder of Page is Blank]

[Signatures on Next Page]

The parties hereto have executed this Lease as of the date written below.

Landlord:

THE CITY OF NORMAN

By: _____

Larry Heikkila, Mayor

ATTEST: _____

Brenda Hall, City Clerk

Approved as to legality and form this 30 day of June, 2023.

Christine C. Chickale
City Attorney's Office

Tenant:

NextEra Energy Transmission Southwest, LLC,
A Delaware limited liability company

By: _____

Sarah Michelle Powers
Sarah Michelle Powers,
Assistant Vice President

ATTEST: _____

Jennifer Sheffer
Corporate Secretary

EXHIBIT A**Legal Description of Property**

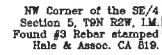
The Southeast Quarter (SE/4) of Section Five (5), in Township Nine (9) North, Range Two (2) West, of the I. M., Cleveland County, Oklahoma, LESS AND EXCEPT: A strip, piece or parcel of land lying in the SE/4 of Section 5, T9N, R2W, in Cleveland County, Oklahoma, Said Parcel of land being described by metes and bounds as follows:

Beginning at the SE Corner of said SE/4,
Thence West along the South line of said SE/4 a distance of 150.00 feet,
Thence N 00°15'08"W a distance of 33.00 feet,
Thence N 66°31'29"E a distance of 81.61 feet,
Thence N 00°15'08" W a distance of 850.00 feet,
Thence N 13°47'03" E a distance of 103.08 feet,
Thence N 00°15'08" W a distance of 1623.58 feet to a point on the North line of said SE/4,
Thence East along said North line a distance of 50.00 feet to the NE Corner of said SE/4,
Thence South along the East line of said SE/4 a distance of 2639.42 feet to point of beginning.

EXHIBIT B

Laydown Yard Exhibit

Township 9 North, Range 2 West



NW Corner of the SE/4
Section 5, T9N R2W, 1M.
Found #3 Rebar stamped
Hale & Assoc. CA 819.

North line of the SE 1/4
N00150°15'E - 2631.61'

Ne 9°52'15"E ~ 2631.51'

100' Transmissi-
line Easement

Proposed Neet
Southwest, LLC
Transmission Line

SB9°52'15"W ~ 50.00'

Point of Commencement
for Laydown Yard
NE Corner of the SE/4
Section 5, T9N R2W, I.M.
Found Mag Nail with shiner
LS1082 at Location Described
in O.C.C.R. dated 9/28/2022
Per PLS# 1522.

The City of Norman
Quit Claim Deed, Book 3450, Page 1186
Special Warranty Deed, Book 3450, Page 1184
Special Warranty Deed, Book 3450, Page 1183
Special Warranty Deed, Book 3450, Page 1182
Special Warranty Deed, Book 3450, Page 1181

Parcel Number OK-CLE-132
Tax Assessor Number 76290

Parent Tract Description
(as described in Quit Claim Deed)

The Southeast Quarter (SE¼) of Section Five (5), in Township Nine (9) North, Range Two (2) West, of the I. M., Cleveland County, Oklahoma, LESS AND EXCEPT: A strip, piece or parcel of land lying in the SE¼ of Section Five (5) North, Range Two (2) West, of the I. M., Cleveland County, Oklahoma, said Parcel of land being bounded as follows: Beginning at the SE Corner of said SE¼,
Thence West along the South line of said SE¼ a distance of 150.00 feet,
Thence N 0°11'00"W a distance of 103.65 feet,
Thence N 66°31'29"E a distance of 81.61 feet,
Thence N 0°15'58"W a distance of 860.00 feet,
Thence N 13°47'03"E a distance of 103.65 feet,
Thence N 80°15'08"W a distance of 323.58 feet to a point on the North line of said SE¼,
Thence East along said North line a distance of 50.00 feet to the NE Corner of said SE¼/
Thence South along the East line of said SE¼ a distance of 2639.42 feet to point of beginning.

Laydown Yard Lease Description

Pan of the Southeast Quarter (SE/4) of Section Five (5), in Township Nine (9) North, Range Two (2) West, of the 1. M., Cleveland County, Oklahoma, hereby described by metes and bounds as follows:

Commencing at the NE Corner of said SE/4,
Thence S89°52'15" W along the North line thereof, a distance of 50.00 feet,
Thence S01°52'28" E along the West Right of Way line of Highway 77 and parallel with the East line of said SE/4 a distance of 101.13 feet to the Point of Beginning;
Thence continuing S00°14'29" E a distance of 1280.00 feet;
Thence S89°49'22" W a distance of 612.56 feet;
Thence N00°15'28" W a distance of 1280.00 feet;
Thence N89°49'22" E a distance of 612.56 feet to the Point of Beginning.

The above description contains 18.00 acres more or less.

West line of the SE/4
M0071'45"W \approx 1749.49'

200 0 200
GRAPHIC SCALE IN FEET

5/8

[illegible]

Laydown Yard
784079 Sq. Feet
18.0000 Acres

Existing Driveway
Lat=35°16'51.59"N
Long=07°25'25.76"W

SET S89°48'22"W ~ 612.66'

$$N(12) = 4 = N(2) + 2$$

Highway 77 R/Y

33' Statutory R, W -

South line of the S

SW Corner of the SE/4
Section 6, T9N R2W, 1.M.
Found Mag Nail with shiner
LS1084 at Location Described
in O.C.C.R. dated 9/26/2022

SE Corner of the SE 1/4
Section 5, T9N R2W, 1.M.
Found Mag Nail with shiner.
LS1084 at Location Describes
in O.C.C.R. dated 9/26/2022

	SURVEYED TRACT		Found monument as stated.
	TRANSMISSION LINE AND C/L		Set T-Post
	SECTION LINE		R/W = Right of Way
	1/4 SECTION LINE		OCCR = Oklahoma Certified Corner Record
	RIGHT OF WAY		CO. RD. = County Road
	TRANSMISSION LINE EASEMENT		C/L = Centerline
	Accreted Road Easement		P.S. = Professional Land Surveyor
			P.O.B. = Point of Beginning
			P.O.C. = Point of Commencement
			P.O.T. = Point of Termination

This plat does not meet the Oklahoma Minimum Standards for the practice of land surveying as adopted by the Oklahoma State Board of Licensure for Professional Engineers and Land Surveyors. This Document is Preliminary in nature and is not a final, signed and sealed document.

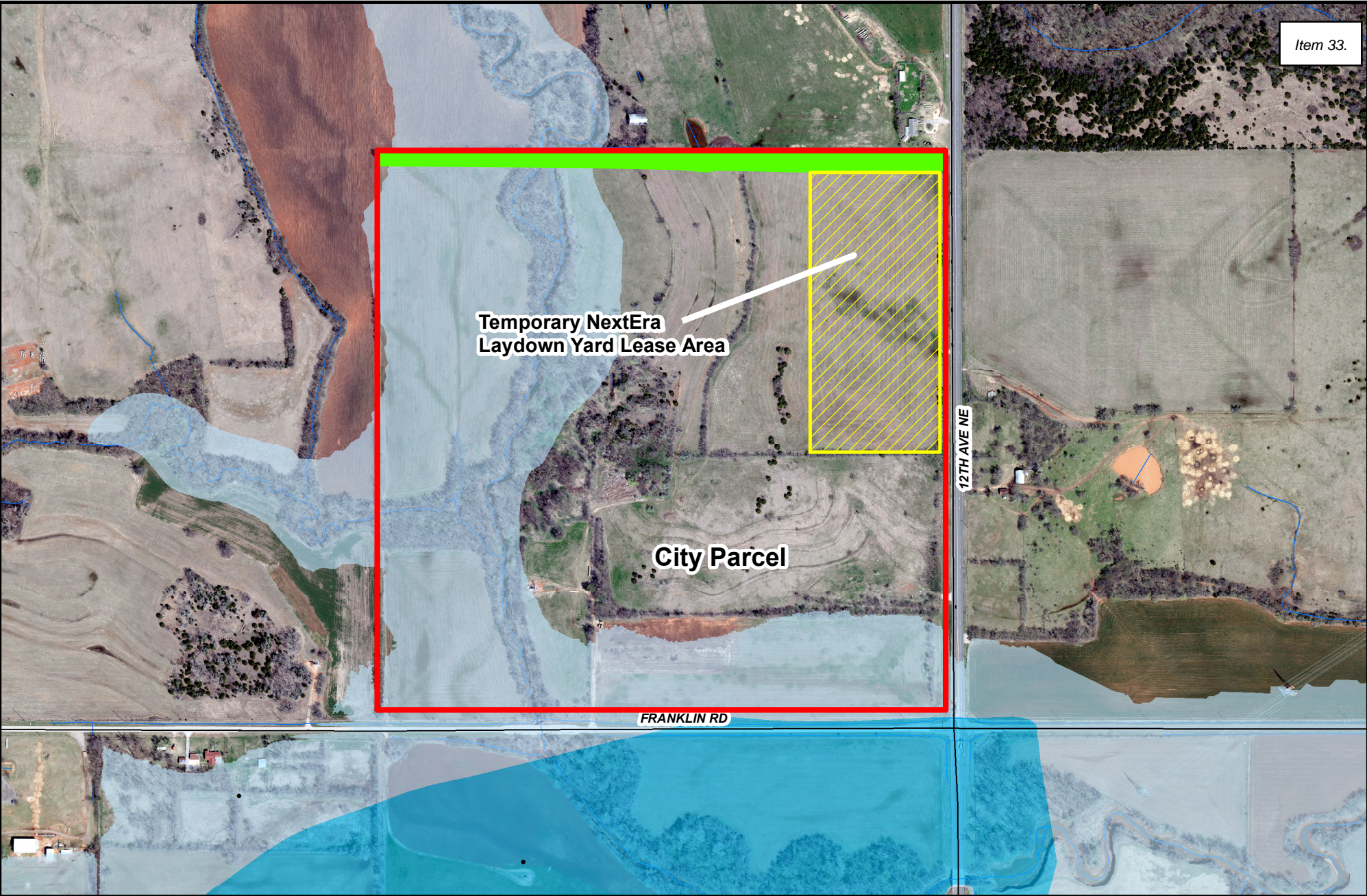
CookPLS National, Inc.
8213 Glade Ave. Oklahoma City,
OK 73132
405-603-5511
Ok CA# 8035 exp. 06-30-2024



WARNING



Project: NEET SOUTHWEST, LLC	Revision/Date
Scale: See Graphic Scale	
Date: 5/2023	
Drafted: CEH	
Checked: JLW	
Book: Neet Southwest, LLC Page: All	
NEET SOUTHWEST-CONDEMNED PARCELS.dwg	



NextEra Laydown Lease Area - K-2223-148



Map Produced by the City of Norman
Geographic Information System.

The City of Norman assumes no
responsibility for errors or omissions
in the information presented.

25000 Feet

June 16, 2023



Legend

- NextEra Easement
- 100-Year Floodplain
- Floodway

File Attachments for Item:

34. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-22: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NORMAN ARTS COUNCIL FOR THE PROMOTION OF ARTS PROGRAMS TO FURTHER CONVENTION AND TOURISM DEVELOPMENT FOR THE CITY, AND TO PROVIDE 25% OF THE NORMAN TRANSIENT GUEST ROOM TAX FOR SAID SERVICES.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Jason Olsen, Director of Parks and Recreation

PRESENTER: Jason Olsen, Director of Parks and Recreation

ITEM TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-22: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NORMAN ARTS COUNCIL FOR THE PROMOTION OF ARTS PROGRAMS TO FURTHER CONVENTION AND TOURISM DEVELOPMENT FOR THE CITY, AND TO PROVIDE 25% OF THE NORMAN TRANSIENT GUEST ROOM TAX FOR SAID SERVICES.

BACKGROUND:

An ordinance known as the “Norman Transient Guest Room Tax Ordinance” directs imposition within the City of an excise tax upon the gross proceeds derived from rents received from occupancy of hotel rooms with further directions that the taxes collected be set aside and used exclusively to encourage promoting and fostering the convention and tourism development of the City. On May 9, 2023, the voters approved an increase in the room tax from 5% to 8%, with the proceeds to be used for the development of the convention and tourism business in Norman. Promoting arts and humanity activities is important in attracting tourists and conventions to the City.

NAC was founded in 1976 to enrich the Norman community by stimulating artistic, cultural, and economic growth through supporting and promoting the arts. NAC first contracted with the City in 1989, as the Norman Arts and Humanities Council, for the administration of arts and humanities promotion within the City of Norman, including gathering and distribution of ideas, research, and information designed to educate Norman citizens, assisting with the development and promotion of local arts and humanities activities and attractions through the Transient Guest Room Tax Grants Program, and enhancing the City of Norman’s desirability to participants in arts and humanities activities. NAC’s exhibits, art walks, art education experiences, and festivals have drawn more than one million visitors annually to Norman.

DISCUSSION:

This contract intends for NAC to continue to provide such programs and services to the City as authorized in said Norman Transient Guest Room Tax Ordinance and in prior agreements with NAC and to utilize its facilities, employees, services, and expertise.

Article 2-111-1 of the City Code creating the Art in Public Places Program was adopted in 2007. This program set up a funding mechanism by which City of Norman utility customers could opt to donate money to the Art in Public Places Fund by including an additional amount of money with the utility bill payment. A Public Arts Board was created by ordinance to oversee the selection, purchase, commission, acquisition, and placement of public art in Norman. The Board reports to the Norman Arts Council, who was charged with expending the monies collected according to the ordinance. At the request of the Norman Arts Council, Staff has been working on modifications to Article 2-111-2 to make the program run more efficiently and effectively.

As Staff began updating the NAC contract, it became clear that the Art in Public Places Program would better addressed in the contract between the City and NAC. As a result, Article 2-111-2 is proposed to be repealed in its entirety (O-2223-54, also on Council's agenda) and the requirements for the Art in Public Places program are being incorporated into this contract with NAC. These requirements can be found in Section 2 – Public Arts Committee of the Contract. Similar to the City's arrangement with Visit Norman, there will now be an ex-officio representative from the City serving on the Norman Arts Council board.

The contract also addresses NAC's percentage of the room tax share (25%, after the City's 4% administration portion, the City's Park and Recreation Department's 15.625%, and Norman Convention and Visitors Bureau's 59.375%).

RECOMMENDATION:

Staff recommends approval of Contract K-2324-22.

K-2324-22

AGREEMENT

THIS AGREEMENT, made on this _____ day of _____, 2023, between the City of Norman, Oklahoma, a municipal corporation (hereinafter referred to as the "City"), and the Norman Arts Council, Inc., a not-for-profit corporation (hereinafter referred to as the "NAC").

WHEREAS, an ordinance known as the "Norman Transient Guest Room Tax Ordinance" directs imposition within the City of an excise tax upon the gross proceeds derived from rents received from occupancy of hotel rooms with further directions that the taxes collected be set aside and used exclusively for purpose of encouraging promoting and fostering the convention and tourism development of the City; and

WHEREAS, City and NAC agree that the promotion of arts and humanity activities are an important part of attracting tourists and conventions to the City; and

WHEREAS, the existence of adequate park facilities likewise fosters and encourages visitors to a city; and

WHEREAS, NAC was founded in 1976 to enrich the Norman community by stimulating artistic, cultural, and economic growth through the support and promotion of the arts; and

WHEREAS, NAC first contracted with the City in 1989, as the Norman Arts and Humanities Council, for the administration of arts and humanities promotion within the City of Norman, including gathering and distribution of ideas, research, and information designed to educate Norman citizens, assisting with the development and promotion of local arts and humanities activities and attractions through the Transient Guest Room Tax Grants Program, and enhancing the City of Norman's desirability to participants in arts and humanities activities; and has performed such services on behalf of the City of Norman since that time; and

WHEREAS, NAC's exhibits, art walks, art education experiences and festivals have drawn more than One Million visitors each year to Norman; and

WHEREAS, Visit Norman and the Norman Arts Council recently proposed an increase in the Transient Guest Room Tax Rate from 5% to 8%, with a proposed split of the additional 3% between Visit Norman and Norman Arts Council, all in furtherance of the purposes of the Ordinance and pursuant to agreements with each; and

WHEREAS, it is the desire of the parties hereto that NAC continues to provide such programs and services to the City as authorized in said Norman Transient Guest Room Tax Ordinance and in prior agreements with NAC and to utilize its facilities, employees, services, and expertise as hereinafter provided.

THEREFORE, in consideration of the foregoing premises and the mutual promises, covenants, and conditions herein stated, and in consideration of the mutual benefits which will accrue to each of the parties hereof, the parties hereto agree as follows:

1. **Operations.** NAC agrees to provide a qualified and competent staff to be assigned to the solicitation of art pieces and acts for the City and in this connection, to provide all the management

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and administrative services necessary to attract art pieces, art acts, art educators, to contribute to the benefit of the City, and to preclude unreasonable demands and assist in the development and promotion of local activities and attractions designed to enhance City's tourist desirability. This shall include administrative tasks required for the 1% for Art designated for Norman Forward projects.

- A. It is agreed that NAC's operation under this Agreement shall be in accordance with the City's Code of Ordinances and applicable state law and its sole purpose shall be the promotion of art within the City. The NAC Board of Directors shall consist of total of twenty five (25) voting members, and one (1) Ex-Officio member, to be made up as follows:
 - i. Twenty-five (25) voting members of the Board of Directors as follows:
 - a) Nineteen (19) Directors, and six (6) officers, elected by the Board of Directors.
 - ii. One (1) Ex-Officio representative as follows:
 - a) The Director of Parks and Recreation of the City of Norman or another employee as designated by the Director of Parks and Recreation.
- B. NAC agrees to provide office space in Norman, Oklahoma, with same being used for the purpose of implementing said promotional programs as provided herein.
- C. NAC agrees to provide all utility services, including telephone, and to further provide all stationary, postage, materials, supplies and equipment necessary for the purpose of this Agreement.
- D. NAC understands and agrees that all persons working for NAC under this Agreement shall be employees of NAC and shall in no way be considered as employees of the City. Should any liability arise under the Worker's Compensation Act of the State of Oklahoma due to injury of any employee of NAC, the same shall be the sole liability of NAC. NAC agrees as part hereof to have in force and paid for Worker's Compensation Insurance during any time that employees doing work for NAC are covered by said Worker's Compensation Act.
- E. NAC agrees to comply with all applicable competitive bidding statutes and ordinances with regard to contracts for the procurement of goods and services by NAC.
- F. NAC agrees to comply with the Oklahoma Open Meetings Act and Open Records Act to the extent each Act applies to private entities accepting public funding.
- G. NAC agrees to prepare and submit to Council for review a travel policy for all out-of-town travel by representatives of NAC. Said policy shall provide in detail the

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amount to be paid and criteria for the reimbursement of or payment for travel expenses.

2. Public Arts Committee

- A. NAC agrees to appoint a Public Arts Committee that will create and solicit public art pieces, review submissions for public art pieces, select artists, and oversee the installation of public art to create more appealing spaces in the City through public arts projects, with final approval of the public art and location of public art at sole discretion of City Manager or his designee. To ensure coordination regarding site locations for public art, the Director of Parks and Recreation of the City of Norman, or another employee as designated by the Director of Parks and Recreation shall serve on the Public Arts Committee in an ex-officio capacity.

B. Definitions:

- i. Art, artwork, or work of art means all forms of original creations of visual art, except for blasphemous material, as defined by section 901 of title 21 of the Oklahoma Statutes, or indecent or obscene material as defined by section 1024.1 of title 21 of the Oklahoma Statutes, including, but not limited to:
 - a) Sculptures, in any material or combination of materials, whether in the round, bas-relief, high relief, mobile, fountain, kinetic, or electronic;
 - b) Painting, including murals and frescoes;
 - c) Mosaic;
 - d) Photography;
 - e) Fine crafts made from clay, fiber and textiles, wood, glass, metal, plastics or any other material, or any combination thereof;
 - f) Drawing;
 - g) Calligraphy;
 - h) Mixed media composed of any combination of forms or media;
 - i) Unique architectural stylings or embellishments, including architectural crafts;
 - j) Ornamental gateways; and
 - k) Restoration or renovation of existing works of art of historical significance.
- ii. Art in public places means any visual work of art displayed for two weeks or more in a public place.
- iii. Artist means a practitioner in the visual arts committed to producing high quality work, as recognized by peers and critics of the artist, on a regular basis.
- iv. PAC means the Public Arts Committee.

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- v. Maintenance means the ongoing upkeep required for artworks to retain their structural and aesthetic integrity.
 - vi. Public places means a site owned by the City with major public access and visibility that serves a business, social or environmental need. This includes public parks or other areas designated as public space, and the exterior or interior of any City-owned facility. Sites located on private property with access by the public or other public property not owned by the City shall occur only upon approval of a contract with the owner of said property by the City Council.
 - vii. Repair means those extraordinary activities required to repair or restore a malfunctioning or damaged work of art.
- C. Funding for PAC projects shall be provided by Art in Public Places Fund, Norman Forward 1%, the Voluntary Contribution to the Public Arts utility bill program, and any other funds intended to contribute to art accessible to the public. Such funds shall be deposited into an account used solely for the actions of PAC.
- D. Duties and powers of the Public Arts Committee.
- i. Adopt operating procedures for the operation of the PAC.
 - ii. Prescribe methods for competitive selection of art for display, including a method for appealing the decisions of the Public Arts Committee.
 - iii. Prescribe procedures for the acquisition and display of art in public places or other locations accessible to the public.
 - iv. Solicit submissions for works of art to be displayed in public places or other locations accessible to the public.
 - v. Maintain a detailed record of all art in public places or other locations accessible to the public, including site drawings, photographs, designs, names of artists, and names of architects, where feasible, and said records shall be housed by and maintained by the Norman Arts Council. The PAC shall attempt to give appropriate recognition to the artists and provide publicity and promotional materials regarding art in public places or other locations accessible to the public on the City website and with annual inserts provided in the City utility bill.
 - vi. Contract with artist (after approval by the City Manager for the piece and location) for the donation, commission, or purchase of art, and providing for the ownership in the name and title of said art to be held by the City or by the owners of the property the art is to be located on.
 - vii. Review all art submissions and make recommendations to the City Arts Council regarding which pieces should be displayed by the City in a

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public place, as well as the location of the display of said art. Such determinations are to be made in accordance with the mission stated herein and according to the operating procedures as adopted by the PAC.

- viii. Seek community input whenever possible from those potentially affected by the placement of public art.
- ix. Employ outside consultants as necessary to assist in the mission of the PAC.
- x. Make recommendations to the City Arts Council regarding the acquisition, commission, and display of public art.
- xi. Submit to the City Council, not later than March of each year, a report of its activities for the prior year.

3. Reporting

- A. NAC agrees to devote its best efforts to the City's interest and to endeavor in every way to increase the value of the City as a tourism center by attracting artworks and programs to the City. NAC understands and agrees that the establishment of objective criteria by which to judge NAC's performance is necessary and an important part of this Agreement. As part of its reports to the City Council and in any event no less than semi-annually, NAC shall provide Council with the information set forth herein.
- B. NAC shall report to the City no less than approximately semi-annually, with information that provides the City with a reasonably good understanding of the activities that NAC has undertaken since the prior reporting through efforts to encourage, promote, and foster the arts and art programming development in the City. The information will provide to the City with knowledge as to the NAC's work in areas such as, but not limited to, the following:
 - i. Arts acquisition activities, including those of the PAC;
 - ii. Marketing and communications activities and performance measures;
 - iii. Arts programming and education events;
 - iv. Funding efforts for Tourism and Promotion (such as the 2nd Friday Norman Arts Walk program); and
 - v. The total return on investment, with such figures as may be related to visitor spending, convention sales, and marketing/communications.

These semi-annual reports shall include one annual report provided to the City of Norman Board of Parks Commissioners.

- C. NAC shall furnish quarterly financial reports that include revenue and expense reports compared to budget and balance sheets covering the period and the year-to-date. The year-end financial report submitted by NAC to the City shall include an audited financial statement for the previous year. Said audited financial statement

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shall be furnished by NAC to the City as soon as reasonably possible after the close of the previous fiscal year.

4. Funding

- A. The parties hereto agree that of the sums collected from the Norman Transient Guest Room Tax, the City of Norman shall retain Four Percent (4%) to reimburse the City for its administrative costs involved in administering the tax and administering the contract. Of the remaining Ninety-Six Percent (96%), 25% shall be paid to NAC as compensation for its services rendered during the term of the Agreement. Of the remaining tax collected, 15.625 % shall be set aside for the Norman Parks Department.
- B. The City agrees to remit to NAC any funds collected by the City from the Voluntary Contribution to the Public Arts utility bill program in monthly increments during the term of this Agreement.
- C. The City agrees to pay to NAC the funds received from the Norman Transient Guest Room Tax in monthly increments during the terms of this Agreement. Prior to May 1 of each year, NAC shall prepare and submit to the City Council a detailed plan of work and integrated budget for Ninety-Five Percent (95%) of the estimated revenues of the next fiscal year. The City's contribution to NAC's estimated revenues shall be based upon the City Manager's estimate. NAC may not spend funds until both the detailed annual plan of work and integrated budget are approved by the City Council. Funds will not be available from the room tax fund until appropriated by the City Council.

5. Term of Agreement

- A. The terms of this Agreement shall be for a one-year period commencing on the 1st day of July, 2023, and shall terminate on the 30th day of June, 2024, provided, however, that this Agreement shall be self-executing for each new year unless either party hereto, at least sixty (60) days prior to the renewal date, which date shall be the day, one year subsequent, as the commencement date as set forth above, gives notice of intent to terminate this Agreement, in writing, to the current operating address and Manager of the other party.
- B. In case the NAC herein enter into an arrangement or bankruptcy or receivership under the laws of the United States and/or any State, either voluntarily or not voluntarily, the City may elect to declare the unexpired term of this Agreement cancelled as of the date of such event.

6. Integration. This Agreement represents the entire and integrated Agreement between the parties. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may only be changed by a written amendment executed by all parties.

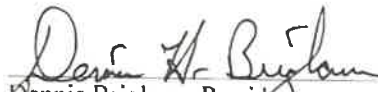
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7. **Waiver.** The Waiver by the City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of such term, condition or covenant or any subsequent breach of the same, or any other term, condition or covenant.
8. **Modification.** No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by all parties hereto.
9. **Severability.** Any provision of this contract which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States, State of Oklahoma or City of Norman shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent the contract is capable of execution.

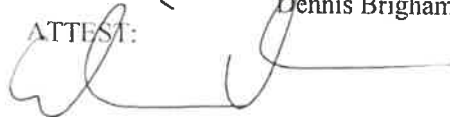
WITNESS our hands the 7 day of July, 2023, at Norman, Oklahoma.

NORMAN ARTS COUNCIL, INC.

By:


Dennis Brigham, President

ATTEST:



President Elect

APPROVED this ____ day of _____, 2023, by the Norman City Council.

Larry Heikkila, MAYOR

ATTEST:

Brenda Hall, City Clerk

APPROVED as to form and legality this 7 day of July, 2023.


CITY ATTORNEY

File Attachments for Item:

35. CONSIDERATION OF AWARDING, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF K-2324-23: BETWEEN THE NORMAN VISITORS AND CONVENTION BUREAU AND THE CITY OF NORMAN FOR THE PURPOSE OF ENCOURAGING, PROMOTING, AND FOSTERING CONVENTION AND TOURISM DEVELOPMENT IN THE CITY.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Jason Olsen, Director of Parks and Recreation

PRESENTER: Jason Olsen, Director of Parks and Recreation

ITEM TITLE: CONSIDERATION OF AWARDING, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF K-2324-23: BETWEEN THE NORMAN VISITORS AND CONVENTION BUREAU AND THE CITY OF NORMAN FOR THE PURPOSE OF ENCOURAGING, PROMOTING, AND FOSTERING CONVENTION AND TOURISM DEVELOPMENT IN THE CITY.

BACKGROUND: The City of Norman contracts annually with the Norman Convention and Visitors Bureau (VisitNorman) to administer the share of funds collected pursuant to the Norman Transient Guest Room Tax Ordinance set aside specifically for the purpose of encouraging, promoting, and fostering convention and tourism development in the City. On May 9, 2023, the voters approved the guest room tax to be increased from 5% to 8% allowing the creation of the Norman Sports Commission, or NormanSports. In 2016, the City allocated \$80,000 to VisitNorman \$30,000 of which was used to work with the Huddle Up Group to research expanding sports tourism in Norman by creating a sports commission. Huddle Up provided a strategic plan for the best structure for a new sports commission and resources to sustain and grow Norman's economic development through sports. The increased funding from the guest room tax will allow for the sports commission to be funded and continue VisitNorman's mission to encourage convention and tourism development in Norman.

DISCUSSION: The contract between the City and the Norman Convention and Visitors Bureau originated in fiscal year 1992-93 (FYE 93) and has been amended six times since then. This latest proposed version consolidates the various amendments to the original contract into a clean new contract between the parties.

The current contract addresses the increased guest room tax rate approved by the May 9, 2023 vote, expands the voting Board members to address additional community interests, and clarifies VisitNorman's actions on behalf of the City in exchange for an allocation of Guest Room Tax revenue.

RECOMMENDATION:

Staff recommends approving K-2324-23.

AGREEMENT

THIS AGREEMENT, made on this _____ day of _____, 2023, between the City of Norman, Oklahoma, a municipal corporation (hereinafter referred to as the "City"), and the Norman Convention and Visitors Bureau, Inc., a not-for-profit corporation doing business as Visit Norman (hereinafter referred to as the "Visit Norman").

WHEREAS, an ordinance known as the "Norman Transient Guest Room Tax Ordinance" directs imposition within the City of an excise tax upon the gross proceeds derived from rents received from occupancy of hotel rooms with further directions that the taxes collected be set aside and used exclusively for purpose of encouraging promoting and fostering the convention and tourism development of the City; and

WHEREAS, City and Visit Norman agree that the promotion of arts and humanity activities are an important part of attracting tourists and conventions to the City; and

WHEREAS, the existence of adequate park facilities likewise fosters and encourages visitors to a city; and

WHEREAS, Visit Norman was formed for the sole purpose of promoting and fostering convention and tourism development in the City and as a result thereof has certain knowledge and expertise in this particular area of endeavor; and

WHEREAS, Visit Norman first contracted with the City to provide such services in 1993 and has operated since that time under an ongoing contract with the City; and

WHEREAS, Visit Norman and the Norman Arts Council recently proposed an increase in the Transient Guest Room Tax Rate from 5% to 8%, with a proposed split of the additional 3% between Visit Norman and Norman Arts Council, all in furtherance of the purposes of the Ordinance and pursuant to agreements with each; and

WHEREAS, Visit Norman intends to use the additional revenue for the promotion of sports tourism in Norman and improvements to sports facilities to benefit Norman; and

WHEREAS, it is the desire of the parties hereto that Visit Norman continue to provide such programs and services to the City as authorized in said Norman Transient Guest Room Tax Ordinance and in prior agreements Visit Norman and to utilize its facilities, employees, services and expertise as hereinafter provided.

THEREFORE, in consideration of the foregoing premises and the mutual promises, covenants and conditions herein stated, and in consideration of the mutual benefits which will accrue to each of the parties hereof, the parties hereto agree as follows:

1. Operations. Visit Norman agrees to provide a qualified and competent staff to be assigned to the solicitation of conventions and tourism business for the City and in this connection to provide all the management and administrative services necessary to present a viable promotional program including but not limited to the gathering and dissemination of information and ideas, research,

promotional programs, servicing conventions including all normal convention support services and equipment, represent local business, civic and hotel interests in negotiating with associations and other convention groups to preclude unreasonable demands and assist in the development and promotion of local activities and attractions designed to enhance City's tourist desirability. This shall include administrative tasks required for national and state grant programs such as the State's Quality Events program.

- A. It is agreed that Visit Norman's operation under this Agreement shall be in accordance with the City's Code of Ordinances and applicable state law and its sole purpose shall be the promotion of convention and tourism within the City. The Visit Norman Board of Directors shall consist of total of nineteen (19) voting members, and four (4) Ex-Officio members, to be made up as follows:

i. Nineteen (19) voting members of the Board of Directors as follows:

- a) Thirteen (13) Directors, each as elected by the Visit Norman Board of Directors, and as chosen generally from organizations and businesses within Norman that are significantly affected by convention and tourism activities in Norman, such as follows:

- (1) The University of Oklahoma Athletic Department;
- (2) The Norman Public Schools;
- (3) The Norman Chamber of Commerce;
- (4) The Norman Arts Council;
- (5) The Norman hotels and hospitality industry;
- (6) The Norman restaurant and entertainment industry; and/or
- (7) The Norman sports community and industry.

- b) Two (2) Directors, each as appointed by the Mayor of the City of Norman, and as chosen generally from organizations and businesses within Norman that are significantly affected by convention and tourism activities in Norman, such as:

- (1) The University of Oklahoma; and/or
- (2) Organized athletic groups.

- c) Four (4) Directors, each as elected by the Visit Norman Board of Directors, and as chosen generally from the Norman community to serve in "at-large" capacities.

ii. Four (4) Ex-Officio representatives as follows:

- a) The Mayor of the City of Norman; or a City Councilmember of the City of Norman as appointed by the Mayor to serve in this role;
- b) The City Manager of the City of Norman, or another City of Norman employee as designated by the City Manager to serve in this role;

- c) The Executive Director of the Norman Chamber of Commerce; and
 - d) The Executive Director of the Norman Economic Development Coalition, Inc.
- B. Visit Norman agrees to provide consulting services to assist City in creating and procuring welcoming messages and designs for use on City's light poles, contingent on Visit Norman Board approval and appropriation of funding. Consulting services under this provision include, but are not limited to, designing and procuring decorative street pole banners for City's use on its light poles. All services provided under this section shall conform to City policies, which may be updated from time to time. Final approval of any designs generated from this agreement are subject to final and sole approval of the City Manager or his designee. All designs and banners produced as a result of these services shall be property of the City.
- C. Visit Norman agrees to provide office space in Norman, Oklahoma, with same being used for the purpose of implementing said promotional program as provided herein.
- D. Visit Norman agrees to provide all utility services, including telephone, and to further provide all stationary, postage, materials, supplies and equipment necessary for the purpose of this Agreement.
- E. Visit Norman understands and agrees that all persons working for Visit Norman under this Agreement shall be employees of Visit Norman and shall in no way be considered as employees of the City. Should any liability arise under the Worker's Compensation Act of the State of Oklahoma due to injury of any employee of Visit Norman, the same shall be the sole liability of Visit Norman. Visit Norman agrees as part hereof to have in force and paid for Worker's Compensation Insurance during any time that employees doing work for Visit Norman are covered by said Worker's Compensation Act.
- F. Visit Norman agrees to comply with all applicable competitive bidding statutes and ordinances with regard to contracts for the procurement of goods and services by Visit Norman.
- G. Visit Norman agrees to comply with the Oklahoma Open Meetings Act and Open Records Act to the extent each Act applies to private entities accepting public funding.
- H. Visit Norman agrees to prepare and submit to Council for review a travel policy for all out-of-town travel by representatives of Visit Norman. Said policy shall provide in detail the amount to be paid and criteria for the reimbursement of or payment for travel expenses.

2. **Reporting**

- A. Visit Norman agrees to devote its best efforts to the City's interest and to endeavor in every way to make the promotion of the City as a convention and tourism center successful. Visit Norman understands and agrees that the establishment of objective criteria by which to judge Visit Norman's performance is necessary and an important part of this Agreement. As part of its reports to the City Council and in any event no less than semi-annually, Visit Norman shall provide Council with the information set forth herein.
- B. Visit Norman shall report to the City no less than approximately semi-annually, with information that provides the City with a reasonably good understanding of the activities that Visit Norman has undertaken since the prior reporting, through efforts to encourage, promote, and foster the convention and tourism development of the City. The information will provide to the City with knowledge as to the Visit Norman's work in areas such as, but not limited to, the following:
 - i. Convention and Sports Activities and Performance Measures;
 - ii. Marketing and Communications Activities and Performance Measures;
 - iii. Group Tour Activities and Performance Measures;
 - iv. Funding efforts for Tourism and Promotion (such as the State of Oklahoma Quality Events program); and
 - v. The total return on investment, with such figures as may be related to visitor spending, convention sales and marketing/communications.
- C. Visit Norman shall furnish quarterly financial reports that include revenue and expense reports compared to budget and balance sheets covering the period and the year-to-date. The year-end financial report submitted by Visit Norman to the City shall include an audited financial statement for the previous year. Said audited financial statement shall be furnished by Visit Norman to the City as soon as reasonably possible after the close of the previous fiscal year.

3. Funding

- A. The parties hereto agree that of the sums collected from the Norman Transient Guest Room Tax, the City of Norman shall retain Four Percent (4%) to reimburse the City for its administrative costs involved in administering the tax and administering the contract. Of the remaining Ninety-Seven Percent (97%), 59.375% shall be paid to Visit Norman as compensation for its services rendered during the term of the Agreement. Of the remaining tax collected, 15.625 % shall be set aside for the Norman Parks Department.
 - i. Of the revenues received by Visit Norman from the Norman Transient Guest Room Tax Ordinance, 15.79% shall be dedicated to the promotion of sports tourism in Norman, and improvements to Norman sports facilities.
- B. The City agrees to pay to Visit Norman the funds received in monthly increments during the terms of this Agreement. Prior to May 1 of each year, Visit Norman shall prepare and submit to the City Council a detailed plan of work and integrated budget for Ninety-Five Percent (95%) of the estimated revenues of the next fiscal

year. The City's contribution to Visit Norman's estimated revenues shall be based upon the City Manager's estimate. Visit Norman may not spend funds until both the detailed annual plan of work and integrated budget are approved by the City Council. Funds will not be available from the room tax fund until appropriated by the City Council.

4. Term of Agreement

- A. The terms of this Agreement shall be for a one-year period commencing on the 1st day of July, 2023, and shall terminate on the 30th day of June, 2024, provided, however, that this Agreement shall be self-executing for each new year unless either party hereto, at least sixty (60) days prior to the renewal date, which date shall be the day, one year subsequent, as the commencement date as set forth above, gives notice of intent to terminate this Agreement, in writing, to the current operating address and Manager of the other party.
- B. In case Visit Norman herein enter into an arrangement or bankruptcy or receivership under the laws of the United States and/or any State, either voluntarily or not voluntarily, the City may elect to declare the unexpired term of this Agreement cancelled as of the date of such event.

5. Integration. This Agreement represents the entire and integrated Agreement between the parties. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may only be changed by a written amendment executed by all parties.

6. Waiver. The Waiver by the City of any breach of any term, condition, or covenant herein contained shall not be deemed a waiver of such term, condition or covenant or any subsequent breach of the same, or any other term, condition or covenant.

7. Modification. No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by all parties hereto.

8. Severability. Any provision of this contract which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States, State of Oklahoma or City of Norman shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent the contract is capable of execution.

WITNESS our hands the ____ day of _____, 2023, at Norman, Oklahoma.

NORMAN CONVENTION AND VISITORS BUREAU, INC.

By: _____
<name>, President

ATTEST:

Corporate Secretary

APPROVED this ____ day of _____, 2023, by the Norman City Council.

Larry Heikkila, MAYOR

ATTEST:

Brenda Hall, City Clerk

APPROVED as to form and legality this ____ day of _____, 2023.

CITY ATTORNEY

File Attachments for Item:

36. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-24: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND PROJECTIONE LLC dba PROJECT ONE STUDIO IN THE AMOUNT OF \$89,000 FOR THE DESIGN AND CREATION OF A SCULPTURE TO BE PLACED AT THE GRIFFIN PARK FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Jason Olsen, Director of Parks and Recreation

PRESENTER: Jason Olsen, Director of Parks and Recreation

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-24: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND PROJECTIONE LLC dba PROJECT ONE STUDIO IN THE AMOUNT OF \$89,000 FOR THE DESIGN AND CREATION OF A SCULPTURE TO BE PLACED AT THE GRIFFIN PARK FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND.

BACKGROUND:

The City of Norman and the Norman Arts Council (NAC) have partnered in projects to install art in public places within the City of Norman. Through this partnership, the NAC has purchased art pieces, and the City provides a location for the piece(s) within public spaces owned by the City of Norman.

With the adoption of NORMAN FORWARD, the City committed to expending an amount not to exceed 1% of the aggregate construction costs of significant facilities and community park improvements costs on public art at those facilities and parks. Because of the City's positive relationship with the NAC and the NAC's commitment to the sense of community fostered by public art, the NAC has agreed to expand the partnership with the City of Norman to assist with the selection, location, and installation of public art purchased with Norman Forward sales tax revenue.

Under the terms of the approved Services Agreement, Contract K-1516-132, and all amendments thereto, the NAC will be the administrator for selecting, locating, and installing public art purchased with Norman Forward sales tax funds. The NAC has administered the selection of public art through four phases: (a) Phase I: Project Development, including research into similar projects and assembly of a Project Team to evaluate the public art opportunities; (b) Phase II: Selection Process, including project announcement and advertising, "blind jury" review of the submission, and ultimate selection of and contracting with an artist; (c) Phase III Execution and Installation, including coordination with the City for permitting and approvals during fabrication and installation of the selected artwork; and (d) Phase IV: Public Engagement and Education, including design and installation appropriate markers and other means of creating public awareness and appreciation for each work of art through press releases, social media, and other appropriate channels, as well as the care and maintenance of each work of art.

Under the terms of the Services Agreement, the City of Norman has funded public art installed at or as a part of Norman Forward sales tax-funded projects up to 1% of construction costs for the Central Library, East Library, Westwood Family Aquatic Center, and Westwood Tennis, Ruby Grant Park, Andrews Park, and have planned the future installation of artwork at the Young Family Athletic Center ("YFAC"), Saxon Park, Reaves Park, Griffin Park, and the Adult Education and Wellness Center. These costs (the "Norman Forward Public Arts Fund" or "NFPAF"), aggregated together, were initially estimated to be \$1.2 million.

Of the NFPAF, at least 90% shall be allocated to art selection, artist fees, fabrication, installation, and maintenance. The remaining amount, up to 10% of the total NFPAF, is paid to NAC as an administrative fee. The City will make the administrative fee available to NAC as projects come forward. The NAC will submit quarterly reports detailing progress, including funds received and expended. The Services Agreement is for an initial one-year term. It renews automatically for subsequent one-year terms so long as Norman Forward revenues remain for the purchase and installation of public art.

DISCUSSION:

Griffin Park, located at 1001 E Robinson Street, has reached the point where an artist has been selected, and a final contract with the chosen Artist is proposed for City Council consideration.

The Selection Panel Advisory Board and the Norman Arts Council Board began the artist selection process; the Board recommended the retention of artist Adam Buente of PROJECTiONE LLC D/B/A Project One Studio to build and install a sculpture of a three-dimensional replication of wind graphs using the color gradients that reflect wind intensity and direction entitled "Windrose " at the site.

The sculpture is composed of two colorful, curved structures. One is an easy-to-interact 11 feet tall while the other is an eye-catching 21.5 feet tall.

The Artist is responsible for the sculpture, the delivery, installation, and securing of the work in a foundation/footer designed by a licensed engineer. In comparison, the City will be responsible for the concrete decking and any associated landscaping.

The sculpture is proposed to be completed and installed no later than March 31, 2024. In addition, before implementing any changes to the sculpture, the Artist must obtain approval from the City of Norman. The total cost of this contract is \$89,000, \$45,500 of which is payable upon delivery of the signed contract and issuance of an Artist's invoice; \$22,250 of which is due upon 50% completion of the two figures of the sculpture; \$11,125 upon completion of 100% of the sculptures; and the final \$11,125 upon final acceptance of the work by the City.

Final acceptance will be determined solely by the City of Norman. The City of Norman retains the right to subsequently remove the work if it presents a safety hazard or cannot be reasonably restored to its original structural or aesthetic integrity.

Norman Forward Public Arts Project, Construction (account 51795500-46101; project NFP100) has adequate funds available to cover the award of this contract.

RECOMMENDATION:

Based upon the foregoing, City Staff recommends that Council approve Contract K-2324-24 with PROJECTiONE LLC for the fabrication and installation of artwork at Griffin Park.

K-2324-24
 Contract to Commission Artwork
 Between
 City of Norman, Oklahoma
 And
 PROJECTiONE LLC d/b/a Project One Studio

THIS CONTRACT, made this _____ day of _____, by and between the City of Norman (hereinafter referred to as the "Owner"), and PROJECTiONE LLC d/b/a Project One Studio (hereinafter referred to as the "Artist") for a work of art incorporated herein by reference (hereinafter referred to as the "Work") to be placed in Griffin Park, at 1001 E Robinson St., Norman, Oklahoma.

WHEREAS, the City Council of the City of Norman believes the beautification of Griffin Park will further enhance the quality of life in Norman, Oklahoma;

WHEREAS, all parties wish to promote and maintain the integrity and clarity of the Artist's ideas and statements as represented by the Work;

WHEREAS, the Selection Panel Advisory Board and the Norman Arts Council Board recommend the retention of the Artist for this Work;

WHEREAS, the parties wish to have the creation of the Work governed by the mutual obligations, covenants, and conditions herein.

THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter set forth and other valuable considerations, the parties hereto agree as follows:

I. The Project: The Scope of Services

- A. The Artist will design, execute, fabricate, transport, install and document the Work. These services shall be performed by Artist, and their assistants, as independent contractors.
- B. Artist agrees that said Work will be consistent with and substantially similar to the design concept presented to the Selection Panel Advisory Board and the Norman Arts Council Board. As design details are finalized, Artist will update the Owner.
- C. The Owner agrees to purchase the Work, under the terms and conditions of this contract upon final approval and acceptance of the Work by the Owner.
- D. The permanent location for the work shall be in Griffin Park, at 1001 Robinson St., Norman, Oklahoma.

- E. The Artist shall perform all services and furnish all supplies, materials and equipment necessary for the design, execution, fabrication, transportation and installation of the Work. The Owner will make equipment for installation available.
- F. The Owner shall make known its specifications regarding specific location, mounting, installation and other issues related to the finished product's delivery and installation, to the Artist prior to the rendering of their services.
- G. The Owner in consultation with the Artist shall determine the arrangement and placement of the final Work.
- H. The Artist shall be responsible for the delivery, installation, and securing of the Work on a concrete base prepared, by the Owner, at the site in Norman, Oklahoma.
- I. The Artist shall coordinate, with the Norman Arts Council, on outreach program design, including number, duration, form, and delivery type.

II. Execution of the Work

- A. The Artist shall complete the fabrication of the work in substantial conformity with the design as recommended by the Norman Arts Council Board and approved by the Owner
- B. Prior to implementation of any significant changes in the Work, the Artist shall present to the Owner in writing, for further review and approval, a thorough description of such proposed changes. A significant change is any change affecting the scope, intent, design, color, size, material or location of the Work not permitted by, or not in substantial conformity with, the approved design. Owner must approve the proposed changes prior to continued work by the Artist.
- C. In performance of the Work described herein, the Artist shall comply with all applicable State and local laws, rules and regulations.
- D. The Artist shall complete the Work by March 15, 2024. Should the work be ready for delivery prior to March 1, 2024, the Artist shall keep the work safely stored at its studio or other location. The installation of the work will be at a date mutually agreeable between the Artist and the Owner, but no later than March 31, 2024.
- E. The Owner shall notify the Artist of construction delays resulting in delays in site preparation prior to the scheduled delivery date or installation date.

A new date shall be agreed upon by the Owner and Artist for completion, delivery and installation of the Work.

- F. The Owner shall always grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Client in performing its obligations under this Agreement or in completing the Project, or if conditions beyond the Artist's reasonable control such as, but not limited to, acts of nature; pandemic, national, state, or local quarantine or stay at home order, war or warlike operation; superior governmental regulation or control; public emergency render timely performance of the Artist's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract; provided that such obligations shall be suspended only for the duration of such conditions.
- G. The Artist shall notify the Owner in writing when fabrication of the Work is completed and the Artist is ready to deliver the Work and install it on the site.

G. Within forty-five (45) days after installation of the Work, and prior to final payment, the Artist shall make available to the Owner high quality digital images of the completed Work

- H. The Artist shall furnish the Owner with a full written narrative description of the Work.
- I. The Artist shall provide the Owner written instructions for appropriate maintenance and preservation of the Work.
- J. The Artist shall notify the Owner in writing when all services have been completed. Final Acceptance will be effective as of the earlier to occur of (i) the date of the Client's written notification of Final Acceptance or (ii) the thirtieth (30th) day after the Artist has sent the written notice to the Client of completion, unless the Client, upon receipt of such notice and prior to the expiration of the 30-day period, gives the Artist written notice specifying and describing the services which have not been completed. Final acceptance shall be determined solely by the Owner and shall constitute the acknowledgment that the Work has been satisfactorily completed and installed according to the terms of this Agreement.
- K. Ownership of the Work shall pass to the Owner (City of Norman) upon final acceptance.

III. Warranties and Copyright

- A. The Artist represents and warrants that:

- i. The Work is solely the result of the artistic and creative efforts of the Artist;
 - ii. The Work is unique and original and does not infringe upon any copyright;
 - iii. The Work has not been accepted for sale elsewhere; and
 - iv. The Work is free and clear of any liens from any source whatever.
- B. The Artist represents and warrants that:
- i. The Work, as fabricated and installed, will be free of defects in material and workmanship, including any defects of "inherent vice" or qualities which cause or accelerate deterioration of the Work; and
 - ii. Reasonable maintenance of the Work will not require procedures substantially in excess of those described in the maintenance recommendations to be submitted by the Artist; and
 - iii. The warranties described in this section shall survive for a period of one (1) year after the final acceptance of the Work. The Owner shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the Owner, and at no cost to the Owner, reasonably and promptly cure the breach of any such warranty, which is curable by the Artist and which cure is consistent with professional conservation standards. This includes making repairs to the Work or re-fabricating the Work arising out of defects consisting of "inherent vice" or qualities accelerating deterioration of the Work which appear for a period of one (1) year after the installation and which the Artist shall correct.
 - iv. Except as otherwise specifically provided, no other warranty or representation, either express or implied, is included or intended in the Artist's proposals, reports, deliverables, and/or communications. The warranties in this Section are conditional and shall be voided by the failure of the Client to maintain the Work in accordance with the Artist's specifications, including the Maintenance Manual, and the applicable conservation standards. If the Client fails to maintain the Work in good condition, the Artist, in addition to other rights or remedies the Artist may have in equity or at law, shall have the right to disown the Work as the Artist's creation and request that all credits be removed from the Work and reproductions thereof until the Work's condition is satisfactorily repaired. THE ARTIST DISCLAIMS ANY WARRANTIES ARISING OUT OF THE CLIENT'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR ANY DAMAGES OR LOSSES TO THE ARTWORK ARISING OUT OF VANDALISM, INTENTIONAL DAMAGES OR OTHER ACTS OUTSIDE THE REASONABLE CONTROL OF THE PARTIES.

EXCEPT AS EXPRESSLY PROVIDED HEREIN, THE ARTIST MAKES NO WARRANTIES TO THE CLIENT, WRITTEN OR ORAL, STATUTORY OR EXPRESS OR IMPLIED, INCLUDING

WITHOUT LIMITATION, THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE. THE CLIENT'S EXCLUSIVE REMEDY AND THE ARTIST'S ENTIRE LIABILITY ARISING FROM OR IN CONNECTION WITH THE SERVICES AND THE ARTWORK (INCLUDING WITHOUT LIMITATION FOR BREACH OF WARRANTY OR INFRINGEMENT) SHALL BE, AT THE ARTIST'S SOLE OPTION, THE MODIFICATION OR REPLACEMENT OF THE SERVICES OR WORK OR A REFUND OF ALL OR PART OF THE FEES FOR THE SERVICE PERFORMED.

This Section will survive termination or expiration of this Agreement for any reason.

- C. The Artist retains all rights under the Copyright Act of 1976 under 17 U.S.C. § 101 *et seq.*, Visual Artists Rights Act of 1990 (VARA) 17 USC §106A, and all other rights in and to the Work except ownership and possession, except as such rights may be limited by this Agreement. The Artist shall not make any additional exact duplicate reproductions of the final Work, nor shall the Artist grant permission to others to do so except with the written permission of the Owner. The Artist grants to the Client and Owner and its assigns an irrevocable license to make photographic or graphic reproductions of the Work for non-commercial purposes, including but not limited to reproductions used in advertising, brochures, media publicity and catalogs or other similar publications, if the Artist is duly credited, except where the Work is merely an incidental feature of a photograph. A plaque provided by the Owner, identifying the title, date, and Artist, shall be placed on or near the Work. The Artist shall have the right to use photographs of the completed Work as an example of his work and in books or brochures he may publish.

IV. Fee for Services

- A. The total purchase price of creation, preparation and completion of the final Work shall be \$89,000. This fee does not include the cost to Owner for preparation of the site for installation. Owner shall not provide any additional compensation for any alterations or revisions in the final Work which substantially depart from the approved preliminary models and specifications and which cause the Artist an unusual and unanticipated expense.
- B. The Artist shall receive payments from the Client to the Artist to be paid in the amount of \$89,000.00 as follows:

- i. \$44,500.00 within thirty (30) days, upon delivery of signed contract by the Owner and Artist and the issuance of Artist's invoice;
- ii. \$22,250.00 within thirty (30) days, upon documentation of the 50% milestone of completion of fabrication of the Work;
- iii. \$11,125.00 within thirty (30) days, upon documentation of the 100% milestone of completion of fabrication of the Work;
- iv. \$11,125.00 within thirty (30) days, upon final acceptance of the Work by Owner.

C. Artist's lack of performance during either of the payment stages listed above shall initiate a 30-day period to cure the deficiency and/or lack of performance upon receipt of written notice from the Owner which provides a statement addressing Owner's dissatisfaction with Artist's performance as well as what steps the Artist may take to cure the inadequate performance. The Artist must cure the deficiency or take reasonable steps towards curing the deficiency within the 30-day period. Upon failure of the Artist to do so, the Owner may pursue any remedies available to them against the Artist at law and in equity, including, but not limited to, the right to terminate this Agreement and reimbursement from Artist for all funds expended by Owner thus far including costs to remove the base or foundation.

D. Artist shall provide proof of completion of the Work by submitting at least ten pictures of the Work from various angles which tend to clearly show the Artist's progression during the stages of fabrication to completion. Additionally, Artist shall submit Form A along with these documents.

V. Funding

- A. Owner guarantees and warrants that it will produce funds in the amount of \$89,000.00 for the completion of the Work.
- B. If any payment from the Owner is past due, the Artist will promptly notify the Owner and the Artist may immediately cease all services until full payment has been made and the Schedule and/or completion date shall be adjusted accordingly. The Artist has no obligation to provide services unless the Owner is in good standing and no amounts are owed to the Artist.

VI. Alteration and De-accession Right

- A. The Owner agrees that it will not consent to intentional alteration, modification, change, destruction of or damage to the Work by the Owner without attempting to consult the Artist.
- B. The Artist shall notify the Owner of changes in their address. The failure to do so, if such failure prevents the Owner from locating the Artist, shall be deemed a waiver by the Artist of the right subsequently to enforce that

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their agents, successors, and assigns.

XI. Integration

This Agreement represents the entire and integrated Agreement between the parties. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may only be changed by a written amendment executed by all parties.

XII. Ownership of Documents and Models

Upon final acceptance, all studies, drawings, designs, maquettes and models prepared and submitted under this Agreement shall be returned to the Artist and shall belong to the Artist unless agreed by all parties.

XIII. Notice

Notice of any breach or other correspondence related to this contract shall be by email or regular mail to the following contacts:

Artist:

Project One Studio
Adam Buente, Owner
Address: 3151 Kirkbride Way, Ste. C
Indianapolis, IN 46222
812-480-6006
Email: adam@p1-studio.com

City:

Jason Olsen
Title: Director of Parks and Recreation
225 N. Webster Ave.
Norman, OK 73070
Email: Jason.Olsen@normanok.gov

XIV. Modification

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by all parties hereto.

XV. Severability

Any provision of this contract which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States, State of Oklahoma or City of Norman shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent the contract is capable of execution.

ARTIST



PROTECTIONE LLC d/b/a Project One Studio
 Adam Buente, Owner
 Address: 3151 Kirkbride Way, Ste. C
 Indianapolis, IN 46222
 812-480-6006
 Email: adam@p1-studio.com

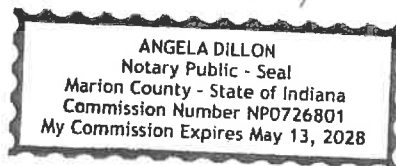
Before me, the undersigned, a Notary Public in and for said County and State, on this 21st day of June, 2023, Adam Buente, Owner AD and AD personally appeared AD, to me known to be the identical person(s)/(company title) Owner who executed the foregoing and acknowledged to me that he executed the same as his free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year last above written.



Notary Public

My Commission Expires: 05/13/2028



CITY OF NORMAN

APPROVED this _____ day of _____, 2023, by the Norman City Council.

Larry Heikkila, MAYOR

ATTEST:

Brenda Hall, City Clerk

APPROVED as to form and legality this 5th day of July, 2023.


CITY ATTORNEY

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SCHEDULE I

I. Estimate of Project Schedule

- A. Design Development / Engineering: within sixty (60) days, upon delivery of signed contract by the Owner and issuance of Artist's first payment
- B. Fabrication: within four (4) months, upon approval of Engineered Drawings
- C. Installation: within 14 days, upon approval of site preparation conditions and weather permitting. (Installation can be pushed into early spring 2024 if necessary)

Form A

I, ADAM BUENTE, hereby declare that the accompanying documents truthfully and accurately depict the most current status of the Work. I further declare that I produced and created the Work pictured in the accompanying documents.

Artist/ Project Manager

Date

[Signature] 6/21/23

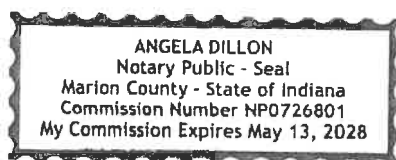
Address: 3151 KIRKBRIDE WAY, STE C.
INDIANAPOLIS, IN 46222

State of Indiana
 County of Marion

Sworn to and subscribed before me this 21st day of June, 2023.

[Signature]
 Notary Public

My commission expires: 05/13/2028



Griffin Sports Complex | Norman, OK

WindRose

Concept Proposal • April 24, 2023



We Love Color



Design

Fab & Install

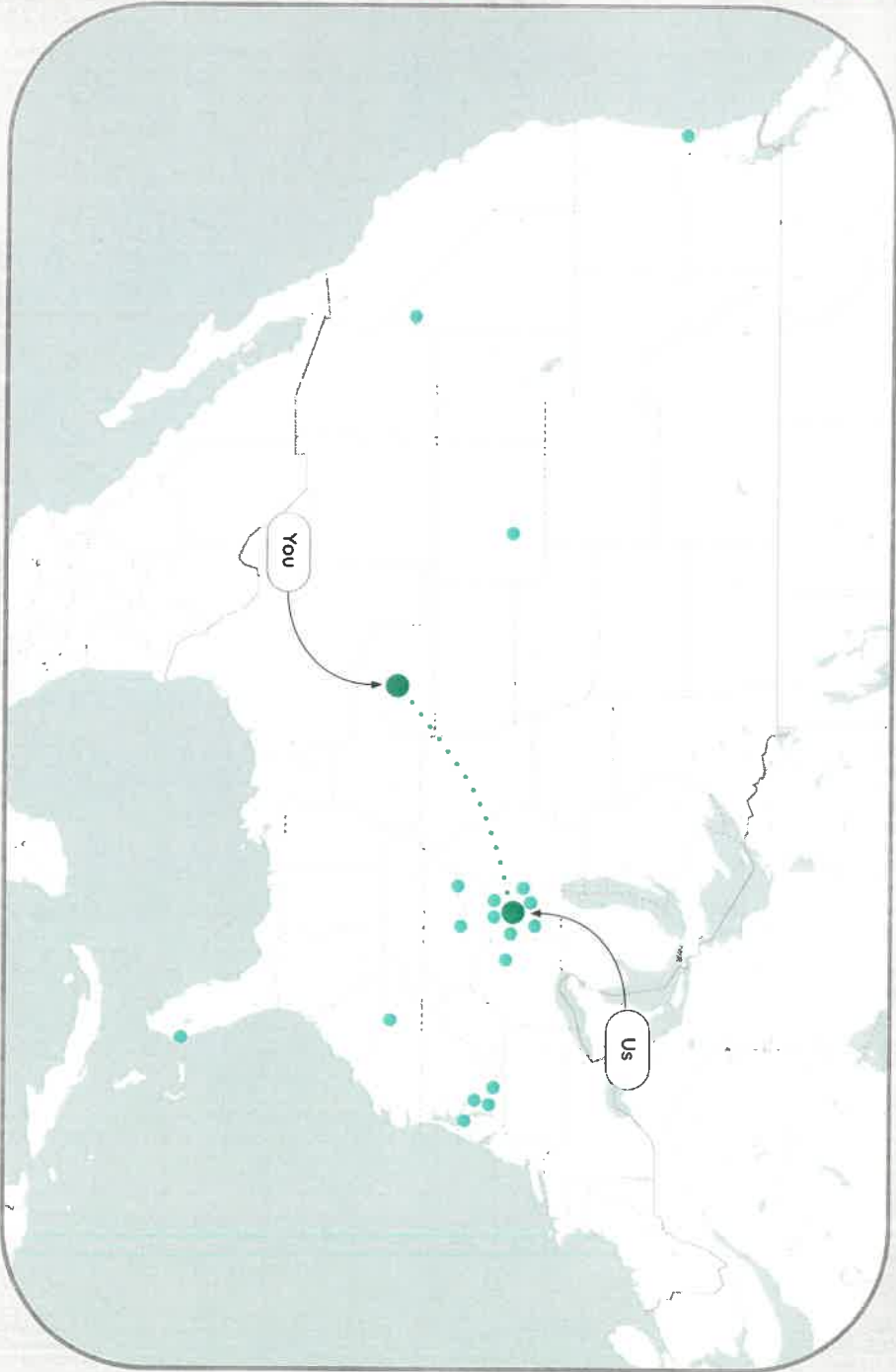


That's Me!

Project One Studio fabrication shop



Public Art





Lake Thunderbird

Visiting Norman



Wind is a floating wave of air, whose undulation continually varies.

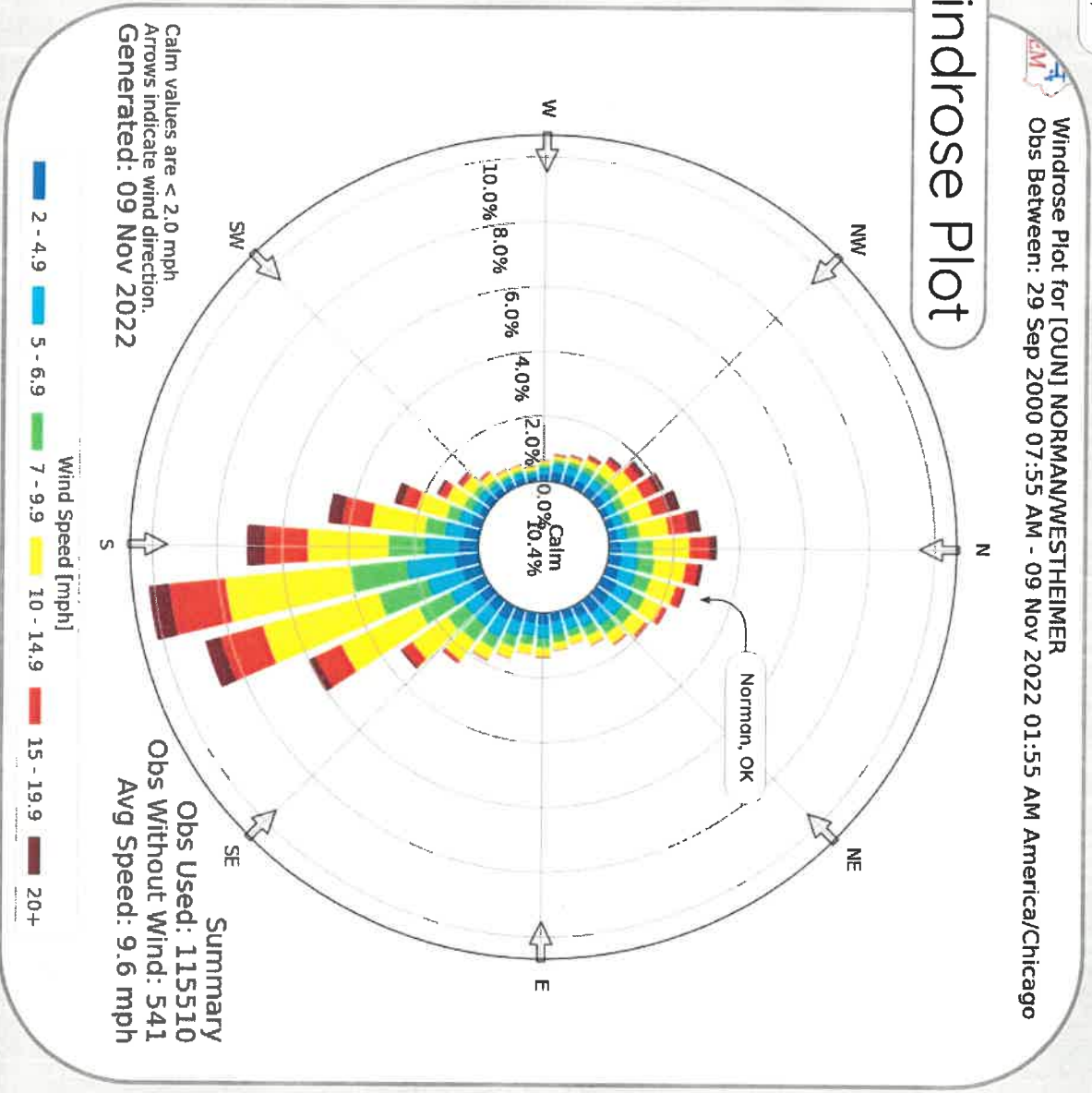
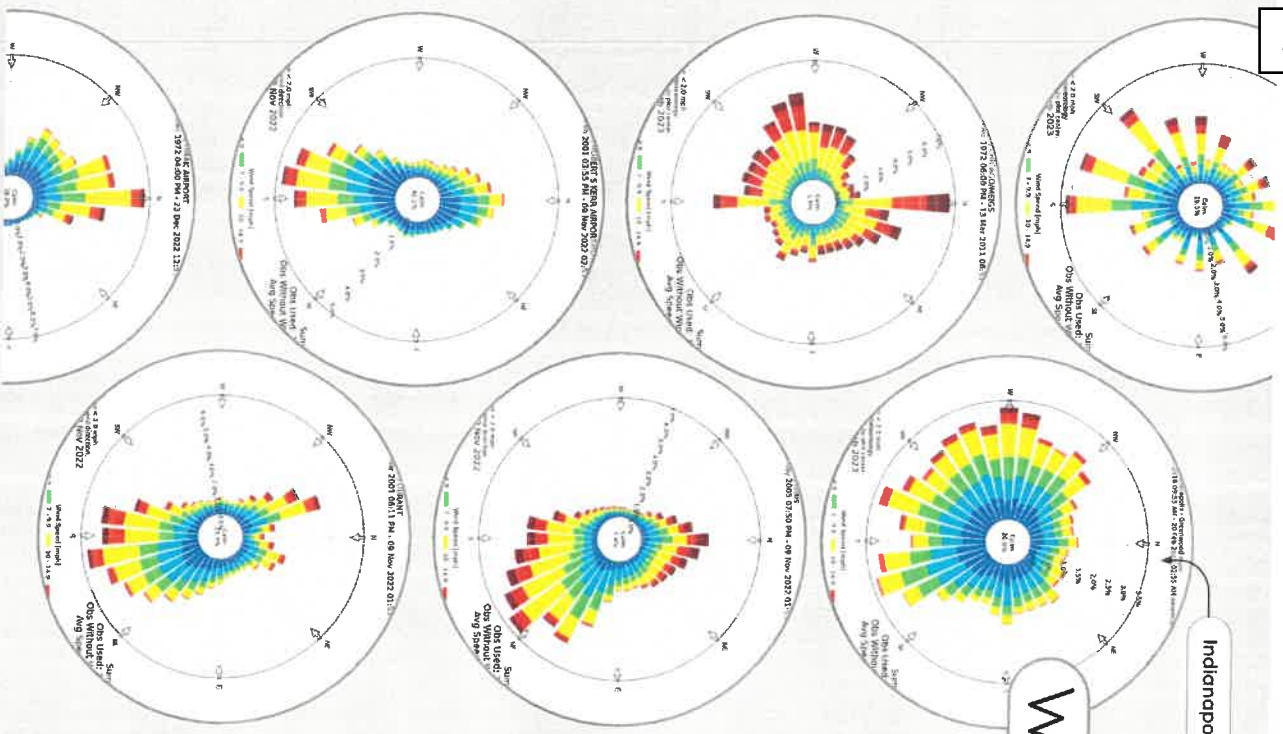
Vitruius

Concept Narrative

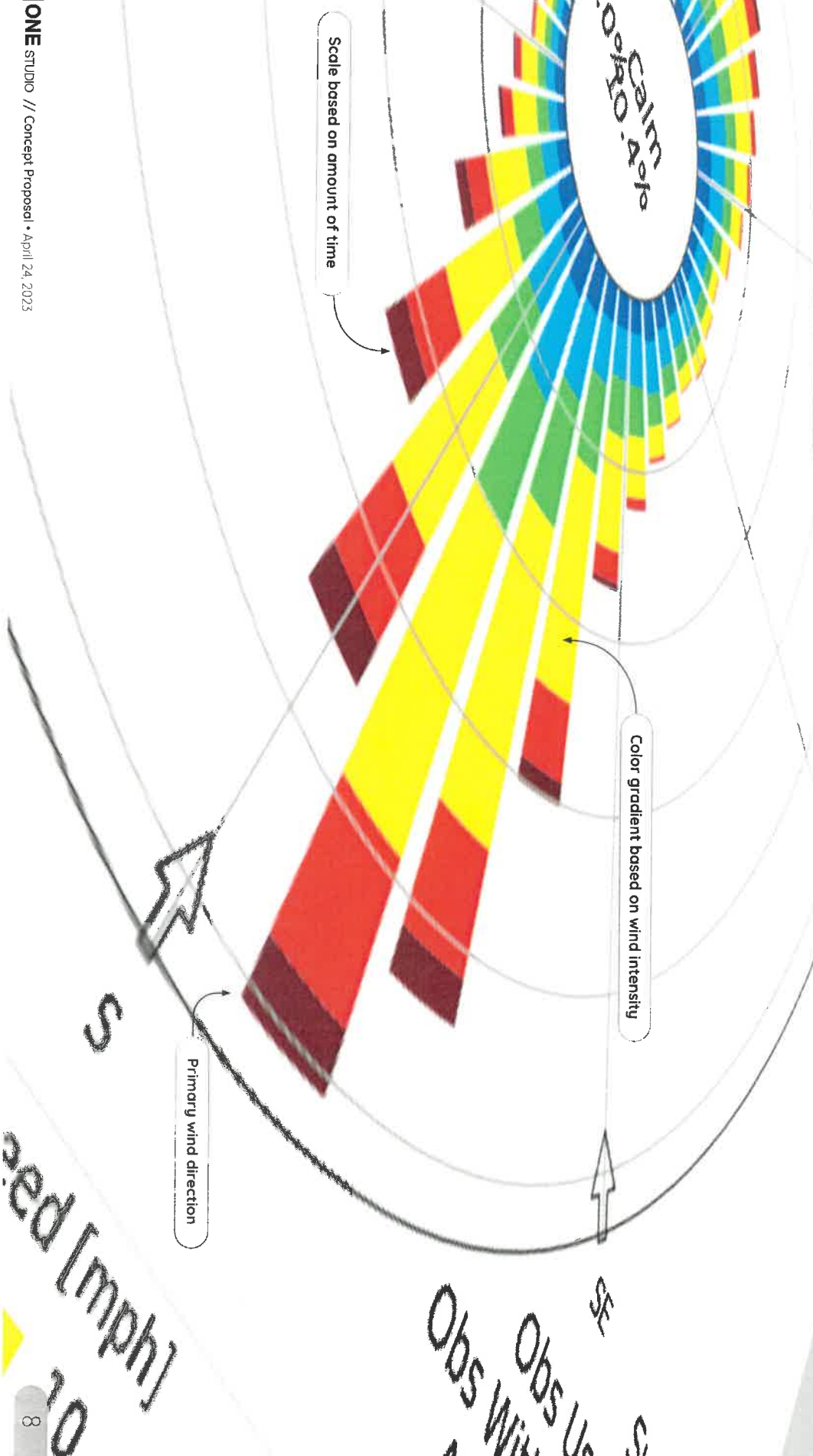
Windrose is a playful yet meaningful addition to the landscape of Norman. It serves as a beacon, becoming a focal point for the community, connecting people, and creating a sense of place. It is an exploration of the ever-changing forces of wind as well as the connection between Norman's natural environment and Griffin Park. The constant movement of air, sometimes barely noticeable and other times turbulent, reminds us that we are all connected by nature.

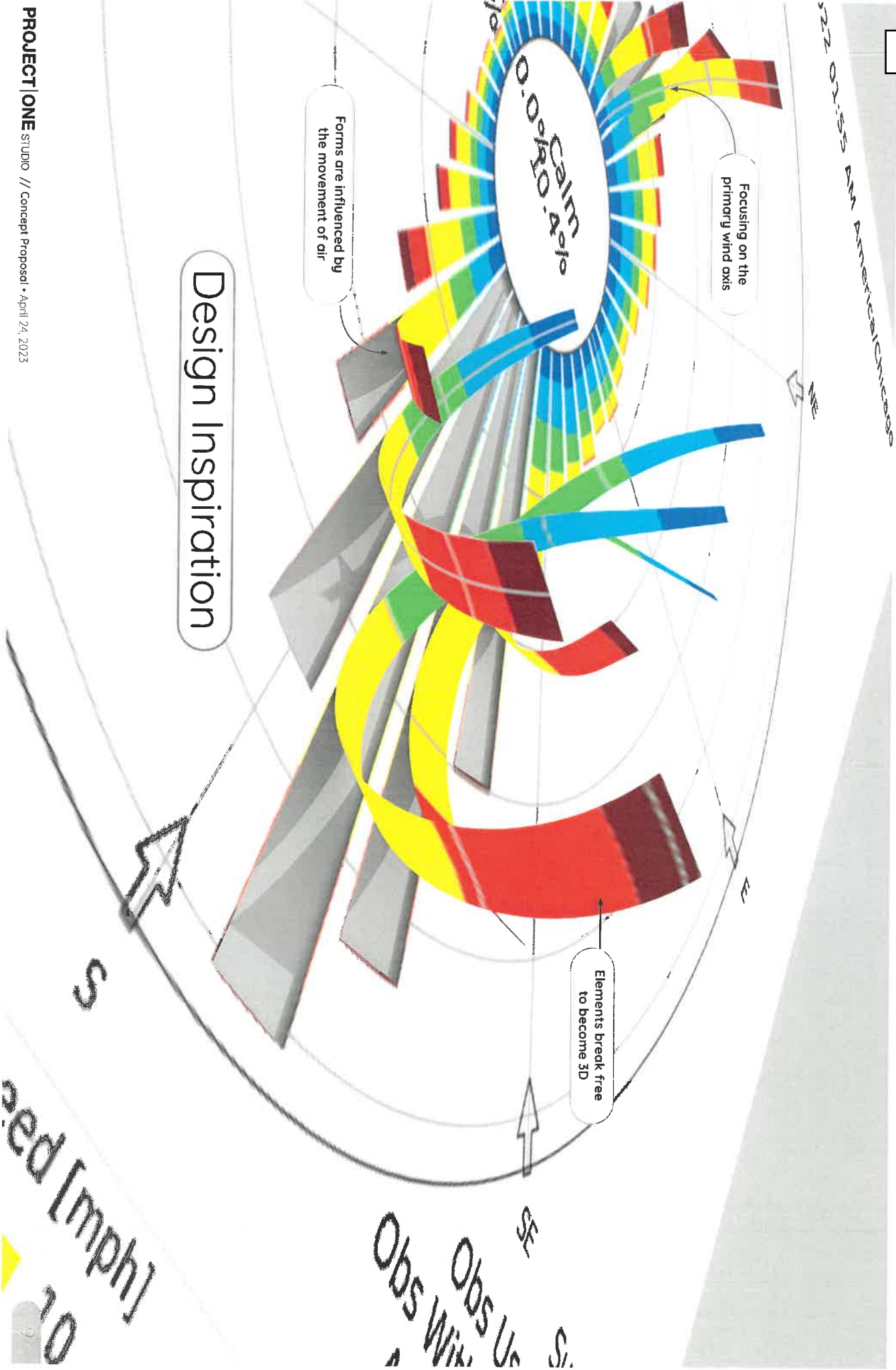
The project abstractly dissects Norman Oklahoma's *Windrose* plot as a generator of form, color, and site-specific integration. It seeks to provide moments of interaction for families, teams, and players visiting the park. Unprogrammed play, vibrant displays of color, and soothing gestural forms allow for various interpretations, ensuring that the artwork engages a diverse group of people and includes many ages, backgrounds, and abilities.

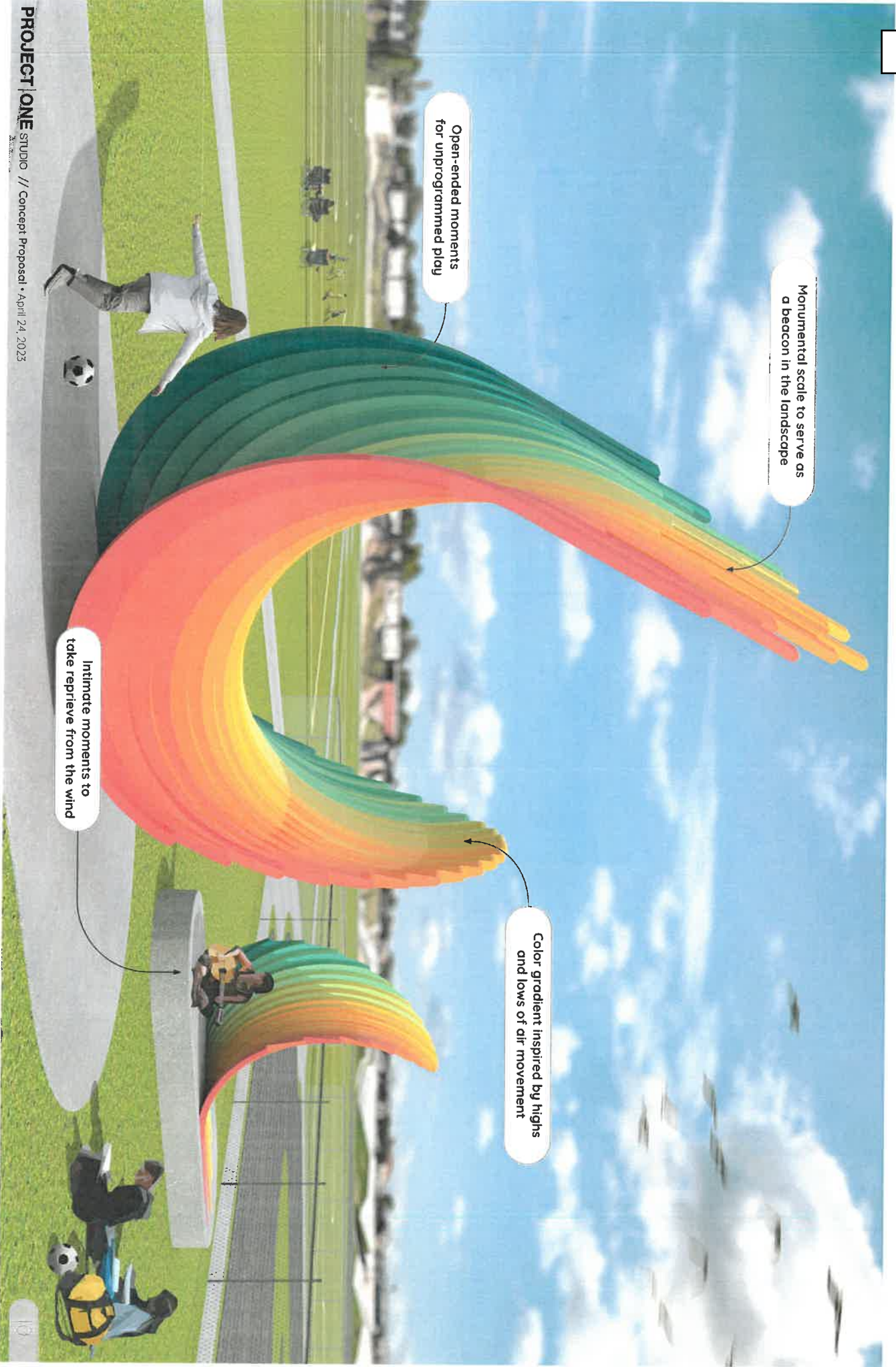
***Windrose* is an uplifting symbol of hope, reminding us not only to appreciate the natural beauty around us, but also the importance of creating connections with one another.**

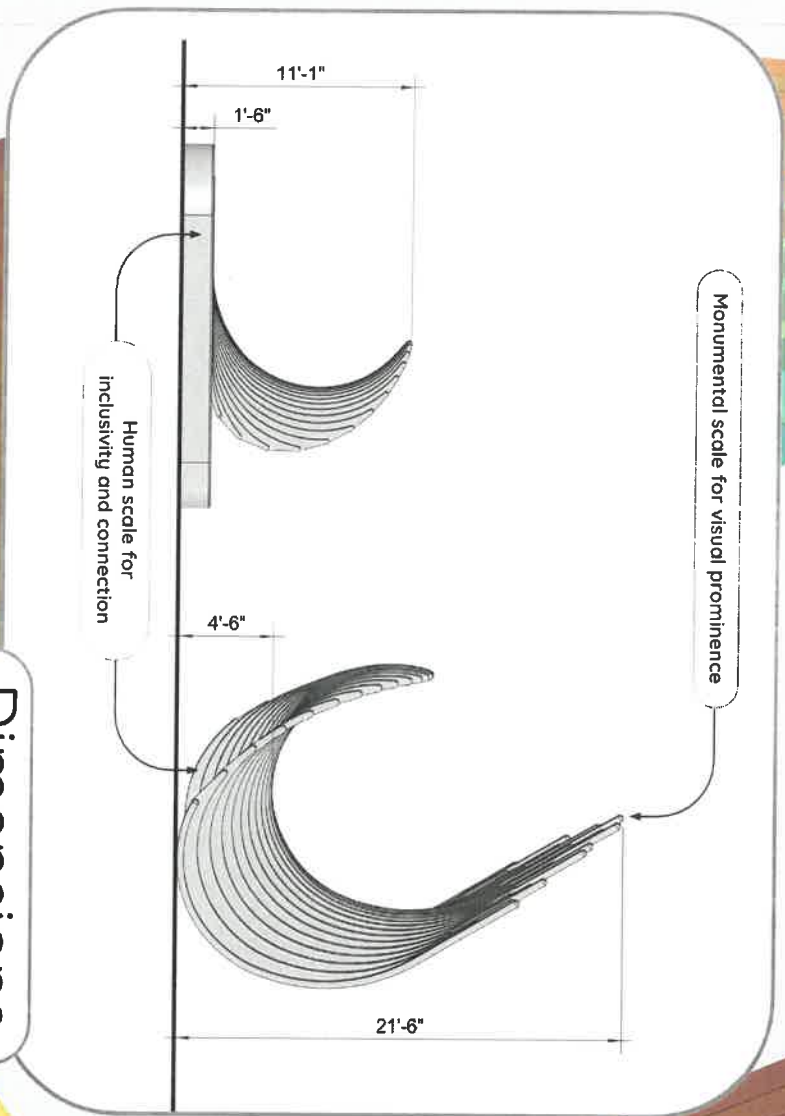


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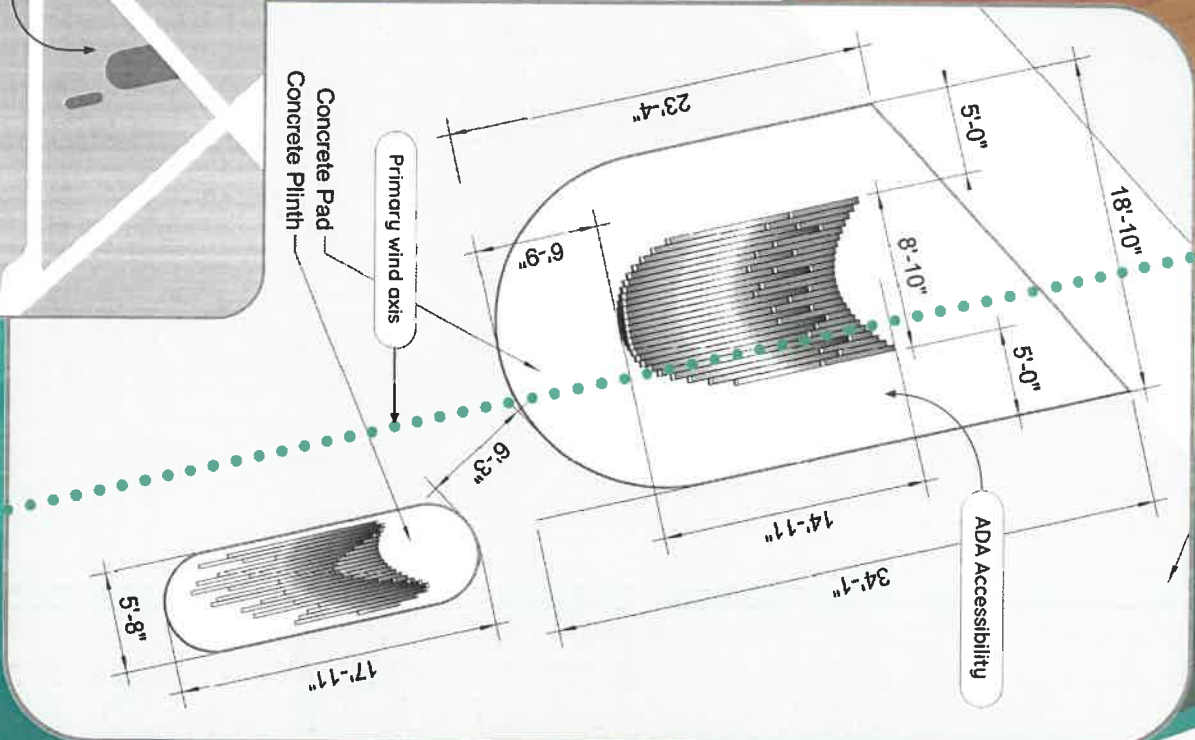
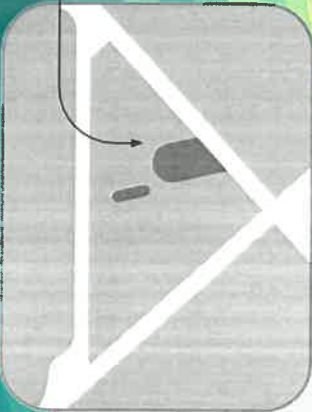




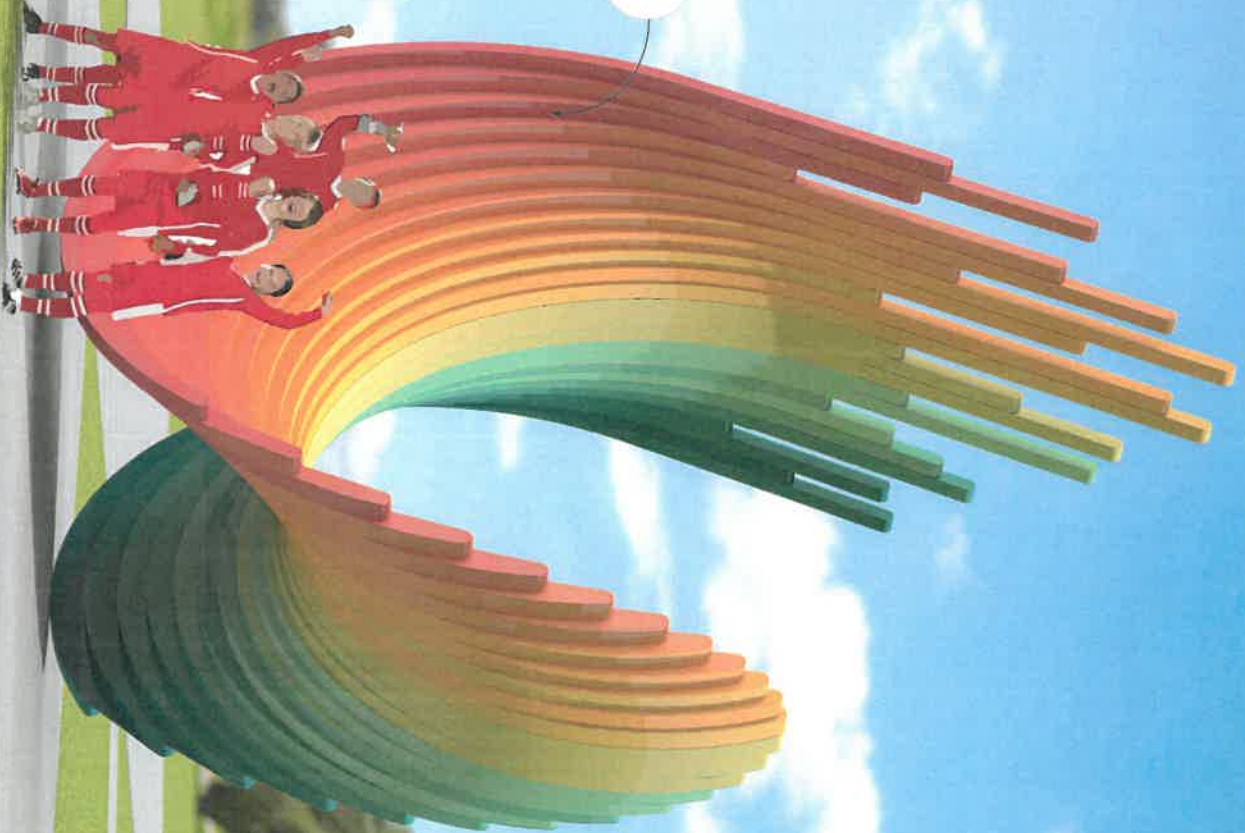


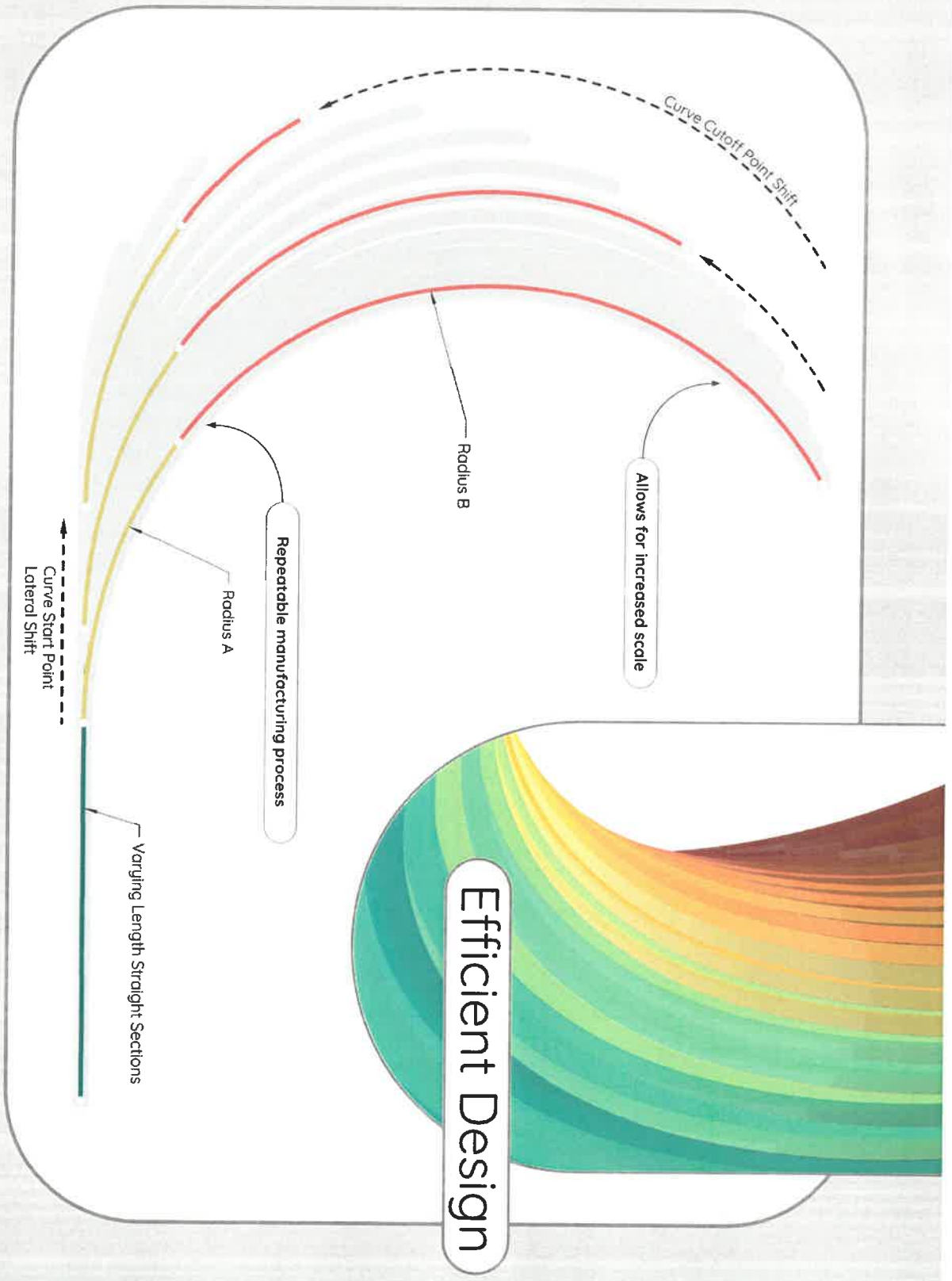
Dimensions

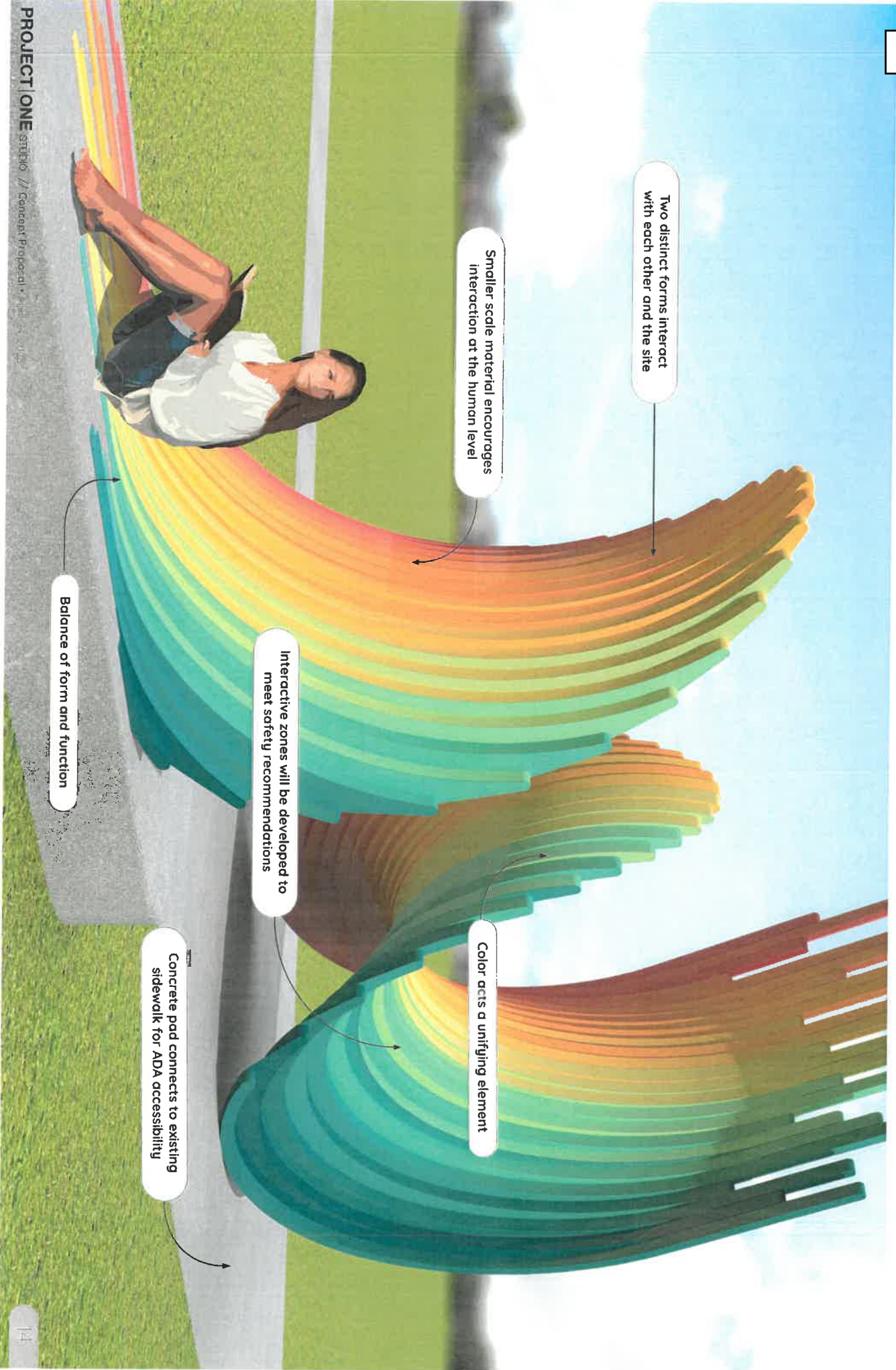
Proposed Site Location



An iconic larger form will serve as wayfinding, a vibrant backdrop, and a reminder of the natural world around us







Two distinct forms interact with each other and the site

Smaller scale material encourages interaction at the human level

Interactive zones will be developed to meet safety recommendations

Color acts a unifying element

Concrete pad connects to existing sidewalk for ADA accessibility

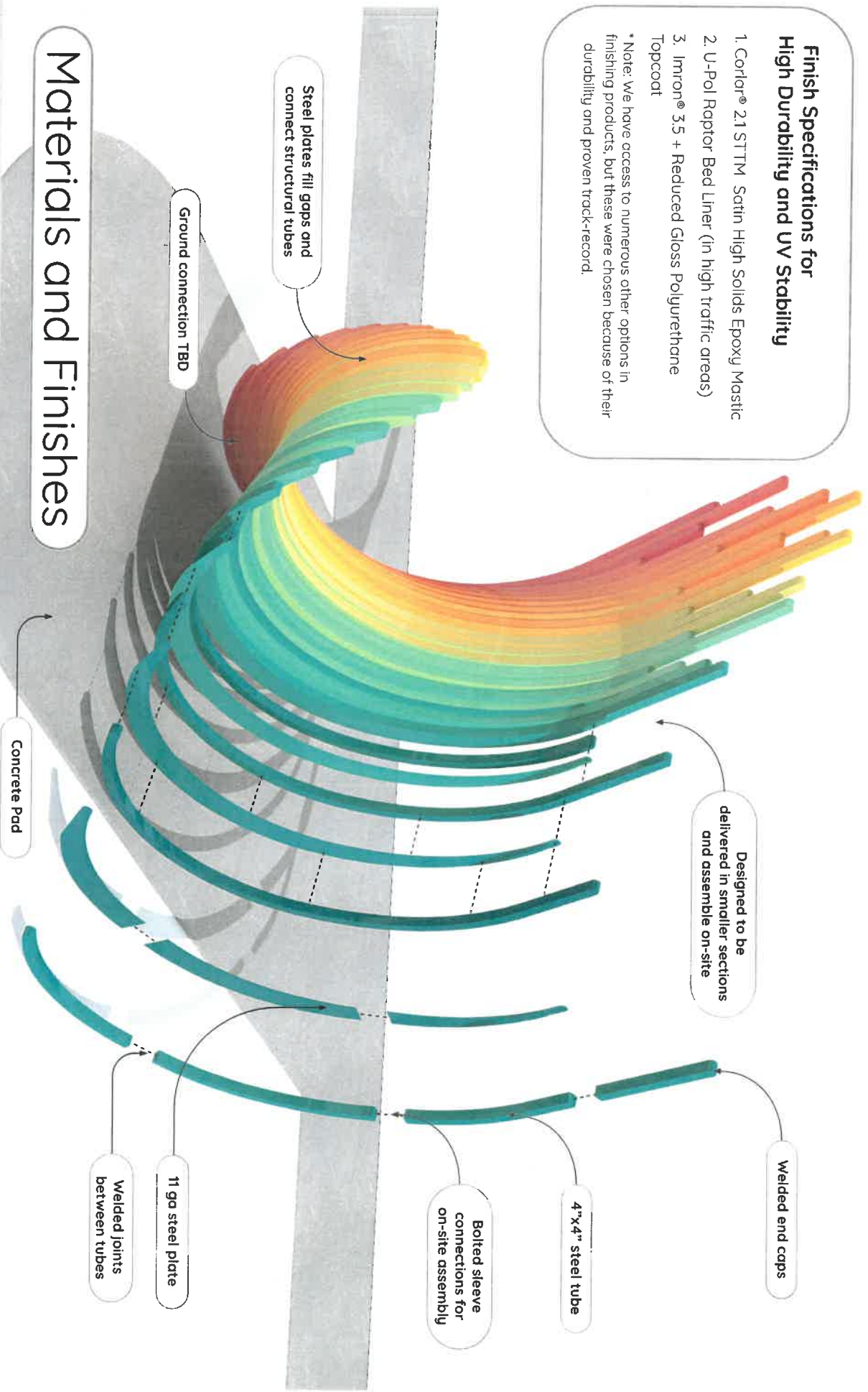
Balance of form and function

Finish Specifications for High Durability and UV Stability

1. Corlar® 2.1 STTM Satin High Solids Epoxy Mastic
2. U-Pol Raptor Bed Liner (in high traffic areas)
3. Imron® 3.5 + Reduced Gloss Polyurethane Topcoat

* Note: We have access to numerous other options in finishing products, but these were chosen because of their durability and proven track-record.

Materials and Finishes



Color Possibilities



We can work with you to
select the perfect color palette

Abstraction allows for a variety of interpretations beyond our concept, engaging people from all backgrounds and ages



Preliminary Budget

Material	\$12,500.00
Fabrication	\$28,000.00
Finishing	\$5,000.00
Installation	\$18,000.00
Engineering	\$2,000.00
Artist Fee	\$13,300.00
Contingency (Artist-Held)	\$4,500.00
Concrete (*Partial)	\$5,700.00
Total	\$89,000.00

* Budget assumes a portion of the cost for the larger concrete pad will be offset by the client to connect to existing sidewalk.

** Since we design, fabricate, and install our work we are able to adjust as necessary to accurately meet budgets and timelines

Schedule

Contracting, Proposal Revision	1 month
Design Development, Engineering	2 months
Fabrication	2 months
Installation	1-2 weeks
Contingency	1 month

May 2023

Nov 2023

Maintenance

- Minimal maintenance required with selected materials and finishes. Mild detergent and water, no abrasives or chemicals.

* Clean as needed based on environmental conditions of the site

- An annual inspection for any excessive wear or deep scratches is recommended. The topcoat can be easily field applied to remedy any damage. *Adding the bedliner in high-traffic areas will greatly reduce any wear issues

- Curving form and limited larger surface areas reduce vandalism concerns. Typical graffiti can be easily removed with standard cleaners

Wind is a floating wave
of air, whose undulation
continually varies.

File Attachments for Item:

37. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-25: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND SKUNK CONTROL IN THE AMOUNT OF \$100,000 FOR THE DESIGN AND CREATION OF A SCULPTURE TO BE PLACED AT THE NORMAN SENIOR WELLNESS CENTER FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Jason Olsen, Director of Parks and Recreation

PRESENTER: Jason Olsen, Director of Parks and Recreation

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-25: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND SKUNK CONTROL IN THE AMOUNT OF \$100,000 FOR THE DESIGN AND CREATION OF A SCULPTURE TO BE PLACED AT THE NORMAN SENIOR WELLNESS CENTER FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND.

BACKGROUND:

The City of Norman and the Norman Arts Council (NAC) have partnered in projects to install art in public places within the City of Norman. Through this partnership, the NAC has purchased art pieces, and the City provides a location for the piece(s) within public spaces owned by the City of Norman.

With the adoption of NORMAN FORWARD, the City committed to expending an amount not to exceed 1% of the aggregate construction costs of major facilities and community park improvements costs on public art at those facilities and parks. Because of the City's positive relationship with the NAC and the NAC's commitment to the sense of community fostered by public art, the NAC has agreed to expand the partnership with the City of Norman to assist with the selection, location, and installation of public art purchased with Norman Forward sales tax revenue.

Under the terms of the approved Services Agreement, Contract K-1516-132, and all amendments thereto, the NAC will be the administrator for selecting, locating, and installing public art purchased with Norman Forward sales tax funds. The NAC has administered the selection of public art through four phases: (a) Phase I: Project Development, including research into similar projects and assembly of a Project Team to evaluate the public art opportunities; (b) Phase II: Selection Process, including project announcement and advertising, "blind jury" review of the submission, and ultimate selection of and contracting with an artist; (c) Phase III Execution and Installation, including coordination with the City for permitting and approvals during fabrication and installation of the selected artwork; and (d) Phase IV: Public Engagement and Education, including design and installation appropriate markers and other means of creating public awareness and appreciation for each work of art through press releases, social media, and other appropriate channels, as well as the care and maintenance of each work of art.

Under the terms of the Services Agreement, the City of Norman has funded public art installed at or as a part of Norman Forward sales tax-funded projects up to 1% of construction costs for the Central Library, East Library, Westwood Family Aquatic Center and Westwood Tennis, Ruby Grant Park, Andrews Park, and have planned the future installation of artwork at the Young Family Athletic Center (“YFAC”), Saxon Park, Reaves Park, Griffin Park, and the Senior Wellness Center. These costs (the “Norman Forward Public Arts Fund” or “NFPAF”), aggregated together, were initially estimated to be \$1.2 million.

Of the NFPAF, at least 90% shall be allocated to art selection, artist fees, fabrication, installation, and maintenance. The remaining amount, up to 10% of the total NFPAF, is paid to NAC as an administrative fee. The City will make the administrative fee available to NAC as projects come forward. The NAC will submit quarterly reports detailing progress, including funds received and expended. The Services Agreement is for an initial one-year term. It renews automatically for subsequent one-year terms so long as Norman Forward revenues remain for the purchase and installation of public art.

DISCUSSION:

The Senior Wellness Center project, located at 602 N. Findlay Ave, has reached the point where an artist has been selected, and a final contract with the selected Artist is proposed for City Council consideration.

The Selection Panel Advisory Board and the Norman Arts Council Board began the artist selection process; the Board recommended the retention of artist Nick Athanasiou of Skunk Control to build and install a sculpture at the site.

The Artist is responsible for the sculpture, the delivery, installation, and securing of the work in a foundation/footer designed by a licensed engineer. At the same time, the City will be responsible for the concrete decking and any associated landscaping.

The sculpture is proposed to be completed and installed by October 31, 2023. In addition, before implementing any changes to the sculpture, the Artist must obtain approval from the City of Norman. The total cost of this contract is \$100,000, \$40,000 of which is payable upon delivery of the signed contract and issuance of an Artist’s invoice, \$30,000 of which is due upon substantial completion of the sculpture, and the final \$30,000 is due upon final acceptance of the work by the City.

Final acceptance will be determined solely by the City of Norman. The City of Norman retains the right to subsequently remove the work if it presents a safety hazard or cannot be reasonably restored to its original structural or aesthetic integrity.

Norman Forward Public Arts Project, Construction (account 51795500-46101; project NFP100) has adequate funds available to cover the award of this contract.

RECOMMENDATION:

Based upon the foregoing, City Staff recommends that Council approve Contract K-2324-25 with Skunk Control for the fabrication and installation of artwork at the Norman Senior Wellness Center.

K-2324-25

Contract to Commission Artwork
Between
City of Norman, Oklahoma
And
Skunk Control

THIS CONTRACT, made this _____ day of _____, by and between the City of Norman (hereinafter referred to as the "Owner"), and Skunk Control (hereinafter referred to as the "Artist") for a work of art incorporated herein by reference (hereinafter referred to as the "Work") to be placed in front of the Norman Senior Wellness Center, at 602 N. Findlay Ave, Norman, Oklahoma.

WHEREAS, the City Council of the City of Norman believes the beautification of the Senior Wellness Center Project will further enhance the quality of life in Norman, Oklahoma;

WHEREAS, all parties wish to promote and maintain the integrity and clarity of the Artist's ideas and statements as represented by the Work;

WHEREAS, the Selection Panel Advisory Board and the Norman Arts Council Board recommend the retention of the Artist for this Work;

WHEREAS, the parties wish to have the creation of the Work governed by the mutual obligations, covenants, and conditions herein.

THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter set forth and other valuable considerations, the parties hereto agree as follows:

I. The Project: The Scope of Services

- A. The Artist will design, execute, fabricate, transport, install and document the Work. These services shall be performed by Artist, and their assistants, as independent contractors.
- B. Artist agrees that said Work will be consistent with and substantially similar to the graphic illustration presented to the Selection Panel Advisory Board and the Norman Arts Council Board.
- C. The Owner agrees to purchase the Work, under the terms and conditions of this contract upon final approval and acceptance of the Work by the Owner.
- D. The permanent location for the work shall be in in front of the Senior Wellness Center, at 602 N. Findley Ave, Norman, Oklahoma.

- E. The Artist shall perform all services and furnish all supplies, materials and equipment necessary for the design, execution, fabrication, transportation and installation of the Work.
- F. The Owner shall make known its specifications to the Artist prior to the rendering of their services.
- G. The Owner in consultation with the Artist shall determine the arrangement and placement of the final Work.
- H. The Artist shall be responsible for the delivery, installation, and securing of the Work on a concrete base prepared, by the Owner, at the site in Norman, Oklahoma.
- I. The Artist shall coordinate, with the Norman Arts Council, on outreach program design, including number, duration, form, and delivery type.

II. Execution of the Work

- A. The Artist shall complete the fabrication of the work in substantial conformity with the design as recommended by the Norman Arts Council Board and approved by the Owner
- B. Prior to implementation of any significant changes in the Work, the Artist shall present to the Owner in writing, for further review and approval, a thorough description of such proposed changes. A significant change is any change affecting the scope, intent, design, color, size, material or location of the Work not permitted by, or not in substantial conformity with, the approved design. Owner must approve the proposed changes prior to continued work by the Artist.
- C. In performance of the Work described herein, the Artist shall comply with all applicable State and local laws, rules and regulations.
- D. The Artist shall complete the Work by September 30, 2023. Should the work be ready for delivery prior to September 1, 2023, the Artist shall keep the work safely stored at its studio or other location. The installation of the the work will be at a date mutually agreeable between the Artist and the Owner, but no later than October 31, 2023. The Artist shall notify the Owner of delivery delays due to, but not limited to, materials supply delays, shipping delays, and travel delays.
- E. The Owner shall notify the Artist of construction delays resulting in delays in site preparation prior to the scheduled delivery date or installation date. A new date shall be agreed upon by the Owner and Artist for completion, delivery and installation of the Work.
- F. The Artist shall notify the Owner in writing when fabrication of the Work is completed and the Artist is ready to deliver the Work and install it on the site.

- G. Within forty-five (45) days after installation of the Work, and prior to final payment, the Artist shall make available to the Owner high quality digital images of the completed Work.
- H. The Artist shall furnish the Owner with a full written narrative description of the Work.
- I. The Artist shall provide the Owner written instructions for appropriate maintenance and preservation of the Work.
- J. Final acceptance shall be determined solely by the Owner and shall constitute the acknowledgement that the Work has been satisfactorily completed and installed according to the terms of this Agreement.
- K. Ownership of the Work shall pass to the Owner (City of Norman) upon final acceptance.

III. Warranties and Copyright

- A. The Artist represents and warrants that:
 - i. The Work is solely the result of the artistic and creative efforts of the Artist;
 - ii. The Work is unique and original and does not infringe upon any copyright;
 - iii. The Work has not been accepted for sale elsewhere; and
 - iv. The Work is free and clear of any liens from any source whatever.
- B. The Artist represents and warrants that:
 - i. The Work, as fabricated and installed, will be free of defects in material and workmanship, including any defects of "inherent vice" or qualities which cause or accelerate deterioration of the Work; and
 - ii. Reasonable maintenance of the Work will not require procedures substantially in excess of those described in the maintenance recommendations to be submitted by the Artist; and
 - iii. The warranties described in this section shall survive for a period of one (1) year after the final acceptance of the Work. The Owner shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the Owner, and at no cost to the Owner, reasonably and promptly cure the breach of any such warranty, which is curable by the Artist and which cure is consistent with professional conservation standards. This includes making repairs to the Work or re-fabricating the Work arising out of defects consisting of "inherent vice" or qualities accelerating deterioration of the Work which appear for a period of one (1) year after the installation and which the Artist shall correct.

- C. The Artist retains all rights under the Copyright Act of 1976 under 17 U.S.C. § 101 *et seq.*, Visual Artists Rights Act of 1990 (VARA) 17 USC §106A, and all other rights in and to the Work except ownership and possession, except as such rights may be limited by this Agreement. The Artist shall not make any additional exact duplicate reproductions of the final Work, nor shall the Artist grant permission to others to do so except with the written permission of the Owner. The Artist grants to the Client and Owner and its assigns an irrevocable license to make photographic or graphic reproductions of the Work for non-commercial purposes, including but not limited to reproductions used in advertising, brochures, media publicity and catalogs or other similar publications, if the Artist is duly credited, except where the Work is merely an incidental feature of a photograph. A plaque provided by the Owner, identifying the title, date, and Artist, shall be placed on or near the Work. The Artist shall have the right to use photographs of the completed Work as an example of his work and in books or brochures he may publish.

IV. Fee for Services

- A. The total purchase price of creation, preparation and completion of the final Work shall be \$100,000. This fee does not include the cost to Owner for preparation of the site for installation. Owner shall not provide any additional compensation for any alterations or revisions in the final Work which substantially depart from the approved preliminary models and specifications and which cause the Artist an unusual and unanticipated expense.
- B. The Artist shall receive payments from the Client to the Artist to be paid in the amount of \$100,000 as follows:
- i. \$40,000 upon delivery of signed contract by the Owner and Artist and the issuance of Artist's invoice;
 - ii. \$30,000 upon documentation of the half-way milestone of completion of the Work;
 - iii. \$30,000 upon final acceptance of the Work by Owner.
- C. Artist's lack of performance during either of the payment stages listed above shall initiate a 30-day period to cure the deficiency and/or lack of performance upon receipt of written notice from the Owner which provides a statement addressing Owner's dissatisfaction with Artist's performance as well as what steps the Artist may take to cure the inadequate performance. The Artist must cure the deficiency or take reasonable steps towards curing the deficiency within the 30-day period. Upon failure of the Artist to do so, the Owner may pursue any remedies available to them against the Artist at law and in equity, including, but not limited to, the right to terminate this Agreement and reimbursement from Artist for all funds expended by Owner thus far including costs to remove the base or foundation.

Upon execution of this document, but prior to transfer of ownership, Artist agrees to defend, indemnify and hold harmless Owner, its agents and employees, from and against legal liability for all claims, losses, damages and expenses to the extent such claims, losses, damages or expenses are caused by Artist, its agents or employees' negligent acts, errors or omissions. Artist shall indemnify the City of Norman, Oklahoma up to one hundred thousand dollars (\$100,000.00) for any claim arising out of this Agreement. Artist further waives any rights against the City for any and all injuries or damages alleged to have arisen during the term of this Agreement.

IX. Default

If either party defaults in any of the covenants or agreements contained herein, the defaulting party shall pay all court ordered costs and expenses, including reasonable attorney's fees, incurred by the other party in enforcing its rights arising under this Agreement,.

X. Binding

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their agents, successors, and assigns.

XI. Integration

This Agreement represents the entire and integrated Agreement between the parties. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may only be changed by a written amendment executed by all parties.

XII. Ownership of Documents and Models

Upon final acceptance, all studies, drawings, designs, maquettes and models prepared and submitted under this Agreement shall be returned to the Artist and shall belong to the Artist unless agreed by all parties.

XIII. Notice

Notice of any breach or other correspondence related to this contract shall be by email or regular mail to the following contacts:

Artist:

Nick Athanasiou,

Title: Creative Director

Skunk Control

Address: 254 Hyde Street Yarraville, Victoria, Australia, post code 3013.

Email: nick@skunkcontrol.com.au

City:

Jason Olsen
 Title: Director of Parks and Recreation
 225 N. Webster Ave.
 Norman, OK 73070
 Email: Jason.Olsen@normanok.gov

XIV. Modification

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by all parties hereto.

XV. Severability

Any provision of this contract which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States, State of Oklahoma or City of Norman shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent the contract is capable of execution.

ARTIST



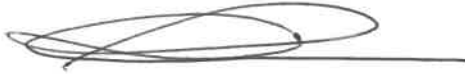
Nick Athanasiou, Creative Director
 Skunk Control

Address 254 Hyde Street Yarraville, Victoria, Australia, post code 3013.
 Phone number +61 04999 75865

Before me, the undersigned, a Notary Public in and for said County and State, on this 30th day of June, 2023, personally appeared _____ and _____, to me known to be the identical person(s)/(company title) Sole Director who executed the foregoing grant

of easement and acknowledged to me that _____ executed the same as _____ free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year last above written.



Notary Public



My Commission Expires: _____

LINDA PARIC
Notary Public
An Australian Legal Practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)

CITY OF NORMAN

APPROVED this _____ day of _____, 2023, by the Norman City Council.

Larry Heikkila, MAYOR

ATTEST:

Brenda Hall, City Clerk

APPROVED as to form and legality this 7th day of July, 2023.



CITY ATTORNEY

SCHEDULE I

[to be included]

Form A

I, _____, hereby declare that the accompanying documents truthfully and accurately depict the most current status of the Work. I further declare that I produced and created the Work pictured in the accompanying documents.

Artist/ Project Manager

Date

Address: _____

State of _____

County of _____

Sworn to and subscribed before me this _____ day of _____, 202__.

Notary Public

My commission expires: _____.

SCHEDULE I

Production to Installation Schedule. subject to change depending on availability and/or delays associated with freight, material availability and other unforeseen issues.

1. Design, Drawings and testing (through to mid-July 23)
2. Structural Engineering tick off (Australia) (3rd to final week of July 23)
3. Completion of Shop drawings (final week of July 23)
4. Glass and Steel cutting/ pole bending (through to end of July 23)
5. Glass bending/curving and internal optical filter lamination (2nd week of August through to 1st week of September 23)* this will depend on the angle of glass curvature
6. Pre-Welding set up (2nd week of August)
7. Welding (3rd through to 4th week of August)
8. Sand blasting and powder coating (4th week of Aug 23 through to 1st week of Sept 23)
9. Assembly and Packaging 2nd week of September
10. Freight to site (3rd week of September)

NOTARIAL CERTIFICATE**TO ALL TO WHOM THESE PRESENTS SHALL COME**

I, **LINDA PARIC**, Notary Public, admitted and sworn and an Australian Legal Practitioner the City of Melbourne in the State of Victoria in the Commonwealth of Australia **CERTIFY** that I was present at Melbourne on the 30th day of June Two Thousand and Twenty Three and saw **NICK ATHANASIOU** the person named in the attached Contract to Commission Artwork between City of Norman, Oklahoma and Skunk Control duly sign the same and Nick Athanasou, being the Sole Director and Company Secretary of Skunk Control Pty Ltd (ACN 642980989) and duly registered as such by the Australian Securities and Investments Commission is authorised to do so and that the signature **NICK ATHANASIOU** subscribed thereto is the proper handwriting of the said **NICK ATHANASIOU** and that the signature **LINDA PARIC** thereunto subscribed as the attesting witness thereto is of the proper handwriting of myself.

IN FAITH AND TESTIMONY whereof I the said Notary Public have hereunto subscribed my name and affixed my Seal of Office this 30th day of June Two Thousand and Twenty Three.

My tenure is not limited by time.



A handwritten signature in black ink, appearing to read "Linda Paric".

LINDA PARIC
Notary Public
An Australian Legal Practitioner
within the meaning of the
Legal Profession Uniform Law (Victoria)



File Attachments for Item:

38. CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-26: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND TYLER FUQUA CREATIONS IN THE AMOUNT OF \$62,000 FOR THE DESIGN AND CREATION OF A SCULPTURE TO BE PLACED AT THE REAVES PARK FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Jason Olsen, Director of Parks and Recreation

PRESENTER: Jason Olsen, Director of Parks and Recreation

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-26: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND TYLER FUQUA CREATIONS IN THE AMOUNT OF \$62,000 FOR THE DESIGN AND CREATION OF A SCULPTURE TO BE PLACED AT THE REAVES PARK FUNDED THROUGH THE NORMAN FORWARD PUBLIC ARTS FUND.

BACKGROUND:

The City of Norman and the Norman Arts Council (NAC) have partnered in projects to install art in public places within the City of Norman. Through this partnership, the NAC has purchased art pieces, and the City provides a location for the piece(s) within public spaces owned by the City of Norman.

With the adoption of NORMAN FORWARD, the City committed to expending an amount not to exceed 1% of the aggregate construction costs of major facilities and community park improvements costs on public art at those facilities and parks. Because of the City's positive relationship with the NAC and the NAC's commitment to the sense of community fostered by public art, the NAC has agreed to expand the partnership with the City of Norman to assist with the selection, location, and installation of public art purchased with Norman Forward sales tax revenue.

Under the terms of the approved Services Agreement, Contract K-1516-132, and all amendments thereto, the NAC will be the administrator for selecting, locating, and installing public art purchased with Norman Forward sales tax funds. The NAC has administered the selection of public art through four phases: (a) Phase I: Project Development, including research into similar projects and assembly of a Project Team to evaluate the public art opportunities; (b) Phase II: Selection Process, including project announcement and advertising, "blind jury" review of the submission, and ultimate selection of and contracting with an artist; (c) Phase III Execution and Installation, including coordination with the City for permitting and approvals during fabrication and installation of the selected artwork; and (d) Phase IV: Public Engagement and Education, including design and installation appropriate markers and other means of creating public awareness and appreciation for each work of art through press releases, social media, and other appropriate channels, as well as the care and maintenance of each work of art.

Under the terms of the Services Agreement, the City of Norman has funded public art installed at or as a part of Norman Forward sales tax-funded projects up to 1% of construction costs for the Central Library, East Library, Westwood Family Aquatic Center, and Westwood Tennis, Ruby Grant Park, Andrews Park, and have planned the future installation of artwork at the Young Family Athletic Center (“YFAC”), Saxon Park, Reaves Park, Griffin Park, and the Senior Wellness Center. These costs (the “Norman Forward Public Arts Fund” or “NFPAF”), aggregated together, were initially estimated to be \$1.2 million.

Of the NFPAF, at least 90% shall be allocated to art selection, artist fees, fabrication, installation, and maintenance. The remaining amount, up to 10% of the total NFPAF, is paid to NAC as an administrative fee. The City will make the administrative fee available to NAC as projects come forward. The NAC will submit quarterly reports detailing progress, including funds received and expended. The Services Agreement is for an initial one-year term. It renews automatically for subsequent one-year terms so long as Norman Forward revenues remain for the purchase and installation of public art.

DISCUSSION:

Reaves Park, located at 2501 Jenkins Ave, has reached the point where an artist has been selected, and a final contract with the chosen Artist is proposed for City Council consideration.

The Selection Panel Advisory Board and the Norman Arts Council Board began the artist selection process; the Board recommended the retention of artist Tyler FuQua of Tyler FuQua Creations to build and install a robot sculpture at the site.

The Artist is responsible for the sculpture, the delivery, installation, and securing of the work in a foundation/footer designed by a licensed engineer. At the same time, the City will be responsible for the concrete decking and any associated landscaping.

The sculpture is proposed to be completed and installed by October 31, 2023. In addition, before implementing any changes to the sculpture, the Artist must obtain approval from the City of Norman. The total cost of this contract is \$62,000, \$25,000 of which is payable upon delivery of the signed contract and issuance of an Artist’s invoice, \$18,500 of which is due upon substantial completion of the robot sculpture, and the final \$18,500 is due upon final acceptance of the work by the City.

Final acceptance will be determined solely by the City of Norman. The City of Norman retains the right to subsequently remove the work if it presents a safety hazard or cannot be reasonably restored to its original structural or aesthetic integrity.

Norman Forward Public Arts Project, Construction (account 51795500-46101; project NFP100) has adequate funds available to cover the award of this contract.

RECOMMENDATION:

Based upon the foregoing, City Staff recommends that Council approve Contract K-2324-26 with Tyler FuQua Creations for the fabrication and installation of artwork at Reaves Park.

K-2324-26

Contract to Commission Artwork
Between
City of Norman, Oklahoma
And
Tyler FuQua Creations

THIS CONTRACT, made this _____ day of _____, by and between the City of Norman (hereinafter referred to as the "Owner"), and Tyler FuQua Creations (hereinafter referred to as the "Artist") for a work of art incorporated herein by reference (hereinafter referred to as the "Work") to be placed in Reaves Park, at 2501 Jenkins Ave, Norman, Oklahoma.

WHEREAS, the City Council of the City of Norman believes the beautification of Reaves Park will further enhance the quality of life in Norman, Oklahoma;

WHEREAS, all parties wish to promote and maintain the integrity and clarity of the Artist's ideas and statements as represented by the Work;

WHEREAS, the Selection Panel Advisory Board and the Norman Arts Council Board recommend the retention of the Artist for this Work;

WHEREAS, the parties wish to have the creation of the Work governed by the mutual obligations, covenants, and conditions herein.

THEREFORE, in consideration of the foregoing premises and the mutual covenants hereinafter set forth and other valuable considerations, the parties hereto agree as follows:

I. The Project: The Scope of Services

- A. The Artist will design, execute, fabricate, transport, install and document the Work. These services shall be performed by Artist, and their assistants, as independent contractors.
- B. Artist agrees that said Work will be consistent with and substantially similar to the design concept presented to the Selection Panel Advisory Board and the Norman Arts Council Board. As design details are finalized, Artist will update the Owner.
- C. The Owner agrees to purchase the Work, under the terms and conditions of this contract upon final approval and acceptance of the Work by the Owner.

- D. The permanent location for the work shall be in Reaves Park, at 2501 Jenkins Ave, Norman, Oklahoma.
- E. The Artist shall perform all services and furnish all supplies, materials and equipment necessary for the design, execution, fabrication, transportation and installation of the Work. The Owner will make equipment for installation available.
- F. The Owner shall make known its specifications to the Artist prior to the rendering of their services.
- G. The Owner in consultation with the Artist shall determine the arrangement and placement of the final Work.
- H. The Artist shall be responsible for the delivery, installation, and securing of the Work on a concrete base prepared, by the Owner, at the site in Norman, Oklahoma.
- I. The Artist shall coordinate, with the Norman Arts Council, on outreach program design, including number, duration, form, and delivery type.

II. Execution of the Work

- A. The Artist shall complete the fabrication of the work in substantial conformity with the design as recommended by the Norman Arts Council Board and approved by the Owner
- B. Prior to implementation of any significant changes in the Work, the Artist shall present to the Owner in writing, for further review and approval, a thorough description of such proposed changes. A significant change is any change affecting the scope, intent, design, color, size, material or location of the Work not permitted by, or not in substantial conformity with, the approved design. Owner must approve the proposed changes prior to continued work by the Artist.
- C. In performance of the Work described herein, the Artist shall comply with all applicable State and local laws, rules and regulations.
- D. The Artist shall complete the Work by October 15, 2023. Should the work be ready for delivery prior to October 1, 2023, the Artist shall keep the work safely stored at its studio or other location. The installation of the the

work will be at a date mutually agreeable between the Artist and the Owner, but no later than October 31, 2023.

- E. The Owner shall notify the Artist of construction delays resulting in delays in site preparation prior to the scheduled delivery date or installation date. A new date shall be agreed upon by the Owner and Artist for completion, delivery and installation of the Work.
- F. The Artist shall notify the Owner in writing when fabrication of the Work is completed and the Artist is ready to deliver the Work and install it on the site.
- G. Within forty-five (45) days after installation of the Work, and prior to final payment, the Artist shall make available to the Owner high quality digital images of the completed Work .
- H. The Artist shall furnish the Owner with a full written narrative description of the Work.
- I. The Artist shall provide the Owner written instructions for appropriate maintenance and preservation of the Work.
- J. Final acceptance shall be determined solely by the Owner and shall constitute the acknowledgement that the Work has been satisfactorily completed and installed according to the terms of this Agreement.
- K. Ownership of the Work shall pass to the Owner (City of Norman) upon final acceptance.

III. Warranties and Copyright

- A. The Artist represents and warrants that:
 - i. The Work is solely the result of the artistic and creative efforts of the Artist;
 - ii. The Work is unique and original and does not infringe upon any copyright;
 - iii. The Work has not been accepted for sale elsewhere; and
 - iv. The Work is free and clear of any liens from any source whatever.
- B. The Artist represents and warrants that:
 - i. The Work, as fabricated and installed, will be free of defects in material and workmanship, including any defects of "inherent vice" or qualities which cause or accelerate deterioration of the Work; and

- ii. Reasonable maintenance of the Work will not require procedures substantially in excess of those described in the maintenance recommendations to be submitted by the Artist; and
- iii. The warranties described in this section shall survive for a period of one (1) year after the final acceptance of the Work. The Owner shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the Owner, and at no cost to the Owner, reasonably and promptly cure the breach of any such warranty, which is curable by the Artist and which cure is consistent with professional conservation standards. This includes making repairs to the Work or re-fabricating the Work arising out of defects consisting of "inherent vice" or qualities accelerating deterioration of the Work which appear for a period of one (1) year after the installation and which the Artist shall correct.

- C. The Artist retains all rights under the Copyright Act of 1976 under 17 U.S.C. § 101 *et seq.*, Visual Artists Rights Act of 1990 (VARA) 17 USC §106A, and all other rights in and to the Work except ownership and possession, except as such rights may be limited by this Agreement. The Artist shall not make any additional exact duplicate reproductions of the final Work, nor shall the Artist grant permission to others to do so except with the written permission of the Owner. The Artist grants to the Client and Owner and its assigns an irrevocable license to make photographic or graphic reproductions of the Work for non-commercial purposes, including but not limited to reproductions used in advertising, brochures, media publicity and catalogs or other similar publications, if the Artist is duly credited, except where the Work is merely an incidental feature of a photograph. A plaque provided by the Owner, identifying the title, date, and Artist, shall be placed on or near the Work. The Artist shall have the right to use photographs of the completed Work as an example of his work and in books or brochures he may publish.

IV. Fee for Services

- A. The total purchase price of creation, preparation and completion of the final Work shall be \$62,000. This fee does not include the cost to Owner for preparation of the site for installation. Owner shall not provide any additional compensation for any alterations or revisions in the final Work which substantially depart from the approved preliminary models and specifications and which cause the Artist an unusual and unanticipated expense.

- B. The Artist shall receive payments from the Client to the Artist to be paid in the amount of \$62,000 as follows:
 - i. \$25,000 upon delivery of signed contract by the Owner and Artist and the issuance of Artist's invoice;
 - ii. \$18,500 upon documentation of the half-way milestone of completion of the Work;
 - iii. \$18,500 upon final acceptance of the Work by Owner.

- C. Artist's lack of performance during either of the payment stages listed above shall initiate a 30-day period to cure the deficiency and/or lack of performance upon receipt of written notice from the Owner which provides a statement addressing Owner's dissatisfaction with Artist's performance as well as what steps the Artist may take to cure the inadequate performance. The Artist must cure the deficiency or take reasonable steps towards curing the deficiency within the 30-day period. Upon failure of the Artist to do so, the Owner may pursue any remedies available to them against the Artist at law and in equity, including, but not limited to, the right to terminate this Agreement and reimbursement from Artist for all funds expended by Owner thus far including costs to remove the base or foundation.

- D. Artist shall provide proof of completion of the Work by submitting at least ten pictures of the Work from various angles which tend to clearly show the Artist's progression during the stages of fabrication to completion. Additionally, Artist shall submit Form A along with these documents.

V. Funding

- A. Owner guarantees and warrants that it will produce funds in the amount of \$62,000 as required for completion of the Work.

VI. Alteration and De-accession Right

- A. The Owner agrees that it will not consent to intentional alteration, modification, change, destruction of or damage to the Work by the Owner without attempting to consult the Artist.

- B. The Artist shall notify the Owner of changes in their address. The failure to do so, if such failure prevents the Owner from locating the Artist, shall be deemed a waiver by the Artist of the right subsequently to enforce that which requires the express approval of the Artist. The Owner shall make

reasonable efforts to locate the Artist when matters arise relating to the Artist's rights.

- C. The Owner may remove the Work from the City of Norman collection if it determines that the Work represents a safety hazard in its present condition or cannot reasonably be restored to its original structural or aesthetic integrity due to technical difficulties or expense disproportionate to the value of the Work. The Owner shall notify the Artist of such a decision to de-access the Work. Such notification shall be made before the de-accession, whenever possible. The Owner has no responsibility to relocate, restore, or replace the Work if it is misplaced, damaged or stolen.

VII. Insurance

The Artist, as independent contractor, is responsible for any requirements pertaining to Workers' Compensation insurance and employee liability insurance, and shall obtain and maintain insurance satisfactory to covering comprehensive general liability, and all risks of loss, damage to, or theft of the Work while it is being made, transported, or installed by the Artist. The Artist shall deliver to the Owner a copy of this insurance prior to beginning work. In addition, the City of Norman will provide insurance to cover loss, damage to, or theft of the Work once installed under the City of Norman's current policy covering the construction of Reaves Park.

VIII. Indemnity

Upon execution of this document, but prior to transfer of ownership, Artist agrees to defend, indemnify and hold harmless Owner, its agents and employees, from and against legal liability for all claims, losses, damages and expenses to the extent such claims, losses, damages or expenses are caused by Artist, its agents or employees' negligent acts, errors or omissions. Artist shall indemnify the City of Norman, Oklahoma up to one hundred thousand dollars (\$100,000.00) for any claim arising out of this Agreement. Artist further waives any rights against the City for any and all injuries or damages alleged to have arisen during the term of this Agreement.

IX. Default

If either party defaults in any of the covenants or agreements contained herein, the defaulting party shall pay all court ordered costs and expenses, including

reasonable attorney's fees, incurred by the other party in enforcing its rights arising under this Agreement,.

X. Binding

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their agents, successors, and assigns.

XI. Integration

This Agreement represents the entire and integrated Agreement between the parties. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Agreement. This Agreement may only be changed by a written amendment executed by all parties.

XII. Ownership of Documents and Models

Upon final acceptance, all studies, drawings, designs, maquettes and models prepared and submitted under this Agreement shall be returned to the Artist and shall belong to the Artist unless agreed by all parties.

XIII. Notice

Notice of any breach or other correspondence related to this contract shall be by email or regular mail to the following contacts:

Artist:

Tyler FuQua
Title: Creative Director
Tyler FuQua Creations
Address: 503-708-9956
Email: tyfu@me.com

City:

Jason Olsen
Title: Director of Parks and Recreation
225 N. Webster Ave.

Norman, OK 73070
Email: Jason.Olsen@normanok.gov


XIV. Modification

No alteration, change or modification of the terms of this Agreement shall be valid unless made in writing and signed by all parties hereto.

XV. Severability

Any provision of this contract which is hereafter found by a court of law or otherwise to be in conflict with the laws, rules, and/or regulations of the United States, State of Oklahoma or City of Norman shall be considered null and void. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent the contract is capable of execution.

ARTIST


Tyler FuQua, Creative Director
Tyler FuQua Creations
24645 SE Brevi Lane, Eagle Creek, OR 97022
Phone number 503-708-9956

Before me, the undersigned, a Notary Public in and for said County and State, on this 15th day of June, 2023, personally appeared Tyler FuQua and N/A, to me known to be the identical person(s)/(company title) person who executed the foregoing and acknowledged to me that he executed the same as a free and voluntary act and deed for the uses and purposes therein set forth.

WITNESS my hand and seal the day and year last above written.



Kristyn Jo Anderson

Notary Public

My Commission Expires: *August 5, 2023*

County of Multnomah, State of Oregon

CITY OF NORMAN

APPROVED this ____ day of _____, 2023, by the Norman City Council.

Larry Heikkila, MAYOR

ATTEST:

Brenda Hall, City Clerk

APPROVED as to form and legality this *10th* day of *July*, 2023.

Mr. Paole

CITY ATTORNEY

SCHEDULE I

[to be included]

OFFICIAL STAMP
KRYSTYN JO ANDERSON
NOTARY PUBLIC - OREGON
COMMISSION NO: 990268
EXPIRES AUGUST 05, 2023

State of Oregon Notarial Certificate (ORS Ch. 194.280, 194.285)

Witnessing or Attesting a Signature

State of OREGON

County of Multnomah

Signed (or attested) before me on (date) 15th of June, 20 23

by (name(s) of individual(s)) Tyler F. Qua

Kristyn Jo Anderson

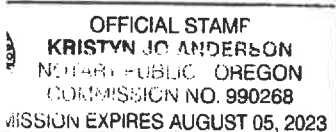
Notary Public - State of Oregon

Official Stamp



Document Description

This certificate is attached to page 89 of a contract (title or type of document), dated June 15, 20 23, consisting of 10 pages.



Proposed schedule for Reaves Park Robot Sculpture:

July - Receive first round of funding and order main structure materials after getting approval from engineer. Begin to fabricate key components (elbows, knees, shoulders, hips, etc.) Once those are done, begin to attach them to the larger parts (arms, legs, pelvis, etc).

August - Continue to assemble main body part and begin work on head, and hand and head accessories.

September - Get in contact with the local schools and begin heart chamber design process. Finish body details and order the base plate. Hopefully by the end of September we will have the heart chamber design selected and can begin fabrication of that piece. Continue with details of the accessories, etc.

October - finish construction of the robot. Reach out to community to select the numbering of the robot. Complete all fabrication by 10/15. Ship robot out around 10/27 for a 10/31 delivery and installation.

Form A

I, Tyler Fuqua, hereby declare that the accompanying documents truthfully and accurately depict the most current status of the Work. I further declare that I produced and created the Work pictured in the accompanying documents.

Artist/ Project Manager

Date

Tyler
Address: 24645 SE Brevil Ln
Eagle Creek, OR
97022

6/15/23State of OregonCounty of Multnomah

Sworn to and subscribed before me this 15th day of June, 2023.

Kristyn Jo Anderson
Notary Public

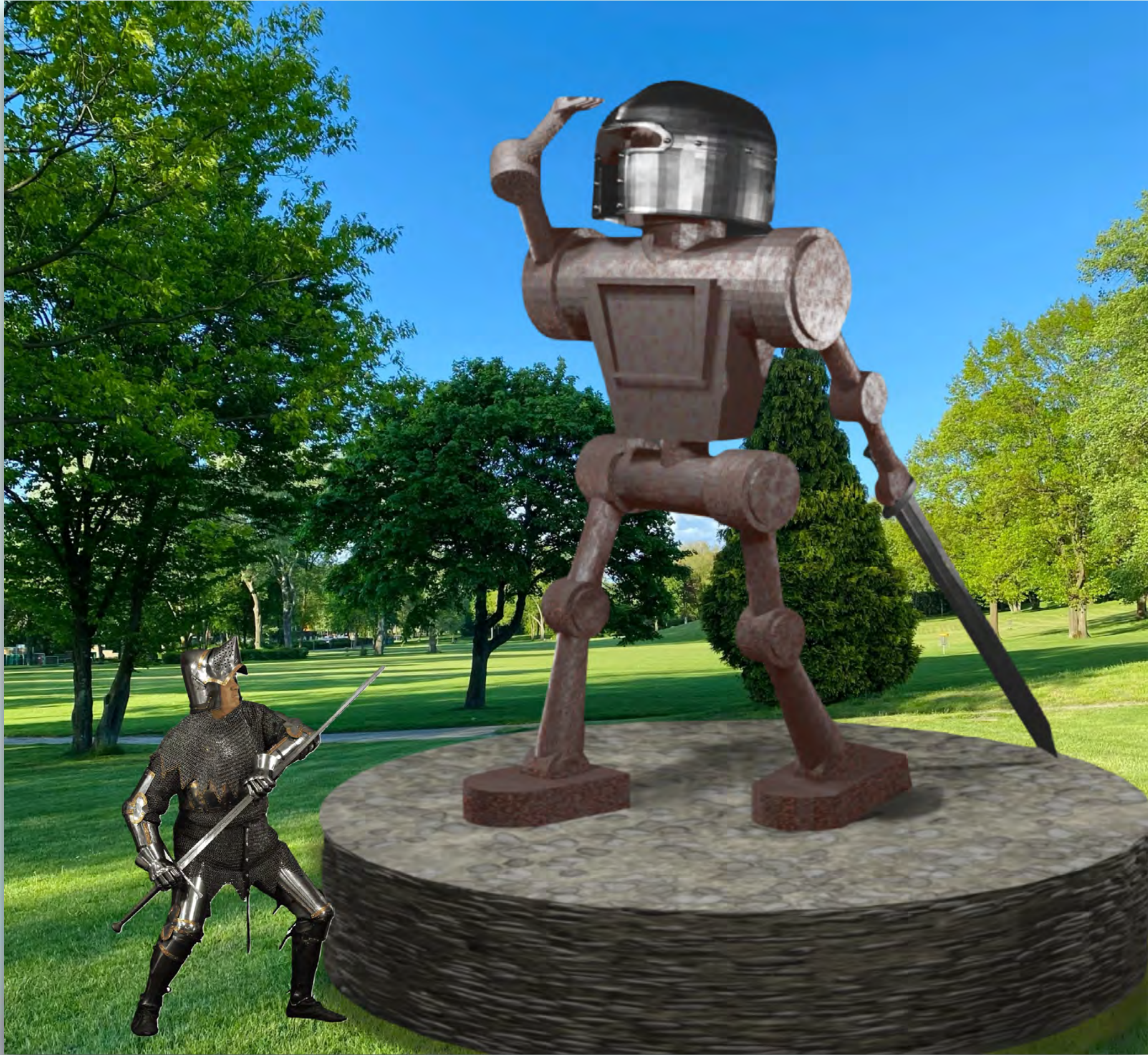
My commission expires: August 5, 2023

HOME RUN MECHAN*

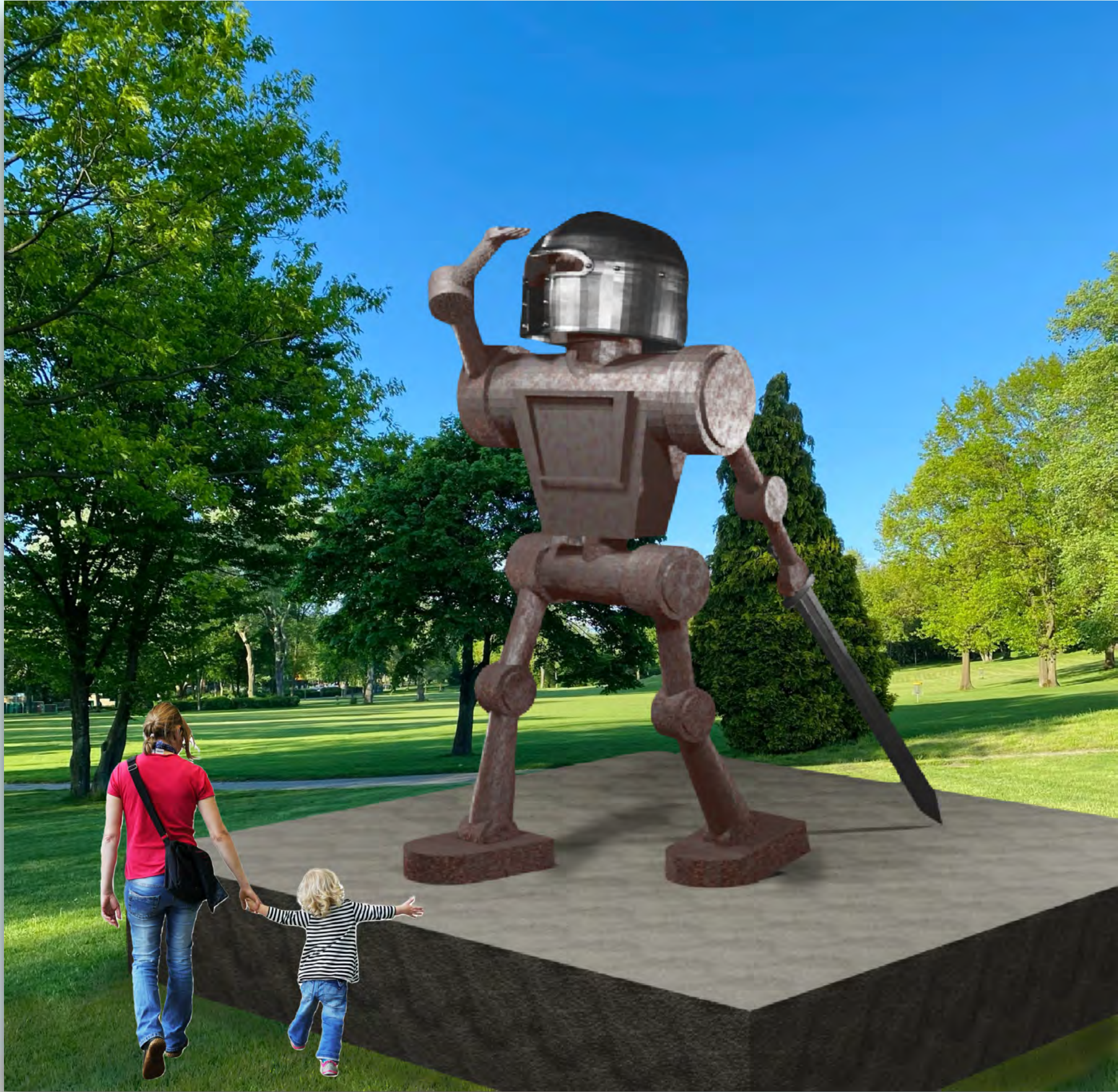
- About 15' tall
- Steel body (rusty patina)
- Silver hat and baseball bat
- Stainless steel accents and details
- Illuminated eyes
- Custom heart chamber, more on that later



- Shown here on flat plate
- Looks like it just hit a game winning home run
- Looking towards the future
- *Name decided later
- Concept robot, will look similar but slightly different



ELEVATED ROUND BASE

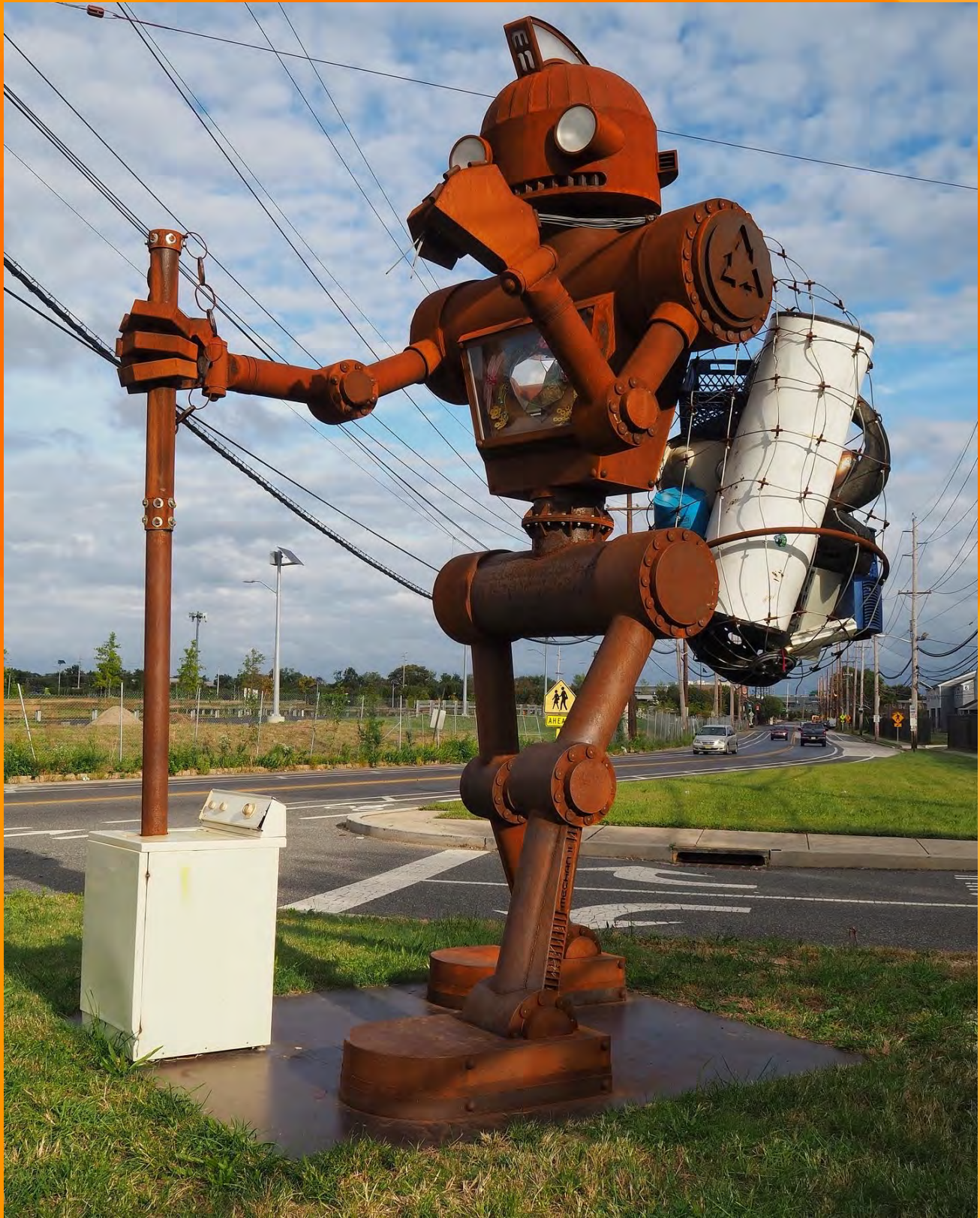
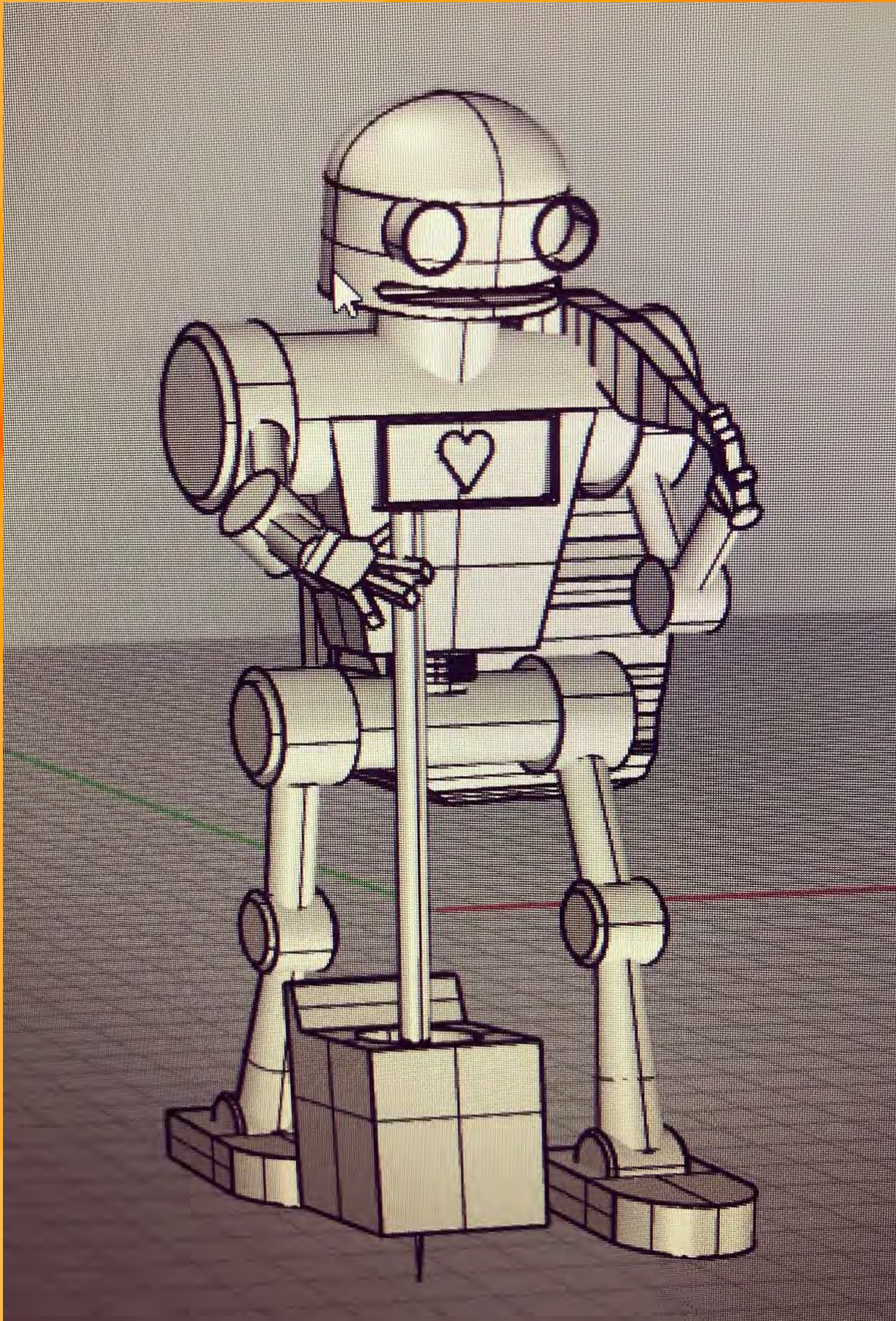
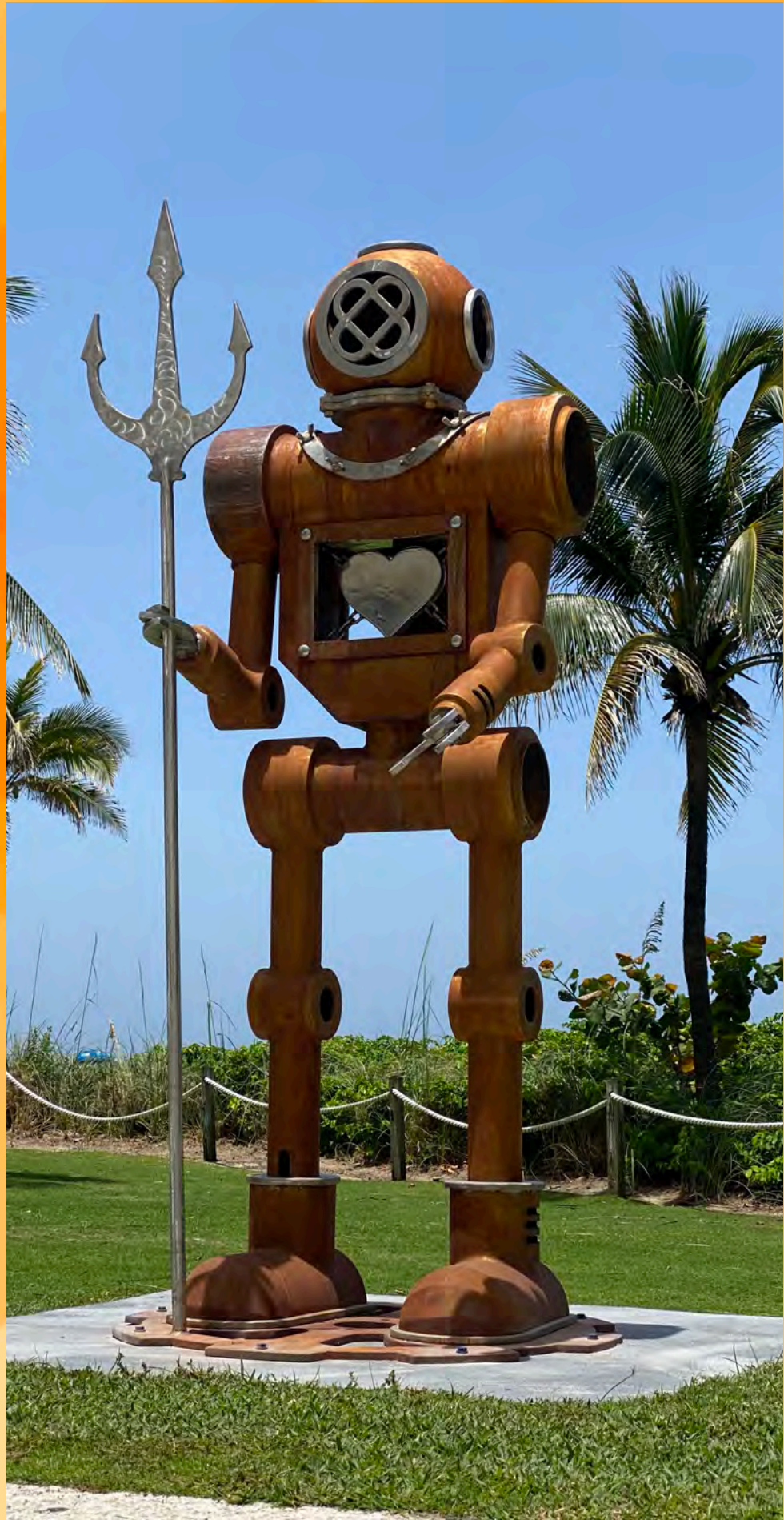


ELEVATED SQUARE BASE



**This is about
how big
the robot
will be.**

CAD DRAWING TO REAL LIFE COMPARISON



File Attachments for Item:

39. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2324-14: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AND NORMAN MUNICIPAL AUTHORITY, APPROPRIATING \$32,778 FROM THE WESTWOOD FUND BALANCE FOR A LEAK REPAIR AT THE WESTWOOD FAMILY AQUATIC CENTER.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Veronica Tracy, Recreation Manager

PRESENTER: Jason Olsen, Director of Parks and Recreation

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2324-14: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AND NORMAN MUNICIPAL AUTHORITY, APPROPRIATING \$32,778 FROM THE WESTWOOD FUND BALANCE FOR A LEAK REPAIR AT THE WESTWOOD FAMILY AQUATIC CENTER.

BACKGROUND:

The City of Norman/Norman Municipal Authority has been transferring \$35,000 per year for the "Westwood Pool Maintenance Reserve" from the Norman Forward Fund to the Westwood Fund, and it has been placed into a reserve of the Westwood Fund Balance. At the end of this fiscal year, there will be \$187,771 in the reserve.

DISCUSSION:

Currently, the staff is recommending the appropriation from the Westwood Fund balance for the Westwood Family Aquatic Center to pay for an emergency repair of a leak on the lap pool gutter pipe. The Norman Forward program has always anticipated funding this reserve for significant pool maintenance.

RECOMMENDATION:

It is recommended that the City Council approve Resolution R-2324-14, appropriating \$32,778.00 from Westwood Fund Balance (Account No. 29-29000) to Westwood Park Maintenance and Repair Other Miscellaneous (Account No. 29970133-44299).

Resolution

R-2324-14

A RESOLUTION OF THE COUNCIL OF THE CITY OF
NORMAN, OKLAHOMA, AND NORMAN MUNICIPAL
AUTHORITY, APPROPRIATING \$32,778 FROM THE
WESTWOOD FUND BALANCE FOR A LEAK REPAIR
AT THE WESTWOOD FAMILY AQUATIC CENTER.

- § 1. WHEREAS, the City has been transferring \$35,000 per year from the NORMAN FORWARD Fund to the Westwood Fund for the Westwood Pool Maintenance Reserve; and
- § 2. WHEREAS, at the end of this fiscal year, there will be \$187,771 in the reserve; and
- § 3. WHEREAS, the NORMAN FORWARD program has always anticipated funding this reserve for major maintenance of the pool; and
- § 4. WHEREAS, this funding is needed to pay for an emergency repair leak on the lap pool gutter pipe.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AND NORMAN MUNICIPAL AUTHORITY:

- § 5. That the following transfer of unused funds be approved for the reason as stated above.

<u>Account Name</u> (Gaining Account)	<u>Losing Account</u>	<u>Gaining Account</u> <u>Number</u>	<u>Amount</u>
Westwood Park Fund	Westwood Fund 29-29000	Westwood Park Fund 29970133-44299	\$32,778

PASSED AND ADOPTED this 11th day of July, 2023

Mayor/Chairman

ATTEST:

City Clerk/Secretary



File Attachments for Item:

40. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF RESOLUTION R-2324-16: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AUTHORIZING THE CITY ATTORNEY TO RETAIN CERTAIN OUTSIDE COUNSEL DURING FISCAL YEAR ENDING JUNE 30, 2024 IN A CUMULATIVE AMOUNT NOT TO EXCEED \$215,000 , TO PROVIDE LEGAL SERVICES TO AND ON BEHALF OF THE CITY WHEN REPRESENTATION BY THE CITY ATTORNEY'S OFFICE MAY CONSTITUTE A CONFLICT OF INTEREST, WHEN A PARTICULAR SUBJECT MATTER OR CASE REQUIRES ADDITIONAL EXPERTISE, OR WHEN NECESSITATED BY WORKLOAD DEMANDS.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: July 11, 2023

REQUESTER: Kathryn Walker

PRESENTER: Kathryn Walker, City Attorney

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF RESOLUTION R-2324-16: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AUTHORIZING THE CITY ATTORNEY TO RETAIN CERTAIN OUTSIDE COUNSEL DURING FISCAL YEAR ENDING JUNE 30, 2024 IN A CUMULATIVE AMOUNT NOT TO EXCEED \$215,000 , TO PROVIDE LEGAL SERVICES TO AND ON BEHALF OF THE CITY WHEN REPRESENTATION BY THE CITY ATTORNEY'S OFFICE MAY CONSTITUTE A CONFLICT OF INTEREST, WHEN A PARTICULAR SUBJECT MATTER OR CASE REQUIRES ADDITIONAL EXPERTISE, OR WHEN NECESSITATED BY WORKLOAD DEMANDS.

BACKGROUND:

The City's budget for many years has included funding for the City Attorney's office to hire outside legal counsel. Typically, outside legal counsel is utilized when an issue arises requiring additional expertise, when representation by the City Attorney's office may constitute a conflict of interest, or when workload demands are such that additional help is needed. Attorneys charge by the hour and it is difficult to predict the amount that may be spent in a given fiscal year on a particular case or issue, but Staff is required to ask Council for additional appropriation if the budgeted funds are not adequate. In FYE24, \$215,000 is allocated for outside legal counsel within the Services and Maintenance line item of the Legal Department's budget. These funds are also spent on deposition costs, appraisals, expert witnesses, etc.

DISCUSSION:

For the first time, Resolution R-2324-16 would formally authorize the City Attorney's office to engage certain firms, as well as others that may be needed during the fiscal year upon written communication to Council, to provide legal services to and on behalf of the City. The goal of the resolution is to ensure Council is aware of the situations in which outside counsel may be used and the identity of the firms or attorneys that may be utilized within the approved budgeted amount. The firms listed in the Resolution are also provided below, along with a general practice area with which they typically assist with:

- A. Phillips Murrah Law Firm – Employment matters
- B. Margaret McMorrow-Love – Employment matters
- C. Stefan P. Smith, Baker Hostetler Law – Employee benefits law
- D. Spencer Fane – Miscellaneous municipal and state issues
- E. Center for Economic Development Law – Affordable housing, economic development
- F. Collins, Zorn & Wagner – Police department – use of force cases
- G. Fellers, Snider, Blankenship, Bailey & Tippens – Miscellaneous municipal issues

There is also provision in the Resolution for other firms or attorneys that may be engaged as needs arise based on qualifications and expertise. The resolution would require that such firms or lawyers be engaged only after written communication is provided to City Council.

RECOMMENDATION:

Staff recommends approval of Resolution R-2323-16.

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AUTHORIZING THE CITY ATTORNEY TO RETAIN CERTAIN OUTSIDE COUNSEL DURING FISCAL YEAR ENDING JUNE 30, 2024 IN A CUMULATIVE AMOUNT NOT TO EXCEED \$215,000 , TO PROVIDE LEGAL SERVICES TO AND ON BEHALF OF THE CITY WHEN REPRESENTATION BY THE CITY ATTORNEY'S OFFICE MAY CONSTITUTE A CONFLICT OF INTEREST, WHEN A PARTICULAR SUBJECT MATTER OR CASE REQUIRES ADDITIONAL EXPERTISE, OR WHEN NECESSITATED BY WORKLOAD DEMANDS.

§ 1. WHEREAS, the City Council of the City of Norman, Oklahoma has long recognized the potential conflict of interest between the City, as represented by the City Attorney's office, and an employee who may be entitled to independent representation paid for by the City, as well as the need for specialized expertise in certain cases, and additional legal counsel to when necessitated by workload demands; and

§ 2. WHEREAS, the City Council of the City of Norman budgets funding each year for the engagement of outside legal counsel and other related services; and

§ 3. WHEREAS, the City Attorney has requested that the City Council approve a list of firms who are available to perform work on behalf of the City of Norman as outside counsel within the budgeted funding amount approved by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

§ 4. THAT, the City Attorney's office is hereby authorized to engage the following lawyers or law firms for needed representation on behalf of the City or its employees, where entitled to representation, in a cumulative amount not to exceed the FYE2024 budget for Outside Legal Services (\$215,000):

- A. Phillips Murrah Law Firm – Employment matters
- B. Margaret McMorrow-Love – Employment matters
- C. Stefan P. Smith, Baker Hostetler Law – Employee benefits law
- D. Spencer Fane – Miscellaneous municipal and state issues
- E. Center for Economic Development Law – Affordable housing, economic development
- F. Collins, Zorn & Wagner – Police department – use of force cases
- G. Fellers, Snider, Blankenship, Bailey & Tippens – Miscellaneous municipal issues

H. Other firms or lawyers as need arises based on qualifications and expertise, and only after written communication is provided to Council.

APPROVED by the Council of the City of Norman the ____ day of _____, 2023.

By: _____ Date: _____
Mayor

ATTEST:

By: _____
CITY CLERK

APPROVED as to form and legality this _____ day of _____, 2023.

By: _____
City Attorney

File Attachments for Item:

41. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-44 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF CHAPTER 36 OF THE CODE OF THE CITY OF NORMAN SO AS TO REMOVE PART OF LOT THREE (3) AND ALL OF LOTS FOUR (4), FIVE (5), AND SIX (6), IN BLOCK SIXTY-NINE (69) OF LARSH'S FIRST ADDITION, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, FROM THE CCFBC, CENTER CITY FORM-BASED CODE, AND PLACE SAME IN THE CCPUD, CENTER CITY PLANNED UNIT DEVELOPMENT; AND PROVIDING FOR THE SEVERABILITY THEREOF. (101 W. SYMMES STREET)



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: 101 W, L.L.C.

PRESENTER: Jane Hudson, Director of Planning & Community Development

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-44 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF CHAPTER 36 OF THE CODE OF THE CITY OF NORMAN SO AS TO REMOVE PART OF LOT THREE (3) AND ALL OF LOTS FOUR (4), FIVE (5), AND SIX (6), IN BLOCK SIXTY-NINE (69) OF LARSH'S FIRST ADDITION, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, FROM THE CCFBC, CENTER CITY FORM-BASED CODE, AND PLACE SAME IN THE CCPUD, CENTER CITY PLANNED UNIT DEVELOPMENT; AND PROVIDING FOR THE SEVERABILITY THEREOF. (101 W. SYMMES STREET)

REQUEST SUMMARY:

This is a request to rezone the area located at the corner of James Garner Avenue and West Symmes Street, designated as Center City Form Based Code District, to a Center City Planned Unit Development (CCPUD), as outlined in Appendix B of the Center City Form-Based Code.

The proposal for this site is to construct a four-story apartment building with a total area of 24,582 square feet, as illustrated on Exhibit A, Site Plan. The proposed development will have twenty residential dwelling units; eight units will have 2-bedrooms and twelve units will have 3-bedrooms – for a total of fifty-two (52) bedrooms. Open space will be provided on the north side of the building, roof patio and on patios/balconies of the individuals units. A total of forty-two (42) parking spaces are to be installed as shown on the Site Plan. Twenty-one (21) parking spaces will be provided through on-site parking lots with access off the alleyway. Sixteen (16) on-street parking spaces will be installed on James Garner Avenue and an additional five (5) on-street parking spaces will be installed on Symmes Street.

BACKGROUND:

This is a rezoning application moving forward to Planning Commission and City Council to request a Center City Planned Unit Development under the recently revised Center City Form Based Code (CCFBC); many may not be aware of the extent and process that went into the

preparation and review of the CCFBC. Below is an overview for those not familiar with the process.

City Council approved a Memorandum of Understanding (MOU) between the City of Norman and the University of Oklahoma (OU) on January 14, 2014. The MOU set forth the terms and conditions that would govern the development of a Center City Master Plan/Visioning Project and outlined the responsibilities of the City of Norman and the University of Oklahoma.

The Center City Form-Based Code, which is the outcome of this Project, was generated and recommended through a Steering Committee. In addition, there was an Executive Subcommittee of the Steering Committee, which was comprised of one representative from the City of Norman, one representative from the University of Oklahoma, and one citizen chosen jointly by the City of Norman and the University of Oklahoma.

The consultants hired for the project were Bill Lennertz with the National Charrette Institute as project manager and the other project team members included staff from Opticos and Ferrell Madden.

The Center City Vision Design Charrette was held the week of May 12-16, 2014; this week-long event provided three public meetings: a Hands-On Design Workshop, an Open House and a Final Presentation. The remainder of the week included Steering Committee meetings, technical meetings, numerous ad hoc meetings with property owners and interested citizens and an open design studio so visitors could see the design progress.

After the Charrette, the Steering Committee met numerous times over a two-year period to discuss and recommend a form-based code document to present to City Council. In addition, Mary Madden from Ferrell Madden made presentations to City Council on the history of the project, what is a Form Based Code, how the Center City Code developed an administration of the Code.

The City Council moved forward with this project, in cooperation with the University of Oklahoma for many reasons. Some of the reasons were, the current zoning regulations were not adequately managing the growing demand for infill development in Norman's Center City area and there was significant community disagreement about market-driven proposals for the infill development occurring. The professional charrette process was the best technique available to articulate the community vision.

The results of the Charrette process became the foundation for an illustrated community-supported vision for the future of the Center City area, Center City Form Based Code (CCFBC).

Center City Form-Based Code Contents:

How to Use This Code

Table of Contents

Part 1: General Provisions

Part 2: Administration, Application Process & Appeals

Part 3: The Regulating Plan

Part 4: Building Form Standards

Part 5: Urban Space Standards

Part 6: Parking and Loading Standards

Part 7: Building Functions

Part 8: Site Development Requirements

Part 9: Definitions

Appendix A (Process, Incentives)

Appendix B (Center City Planned Unit Development, CCPUD)

Appendix C (Bicycle Parking Design Guidelines)

ZONING DISTRICTS INCLUDED IN THIS DOCUMENT:

Urban General – The basic urban street frontage, once common across the United States. The purpose is to develop multi-story buildings placed directly at the sidewalk or behind small dooryards.

Urban Residential – Same as the Urban General except that the uses are limited to residential and related support services.

Urban Storefront – Represents the prototypical “main street” form with shopfronts along the sidewalk and a mix of uses above. A high level of pedestrian activity is anticipated. It is a subset of the Urban General frontage, with more specific requirements at the street level.

Detached – This frontage is represented by the traditional single-family house with small front, side and rear yards along tree-lined streets.

Form-based codes offer a new way of thinking about development regulation and helping communities holistically shape their futures. They help to achieve desired urban forms, such as: vital centers supportive of businesses both big and small; neighborhoods and streets that are safe and attractive for walking and bicycling; preservation of community history; and protection of the environment.

The CCFBC is composed of Building Form Standards and Public Space Standards mapped to a Regulating Plan.

Building Form Standards regulate simple things like: how far buildings are from sidewalks, how much window area at a minimum a building must have, how tall it is in relation to the width of the street, how accessible and welcoming front entrances are, and where a building’s parking should be located. Building Form Standards require buildings to have windows and welcoming entries that contribute to life on the sidewalk and they require the placement of parking to the rear of buildings to ensure that it doesn’t get between buildings and pedestrians. These standards require that buildings support and shape the public spaces of our city.

Building Form Standards control the use of land in a more indirect way than standard zoning. They don’t give the long and ever-expanding lists of permitted and special uses that zoning

codes typically contain. Rather, they describe general uses. In addition, they try to guide land use through building type. For example, if a community wants a pedestrian-friendly main street, its standards would prescribe shopfront or mixed-use buildings.

Public Space Standards regulate the form of streets and squares. These standards provide for comfortable and useful spaces for many activities, including walking, bicycling, driving, public transit, and a community's social life rather than just providing for the movement and storage of cars. A shopping street is a different kind of street than a boulevard, which is different from a residential street, which is different from a rear alley.

PARTICULARS OF THIS CCPUD:

The applicant is requesting this CCPUD in order to build the desired structure illustrated on the attached drawings. The applicant is able to comply with many of CCFBC requirements. However, due to the unique characteristics of this corner parcel and the design of the desired structure, the applicant is requesting a variety of modifications to the Center City Form Based Code, as follows:

1. Move the Required Build Line along Symmes Street forward from nine feet (9') behind the property line to three feet (3') behind the property line.
2. Reduce the siting requirement along the Required Build Lines from 100% on Symmes Street to a minimum of 65%. The siting requirement on James Garner will be increased from 65% to a minimum of 90%.
3. Increase the allowed offset from the Required Build Line from twenty-four inches (24") to a maximum of forty-eight inches (48") for recessed door, patios and doors.
4. Allow for the required street wall only on Symmes Street, as shown on Site Plan.
5. The minimum fenestration requirements for building facades more than 5' from property line are decreased to a minimum of 10%.
6. Allows all fire rated exterior walls to be exempt from fenestration requirements.
7. Allows the northern most wall of the structure, that faces the north property line, to be exempt from fenestration requirements.
8. Allows for a main building sign between the top floor line and the roofline, not to exceed 3' in height for both Symmes Street and James Garner Avenue facades.
9. Parking will be provided as shown on the Site Plan in size, location and number.
10. Allows for the use of exposed fastener metal panels (R-style panels are prohibited).

It should be noted that City Staff and the developer have met to discuss the timing of the James Garner Extension Project and this proposed redevelopment. It is anticipated both projects may occur simultaneously. The developer has indicated he will continue to work with City staff as the redevelopment project progresses.

OTHER AGENCY COMMENTS:

PRE-DEVELOPMENT: No meeting was required for this application.

GREENBELT COMMISSION MEETING: No meeting was required for this application.

PARK BOARD: Parkland dedication is not required for this application.

PUBLIC WORKS: This is in an area where no drainage improvements are required. However, drainage improvements along James Garner will be done as part of the upcoming James Garner project.

UTILITIES:

1. Water
 - a. Existing water line along Symmes will need to be relocated/replaced due to the proposed on-street parking and conflict with existing fire hydrant.
 - b. Water meters must be located within easement or right-of-way and must be moved further from the structure.
2. Sewer
 - a. Offsite extension required for service. Applicant has submitted drawings for the extension.
3. Sanitation
 - a. Dumpster must be sized, in combination with frequency of service, to meet the needs of both the existing event center and proposed multi-family building.

CONCLUSION: At their June 8, 2023 meeting, Planning Commission unanimously recommended approval of Ordinance No. O-2223-44, by a vote of 5-0.

Staff forwards this request and Ordinance No. O-2223-44 to City Council for consideration.

O-2223-44

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, AMENDING SECTION 36-201 OF CHAPTER 36 OF THE CODE OF THE CITY OF NORMAN SO AS TO REMOVE PART OF LOT THREE (3) AND ALL OF LOTS FOUR (4), FIVE (5), AND SIX (6), IN BLOCK SIXTY-NINE (69) OF LARSH'S FIRST ADDITION, TO NORMAN, CLEVELAND COUNTY, OKLAHOMA, FROM THE CCFBC, CENTER CITY FORM-BASED CODE, AND PLACE SAME IN THE CCPUD, CENTER CITY PLANNED UNIT DEVELOPMENT; AND PROVIDING FOR THE SEVERABILITY THEREOF. (101 W. Symmes Street)

- § 1. WHEREAS, 101 W, L.L.C., the owners of the hereinafter described property, have made application to have the subject property removed from the CCFBC, Center City Form-Based Code, and placed in the CCPUD, Center City Planned Unit Development; and
- § 2. WHEREAS, said application has been referred to the Planning Commission of said City and said body has, after conducting a public hearing as required by law, considered the same and recommended that the same should be granted and an ordinance adopted to effect and accomplish such rezoning; and
- § 3. WHEREAS, the City Council of the City of Norman, Oklahoma, has thereafter considered said application and has determined that said application should be granted and an ordinance adopted to effect and accomplish such rezoning.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 4. That Section 36-201 of Chapter 36 of the Code of the City of Norman, Oklahoma, is hereby amended so as to remove the following described property from the CCFBC, Center City Form-Based Code, and place the same in the CCPUD, Center City Planned Unit Development, to wit:

Ordinance No. O-2223-44

Page 2

A part of Lot Three (3) and all of Lots Four (4), Five (5) and Six (6), in Block Sixty-nine (69), of LARSH'S FIRST ADDITION, to the City of Norman, Cleveland County, Oklahoma, according to the recorded plat thereof and being more particularly described as follows:

Beginning at the Southwest corner of Lot 6 in Block 69 of said LARSH'S FIRST ADDITION; Thence N27°38'44"W along the West line of said Lots 3 through 6 a distance of 92.00 feet; Thence N62°25'48" and parallel to the South line of said Lot 6 a distance of 130.00 feet to a point on the East line of said Lot 3; Thence S27°38'42"E along the East line of said Lots 3 through 6 a distance of 92.00 feet to the Southeast corner of said Lot 6; Thence S62°25'48"W along the South line of said Lot 6 a distance of 130.00 feet to the POINT OF BEGINNING.

Containing 11,960.02 square feet or 0.274 acres, more or less.

§ 5. Further, pursuant to the provisions of Section 36-540 Appendix B of the Code of the City of Norman, as amended, the following condition is hereby attached to the zoning of the tract:

- a. The site shall be developed in accordance with the CCPUD Narrative and the Site Development Plan, considered by the Planning Commission on June 8, 2023, and supporting documentation submitted by the applicant and reviewed by the Planning Commission, and made a part hereof.

§ 6. Severability. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

ADOPTED this _____ day of _____, 2023.

NOT ADOPTED this _____ day of _____, 2023.

(Mayor)

(Mayor)

ATTEST:

(City Clerk)

101 West Symmes

Norman, Oklahoma

CSO Development Corporation

A CENTER CITY PLANNED UNIT DEVELOPMENT
APPLICATION FOR REZONING

Submitted 1 May 2023

Revised 12 May 2023

Revised 18 May 2023

Revised 30 May 2023

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II. PROPERTY DESCRIPTION/EXISTING PROPERTY CONDITIONS

A. Location

B. Existing Land Use and Zoning

C. Elevation and Topography

D. Drainage

E. Utility Services

F. Fire Protection Services

G. Traffic Circulation and Access

III. DEVELOPMENT PLAN AND DESIGN CONCEPT

A. Permissible Uses

B. Development Criteria

C. CCPUD Variances

EXHIBITS

A. Proposed Site Development Plan

B. Legal Description of the Property

I. INTRODUCTION

A. Background and Intent

This Center City Planned Unit Development (the “**CCPUD**”) is submitted for the development of the 101 West Symmes Street property (the “Property” or “Addition”). The Property is on the northwest corner of James Garner Avenue and Symmes Street. The legal description is attached in Exhibit B.

The site is a corner lot with an existing paved parking lot. The existing shed on the Property is dilapidated and this Property is a good candidate for revitalization.

It is the intent of the Applicant to develop the Property into a leading example of Center City revitalization. The Applicant is 101 W. LLC, Peter Petromilli.

The property where the new development sits is zoned CCFBC, Center City Form Based Code Urban General Frontage. The Applicant is able to conform to most of the lengthy and detailed CCFBC code provisions. However, due to the unique characteristics of corner lots we are requesting modifications to the CCFBC to allow for the proposed design. Therefore, in the spirit of fulfilling the vision of CCFBC, the Applicants bring this CCPUD forward with requested variances from the CCFBC as is necessary for this proposed development. In order to accomplish these goals, the applicant hereby requests a rezoning to a CCPUD.

II. PROPERTY DESCRIPTIONS; EXISTING CONDITIONS

A. Location

The Property is located at 101 West Symmes Street. The Property is on the northwest corner of James Garner Avenue and Symmes Street. The specific location is illustrated on the attached Site Plan, as Exhibit A. See Exhibit B for legal description.

B. Existing Land Use and Zoning

The Property is currently zoned CCFBC, Urban General Frontage. The property is addressed off Symmes Street, however, the future development is proposed to front onto James Garner.

C. Elevation and Topography

The existing Property currently consists of a dilapidated shed and an existing parking lot. The existing shed and portions of the parking lot are being removed. There is no planned change to the general topography or drainage of the site. The impervious area of the new structure is similar to the buildings and parking

previously located on this site.

D. Drainage

The property is generally flat. The property currently drains to the streets and alley that surround the existing parking lot.

E. Utility Services/ Public Works

All required utility systems for the project (including water, sewer, gas, and electric) are in immediate proximity to the Property, and long established. A public sanitary sewer extension is required to service the building.

The Property is already platted.

F. Fire Protection Services

Fire protection services are as provided by the City of Norman Fire Department and per the City of Norman regulations for such.

G. Traffic Circulation and Access

James Garner Avenue is located to the east, Symmes Street to the south and the public alley to the west. Vehicle access is currently available through existing drives off James Garner Avenue and Symmes Street, both of these access points will be removed with this redevelopment. Public sidewalks are located along James Garner Avenue and Symmes Street.

III. DEVELOPMENT PLAN AND DESIGN CONCEPT

A. Permissible Uses

The Applicant proposes that for this Property, the following uses shall be permitted.

Residential

- Household Living
 - One, two or three, or multi-dwelling unit structures or set of attached structures as applicable in each BFS
 - Elderly housing
- Group Living
 - Assisted Living
 - Boarding house, rooming house, lodging house
 - Hospice
 - Dormitory
 - Fraternity and Sorority
 - Monastery/convent

- Nursing home
- Transitional home

Commerce – All stories as defined and regulated by the CCFBC

- Office
- Overnight Lodging
- Recreation/Entertainment
- Vehicle Sales
- Passenger Terminal
- Day Care
- Retail Sales & Service
- Restaurant/Bar/Lounge/Tavern
- Art Studio/Artisanal Manufacturing
- Research & Development
- Self-service storage – upper story only
- Auto Repair

B. Development Criteria

1. **Siting.** The development shall comply with the setbacks shown on the Site Development Plan. To achieve a multimodal, pedestrian friendly environment, the RBL for the Property along James Garner Ave. shall remain on the property line as shown on the center city form based code regulating plan. The new RBL fronting Symmes Street shall be set at 3 feet (3') from the south property line, as shown on the Site Development Plan.

Buildings on the Property fronting James Garner Avenue shall be built at a minimum of 90% and up to 100% of the RBL on the Property. Buildings on the property fronting Symmes Street shall be built at a minimum of 65% and up to 100% of the total RBL on the Property.

The RBL incorporates an offset area or depth of 24-inches behind the RBL (into the buildable area) allowing for jogs, façade articulation, etc. Therefore, where the façade is placed within that 24-inch zone, it is considered to be "built to" the RBL. To accommodate the design, a variance from the CCFBC for an additional offset area or depth of forty-eight inches (48") behind that line (into the buildable area) to allow for recessed doors and stoops is included. Therefore, where the façade recessed doors and stoops only, are placed within that forty-eight inch (48") zone, it is considered to be "built to" the RBL. The applicable setbacks are illustrated on the Site Development Plan. Street walls are only required on the Property where shown on the Site Development Plan, Exhibit A. Any other unbuilt areas of the RBL are allowed to remain open.

2. **Building Height.** The building shall be at least two stories in height at the RBL but no more than five stories. In all other locations, the maximum height of buildings shall be five stories. The ground story finished floor elevation shall be no lower than the average fronting public sidewalk elevation and no higher than 18-inches above the average fronting public sidewalk elevation. The ground story shall have a clear height of at least 9-feet along the RBL. The minimum clear height for each upper story is 9-feet.

3. **Elements.** The Property shall be built in accordance with the terms of this CCPUD and the exhibits hereto.

Fenestration

- Blank lengths of wall exceeding 20 linear feet are prohibited on all Required Build Lines (RBL) and exterior walls provided they are not within 3 feet of the property line.
- Ground story fenestration shall comprise between 10% and 70% of the ground story facade and exterior walls provided they are not within 5 feet of the property line.
- Upper story fenestration shall comprise between 10% and 70% of the facade and exterior wall area per story provided they are not within 5 feet of the property line.
- All fire rated exterior walls are exempt from fenestration requirements
- The northmost wall facing the north property line has no fenestration requirement since it is designed as a fire rated party wall.

Building Projections

- Awnings shall project a minimum of 4-feet from the façade
- Awnings may have supporting posts at their outer edge provided that they:
 - a. Have a minimum of 8-feet clear width between the façade and the awning support posts or columns, and
 - b. Provide a continuous walking path at least 5-feet wide within that clear width, running parallel to the awning posts/columns.

4. **Sanitation.** It is the intent that the existing trash dumpster just north of this site and shown on the Site Development Plan shall be shared with this property.

5. **Signage.** All signage shall comply with 402. General Provisions, Section M of the CCFBC, along with the following allowance: one main building sign is permitted within the area between the top story floor line and the roofline with a horizontal band not to exceed 3 feet (3') in height along James Garner Ave and/or Symmes Street. The Property shall feature residential style building address numbers. Letters/numbers shall not exceed 18 inches (18")

in height or width. Signs shall not come closer than 2-feet (2') to the adjacent Common Lot Line.

6. **Traffic access and sidewalks.** The existing drives off James Garner and Symmes Street will be removed with this redevelopment. Vehicular access to the parking lot for the Property shall be off the alleyway. Access for pedestrians is planned along the Symmes Street, James Garner Avenue, and the Northwest side of the building where the two main entrances are located. Sidewalks are existing and new as illustrated in the attached Exhibit A. They are along the west side of James Garner Avenue and the north side of Symmes Street. Any damage to existing sidewalks will be replaced prior to a Certificate of Occupancy. Site and street parking is shown on the site plan. Bicycle parking racks shall be provided as illustrated on the Site Development Plan attached Exhibit A.
7. **Lighting.** The project shall comply with the requirements of the CCFBC under 402. General Provisions, Section N. Lighting & Mechanical, as amended thereafter.
8. **Drainage.** The impervious area of the new structure is similar to the buildings and pavement previously located on this site. Drainage for the new development will utilize existing drainage systems.
9. **Open Space.** The proposed open space will meet or exceed the CCFBC required 15% open space. The proposed open space shall be located on the north and northwest sides of the building, by way of unit patios and roof top patios, as indicated on the attached Site Development Plan, Exhibit A.
10. **Landscaping.** Refer to attached Exhibit A, Site Development Plan, for the number of trees to be planted in the open space area and street trees in street tree alignment area. Any trees planted shall be of a species that is listed in Section 506. Tree Lists, of the CCFBC, as amended thereafter, or otherwise approved by the City of Norman Forester, City of Norman ordinance, or appropriate City of Norman staff member.
11. **Parking** Refer to attached Exhibit A, Site Development Plan for the number of on-site and on-street parking spaces provided, their location, and size. This property shall only be required to comply with the Parking Setback Line along James Garner Avenue
12. **Architectural Materials (exteriors).** The Center City is a compact, walkable, mixed-use urban district. Traditional, sustainable, durable materials appropriate to the central Oklahoma climate will be utilized. Innovative,

energy-efficient materials appropriate to a pedestrian-scaled urban environment will be used for this development.

The following materials are prohibited:

- Any lap siding except natural wood or cementitious fiberboard.
- Composition roofing shingles used as a wall material
- Exposed fastener metal, R-Style panels.
- Artificial stucco or EIFS, except high impact quality

C. CCFBC Standards

The Property shall be developed in accordance with the terms of this CCPUD and the exhibits attached hereto and incorporated by reference.

For convenience purposes, a summary of the proposed CCPUD is as follows:

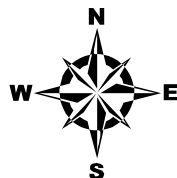
1. Location of building will be forward of the Required Build Line (RBL) along Symmes Street from nine feet (9') to three feet (3').
2. Adjustment of the Siting requirement along Symmes Street from 100% to 65% minimum and along James Garner Avenue from 65% to 90%
3. A variance from the CCFBC for an additional offset area or depth of forty-eight inches (48") behind that line (into the buildable area) to allow for recessed doors and stoops is included. Therefore, where the façade recessed doors and stoops only, are placed within that forty-eight inch (48") zone, it is considered to be "built to" the RBL.
4. Defined the exact locations of the street wall on the Site Development Plan.
5. Remove the parking setback line requirement along Symmes Street. The property will adhere to the parking setback line on James Garner Avenue as shown on the Site Plan.
6. The minimum fenestration requirements for building facades more than 5' from property line to be decreased to a minimum of 10 %.
7. Added a new fenestration requirement: All fire rated exterior walls are exempt from fenestration requirements.
8. Added a new fenestration requirement: The north most wall closest to the north property line is exempt from fenestration requirements as this wall is being designed as a fire rated party wall.
9. Allow a main building sign within the area between the top story floor line and the roofline with a horizontal band not to exceed 3 feet (3') in height along James Garner Avenue and/or Symmes Street.
10. Parking shall meet the Site Plan in size, location and number.
11. Allow for all exposed fastener metal panels except for R-Style panels.



Location Map



Map Produced by the City of Norman
Geographic Information System.
The City of Norman assumes no
responsibility for errors or omissions
in the information presented.



May 3, 2023

0 75 150 Ft.



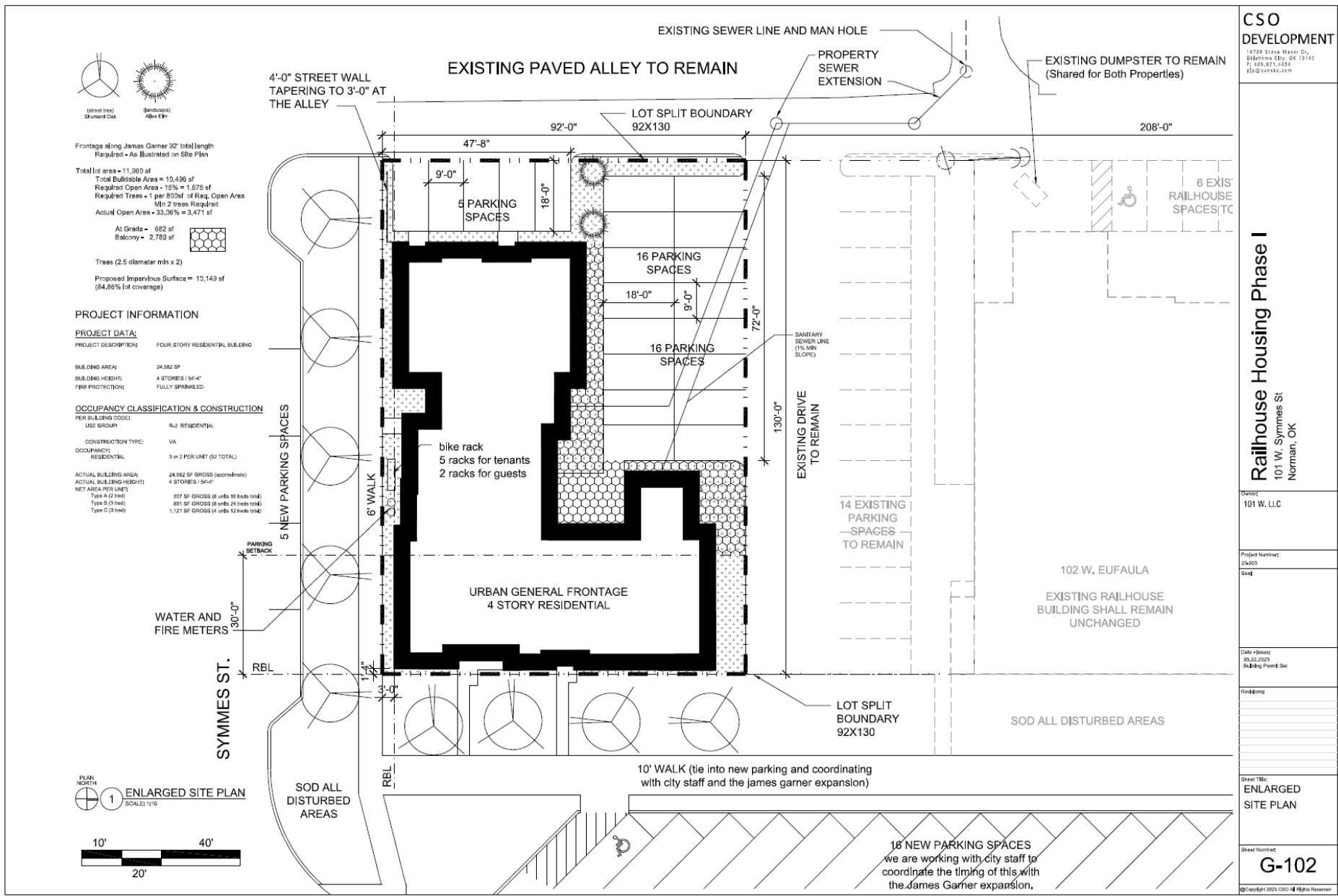
Subject Tract



Zoning

EXHIBIT A

Item 41.



ORDINANCE NO. O-2223-44

ITEM NO. 9

STAFF REPORT**GENERAL INFORMATION**

APPLICANT	Peter Petromilli
REQUESTED ACTION	Rezoning to CCPUD, Center City Planned Unit Development
EXISTING ZONING	Center City Form-Based Code, Urban General
SURROUNDING ZONING	North: Urban General, CCFBC East: Public Street and BNSF Right-of-Way South: Urban General, CCFBC West: Urban Residential, CCFBC
LOCATION	101 W. Symmes Street
SIZE	11,960 sq. ft., more or less
PURPOSE	Residential Apartments
EXISTING LAND USE	Parking Lot
SURROUNDING LAND USE	North: The Rail House (event center) East: Public Street and Railroad South: Residential Apartments West: Residential Apartments
LAND USE PLAN DESIGNATION	Commercial

REQUEST SUMMARY:

This is a request to rezone the area located at the corner of James Garner Avenue and West Symmes Street, designated as Center City Form Based Code District, to a Center City Planned Unit Development (CCPUD), as outlined in Appendix B of the Center City Form-Based Code.

The proposal for this site is to construct a four-story apartment building with a total area of 24,582 square feet, as illustrated on Exhibit A, Site Plan. The proposed development will have twenty residential dwelling units; eight units will have 2-bedrooms and twelve units will have 3-bedrooms – for a total of fifty-two (52) bedrooms. Open space will be provided on the north

side of the building, roof patio and on patios/balconies of the individuals units. A total of two (42) parking spaces are to be installed as shown on the Site Plan. Twenty-one (21) parking spaces will be provided through on-site parking lots with access off the alleyway. Sixteen (16) on-street parking spaces will be installed on James Garner Avenue and an additional five (5) on-street parking spaces will be installed on Symmes Street.

BACKGROUND:

This is a rezoning application moving forward to Planning Commission and City Council to request a Center City Planned Unit Development under the recently revised Center City Form Based Code (CCFBC); many may not be aware of the extent and process that went into the preparation and review of the CCFBC. Below is an overview for those not familiar with the process.

City Council approved a Memorandum of Understanding (MOU) between the City of Norman and the University of Oklahoma (OU) on January 14, 2014. The MOU set forth the terms and conditions that would govern the development of a Center City Master Plan/Visioning Project and outlined the responsibilities of the City of Norman and the University of Oklahoma.

The Center City Form-Based Code, which is the outcome of this Project, was generated and recommended through a Steering Committee. In addition, there was an Executive Subcommittee of the Steering Committee, which was comprised of one representative from the City of Norman, one representative from the University of Oklahoma, and one citizen chosen jointly by the City of Norman and the University of Oklahoma.

The consultants hired for the project were Bill Lennertz with the National Charrette Institute as project manager and the other project team members included staff from Opticos and Ferrell Madden.

The Center City Vision Design Charrette was held the week of May 12-16, 2014; this week-long event provided three public meetings: a Hands-On Design Workshop, an Open House and a Final Presentation. The remainder of the week included Steering Committee meetings, technical meetings, numerous ad hoc meetings with property owners and interested citizens and an open design studio so visitors could see the design progress.

After the Charrette, the Steering Committee met numerous times over a two-year period to discuss and recommend a form-based code document to present to City Council. In addition, Mary Madden from Ferrell Madden made presentations to City Council on the history of the project, what is a Form Based Code, how the Center City Code developed an administration of the Code.

The City Council moved forward with this project, in cooperation with the University of Oklahoma for many reasons. Some of the reasons were, the current zoning regulations were not adequately managing the growing demand for infill development in Norman's Center City area and there was significant community disagreement about market-driven proposals for the infill development occurring. The professional charrette process was the best technique available to articulate the community vision.

The results of the Charrette process became the foundation for an illustrated community-supported vision for the future of the Center City area, Center City Form Based Code (CCFBC).

Center City Form-Based Code Contents:

How to Use This Code

Table of Contents

Part 1: General Provisions

Part 2: Administration, Application Process & Appeals

Part 3: The Regulating Plan

Part 4: Building Form Standards

Part 5: Urban Space Standards

Part 6: Parking and Loading Standards

Part 7: Building Functions

Part 8: Site Development Requirements

Part 9: Definitions

Appendix A (Process, Incentives)

Appendix B (Center City Planned Unit Development, CCPUD)

Appendix C (Bicycle Parking Design Guidelines)

ZONING DISTRICTS INCLUDED IN THIS DOCUMENT:

Urban General – The basic urban street frontage, once common across the United States. The purpose is to develop multi-story buildings placed directly at the sidewalk or behind small dooryards.

Urban Residential – Same as the Urban General except that the uses are limited to residential and related support services.

Urban Storefront – Represents the prototypical “main street” form with shopfronts along the sidewalk and a mix of uses above. A high level of pedestrian activity is anticipated. It is a subset of the Urban General frontage, with more specific requirements at the street level.

Detached – This frontage is represented by the traditional single-family house with small front, side and rear yards along tree-lined streets.

Form-based codes offer a new way of thinking about development regulation and helping communities holistically shape their futures. They help to achieve desired urban forms, such as: vital centers supportive of businesses both big and small; neighborhoods and streets that are safe and attractive for walking and bicycling; preservation of community history; and protection of the environment.

The CCFBC is composed of Building Form Standards and Public Space Standards mapped to a Regulating Plan.

Building Form Standards regulate simple things like: how far buildings are from sidewalks, how much window area at a minimum a building must have, how tall it is in relation to the width of the street, how accessible and welcoming front entrances are, and where a building’s parking should be located. Building Form Standards require buildings to have windows and welcoming entries that contribute to life on the sidewalk and they require the placement of parking to the rear of buildings to ensure that it doesn’t get between buildings and pedestrians. These standards require that buildings support and shape the public spaces of our city.

Building Form Standards control the use of land in a more indirect way than standard zoning. They don’t give the long and ever-expanding lists of permitted and special uses that zoning

codes typically contain. Rather, they describe general uses. In addition, they try to land use through building type. For example, if a community wants a pedestrian-friendly main street, its standards would prescribe shopfront or mixed-use buildings.

Public Space Standards regulate the form of streets and squares. These standards provide for comfortable and useful spaces for many activities, including walking, bicycling, driving, public transit, and a community's social life rather than just providing for the movement and storage of cars. A shopping street is a different kind of street than a boulevard, which is different from a residential street, which is different from a rear alley.

PARTICULARS OF THIS CCPUD:

The applicant is requesting this CCPUD in order to build the desired structure illustrated on the attached drawings. The applicant is able to comply with many of CCFBC requirements. However, due to the unique characteristics of this corner parcel and the design of the desired structure, the applicant is requesting a variety of modifications to the Center City Form Based Code, as follows:

1. Move the Required Build Line along Symmes Street forward from nine feet (9') behind the property line to three feet (3') behind the property line.
2. Reduce the siting requirement along the Required Build Lines from 100% on Symmes Street to a minimum of 65%. The siting requirement on James Garner will be increased from 65% to a minimum of 90%.
3. Increase the allowed offset from the Required Build Line from twenty-four inches (24") to a maximum of forty-eight inches (48") for recessed door, patios and doors.
4. Allow for the required street wall only on Symmes Street, as shown on Site Plan.
5. The minimum fenestration requirements for building facades more than 5' from property line are decreased to a minimum of 10%.
6. Allows all fire rated exterior walls to be exempt from fenestration requirements.
7. Allows the northern most wall of the structure, that faces the north property line, to be exempt from fenestration requirements.
8. Allows for a main building sign between the top floor line and the roofline, not to exceed 3' in height for both Symmes Street and James Garner Avenue facades.
9. Parking will be provided as shown on the Site Plan in size, location and number.
10. Allows for the use of exposed fastener metal panels (R-style panels are prohibited).

It should be noted that City Staff and the developer have met to discuss the timing of the James Garner Extension Project and this proposed redevelopment. It is anticipated both projects may occur simultaneously. The developer has indicated he will continue to work with City staff as the redevelopment project progresses.

OTHER AGENCY COMMENTS:

PRE-DEVELOPMENT: No meeting was required for this application.

GREENBELT COMMISSION MEETING: No meeting was required for this application.

PARK BOARD: Parkland dedication is not required for this application.

PUBLIC WORKS: This is in an area where no drainage improvements are required. However, drainage improvements along James Garner will be done as part of the upcoming James Garner project.

UTILITIES:

1. Water
 - a. Existing water line along Symmes will need to be relocated/replaced due to the proposed on-street parking and conflict with existing fire hydrant.
 - b. Water meters must be located within easement or right-of-way and must be moved further from the structure.
2. Sewer
 - a. Offsite extension required for service. Applicant has submitted drawings for the extension.
3. Sanitation
 - a. Dumpster must be sized, in combination with frequency of service, to meet the needs of both the existing event center and proposed multi-family building.

CONCLUSION: Staff forwards this request and Ordinance No. O-2223-44 to Planning Commission for consideration and a recommendation to the City Council.

101 W. Symmes St
Norman, OK

Project Number:	23-003
Seal:	

Date - Issue:
05.01.2023
CCPUD Set

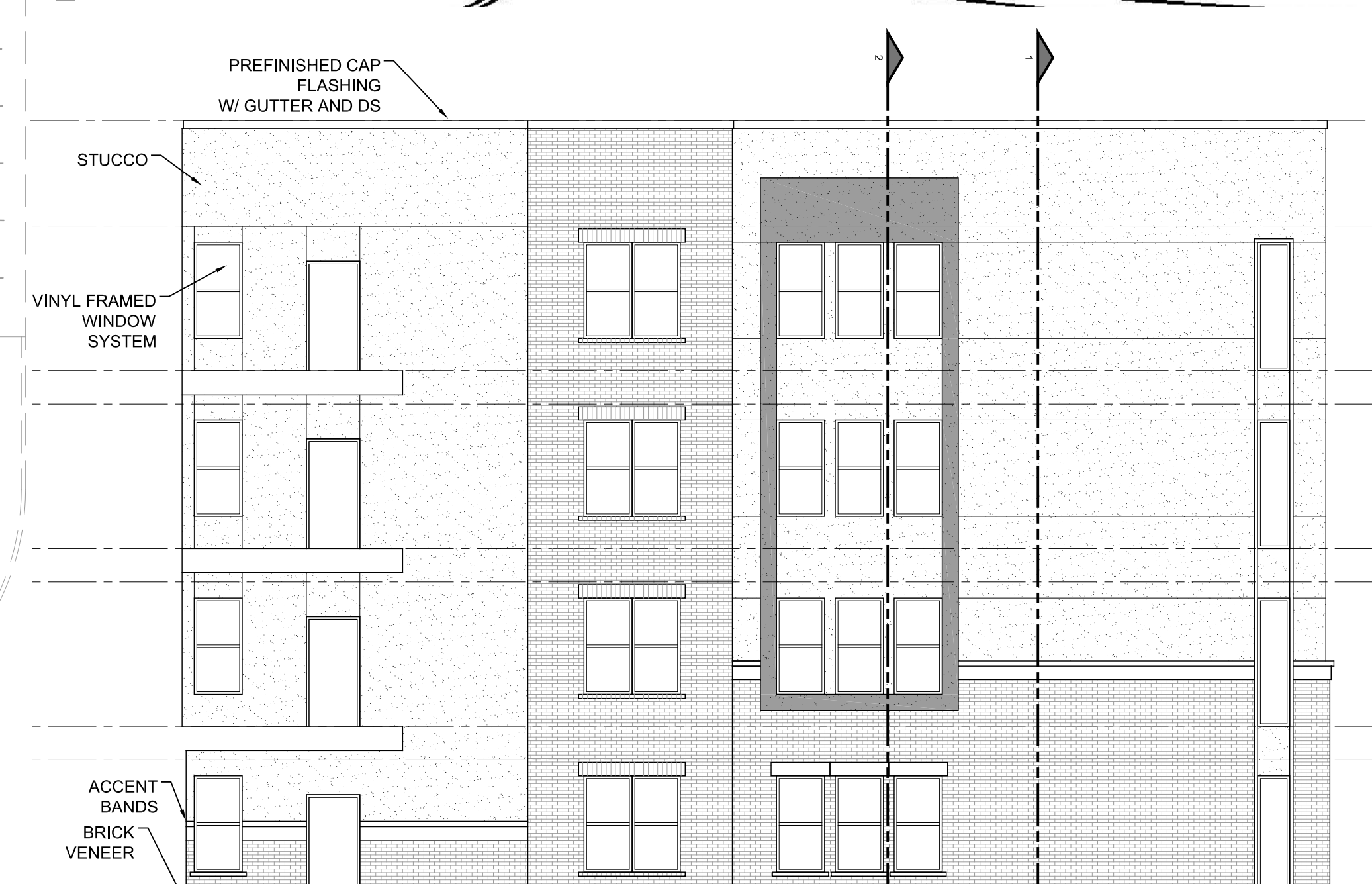
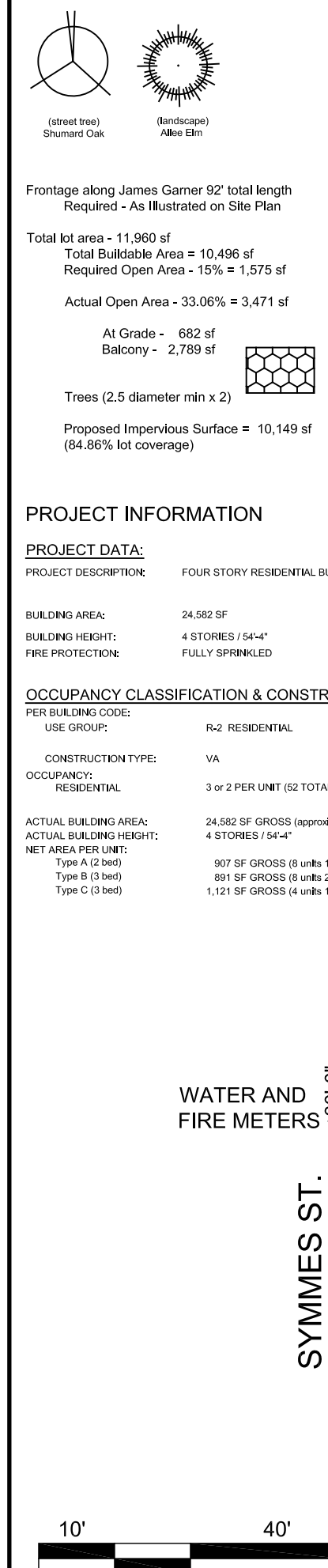
Revisions:

1 REVISED 05/11/2023

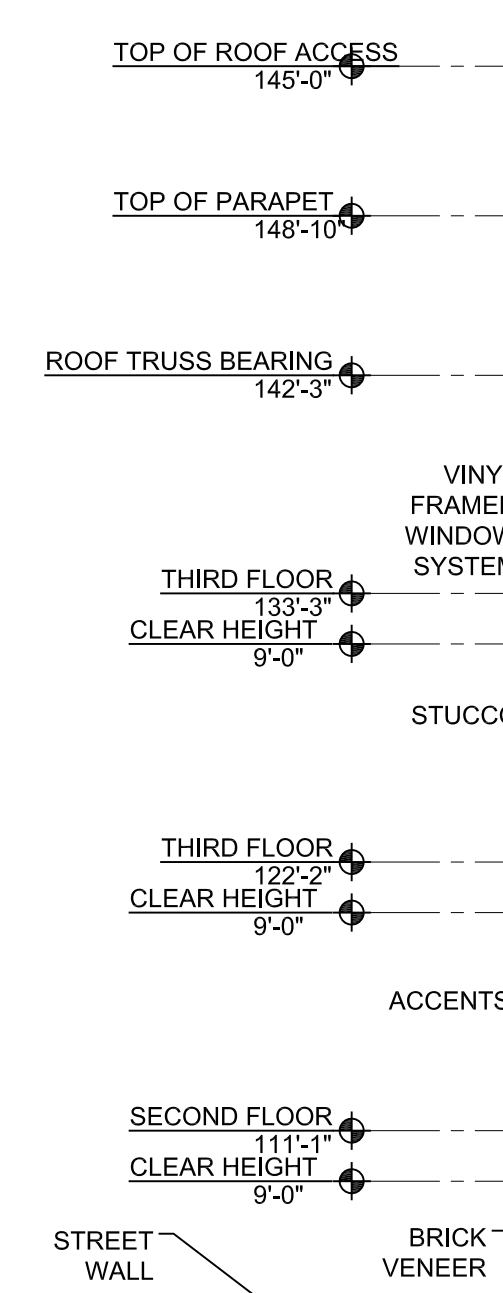
Sheet Title:
**SITE PLAN &
FRONTAGE**

Sheet Number:
G-101

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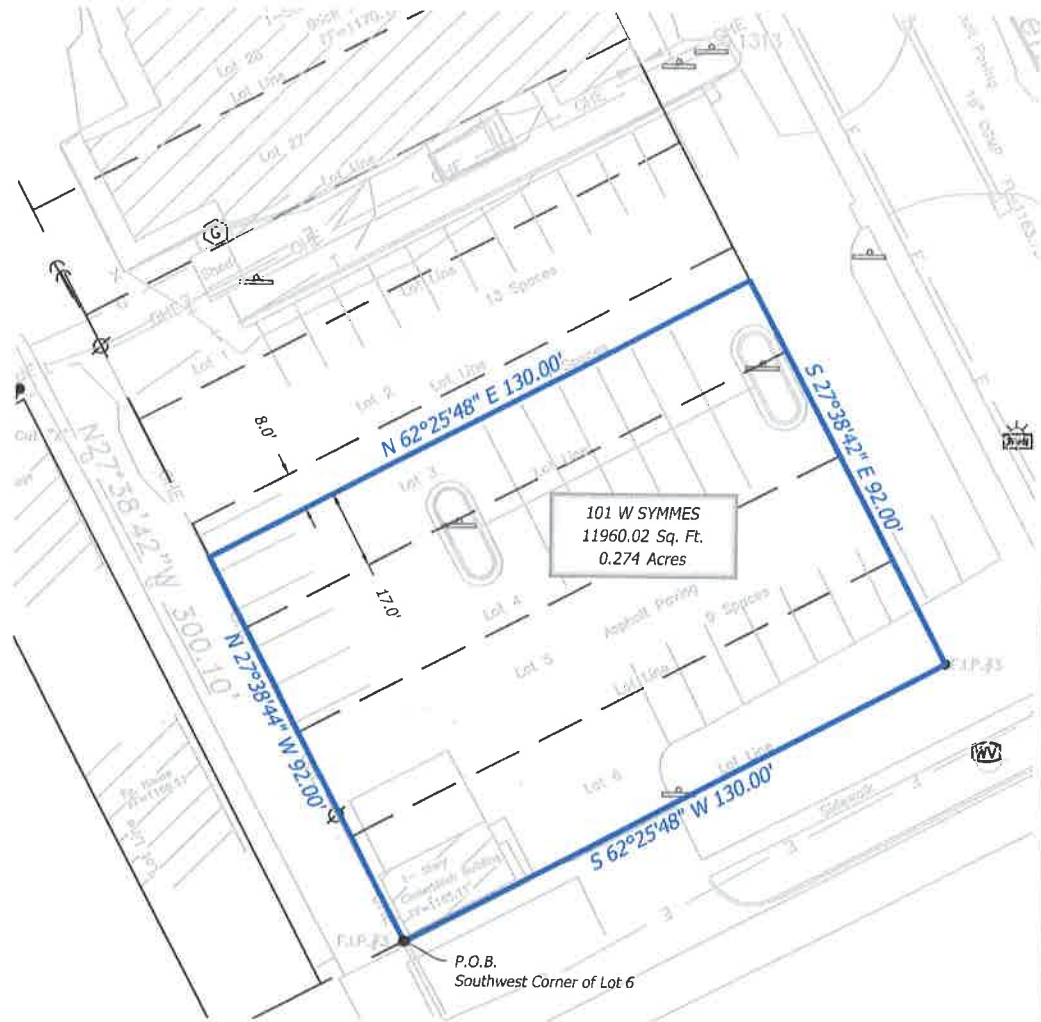
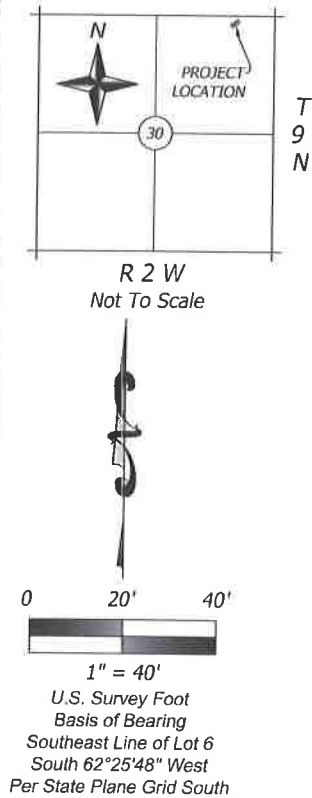
North Elevation Inset at Back Court
facing Parking



South Elevation Side Yard at Symmes St.

East Elevation Frontage at James Garner Ave.

EXHIBIT B

**LEGAL DESCRIPTION**

A part of Lot Three (3) and all of Lots Four (4), Five (5) and Six (6), in Block Sixty-nine (69), of LARSH'S FIRST ADDITION, to the City of Norman, Cleveland County, Oklahoma, according to the recorded plat thereof and being more particularly described as follows:

Beginning at the Southwest corner of Lot 6 in Block 69 of said LARSH'S FIRST ADDITION; Thence N 27°38'44" W along the West line of said Lots 3 through 6 a distance of 92.00 feet; Thence N 62°25'48" and parallel to the South line of said Lot 6 a distance of 130.00 feet to a point on the East line of said Lot 3; Thence S 27°38'42" E along the East line of said Lots 3 through 6 a distance of 92.00 feet to the Southeast corner of said Lot 6; Thence S 62°25'48" W along the South line of said Lot 6 a distance of 130.00 feet to the POINT OF BEGINNING.

Containing 11960.02 Sq. Ft. or 0.274 Acres, more or less.

Legal Description prepared on April 5, 2023 by Troy Dee, Registered Professional Land Surveyor No. 1745.



Troy Dee
Troy Dee, PLS #1745
April 5, 2023

Prepared By

GOLDEN
LAND SURVEYING

4131 N.W. 122nd St., Suite 100, Oklahoma City, Oklahoma 73120

C.A.# 7263 / Exp. Date = 6/30/2024

Telephone: (405) 802-7883 Email: troy@goldenls.com

Drafted by: SR GLS Job No.: 19192

Plot Date: April 5, 2023

Sheet 1 Of 1

File Attachments for Item:

42. CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF PRELIMINARY PLAT PP-2223-7: FOR THE DOMERICA ADDITION (GENERALLY LOCATED AT 3360 SOUTH CLASSEN BOULEVARD (APPROXIMATELY ONE-HALF MILE SOUTH OF STATE HIGHWAY NO. 9 ON THE WEST SIDE OF CLASSEN BOULEVARD)).



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Ken Danner, Subdivision Development Manager

PRESENTER: Shawn O'Leary, Director of Public Works

TITLE: CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF PRELIMINARY PLAT PP-2223-7: FOR THE DOMERICA ADDITION (GENERALLY LOCATED AT 3360 SOUTH CLASSEN BOULEVARD (APPROXIMATELY ONE-HALF MILE SOUTH OF STATE HIGHWAY NO. 9 ON THE WEST SIDE OF CLASSEN BOULEVARD)).

BACKGROUND:

This item is a preliminary plat of Domerica Addition and located at 3360 South Classen Boulevard (approximately one-half mile south of State Highway No. 9 on the west side of Classen Boulevard. The owner is proposing commercial retail including a restaurant on 2.09 acres and one (1) lot. The engineer/surveyor for the developer has provided cross access easements to the north and to the south of this property to provide internal access for future development as specified with Resolution No. R-0506-140. This will allow the properties to the north and south of this property to have a safe internal connection within this property to Classen Boulevard. No additional direct access to Classen Boulevard will be allowed with future development

City Council, at its meeting of November 27, 2007, adopted Ordinance No. O-0708-14 placing this property in the C-2, General Commercial District. Planning Commission, at its meeting of June 8, 2023, recommended approval of the preliminary plat for Domerica Addition.

DISCUSSION:

The proposed 13,976 square foot commercial plaza in this Addition is expected to generate approximately 819 trips per day, 36 AM peak hour trips, and 99 PM peak hour trips. The development is proposed for location on the west side of Classen Boulevard opposite the South Lake Boulevard approach to Classen Boulevard. Obviously being virtually at the threshold for when a traffic impact study is required (>100 peak hour trips is the threshold), the developer is required to submit a traffic impact analysis with this application. On behalf of the developer Traffic Engineering Consultants, Inc. submitted traffic impact analysis memorandum. No traffic operational issues are anticipated due to the development.

SEE TABLE 1

The proposed development will access Classen Boulevard from the west by the proposed access drive located opposite to South Lake Boulevard. The proposed driveway on Classen Boulevard will be designed for full access. Capacity exceeds demand in this area. As such, no additional off-site improvements are anticipated.

While no negative traffic impacts are anticipated, an assessment of impact fees was previously established with the South Lake Development Traffic Study at \$163.74 per PM peak hour trip for a series of future traffic signals on Classen Boulevard between State Highway 9 and Cedar Lane Road. As a result, \$16,210.26 ($163.74 \times 99 = 16,210.26$) in traffic impact fees will need to be collected with the filing of the Final Plat.

PUBLIC IMPROVEMENTS:

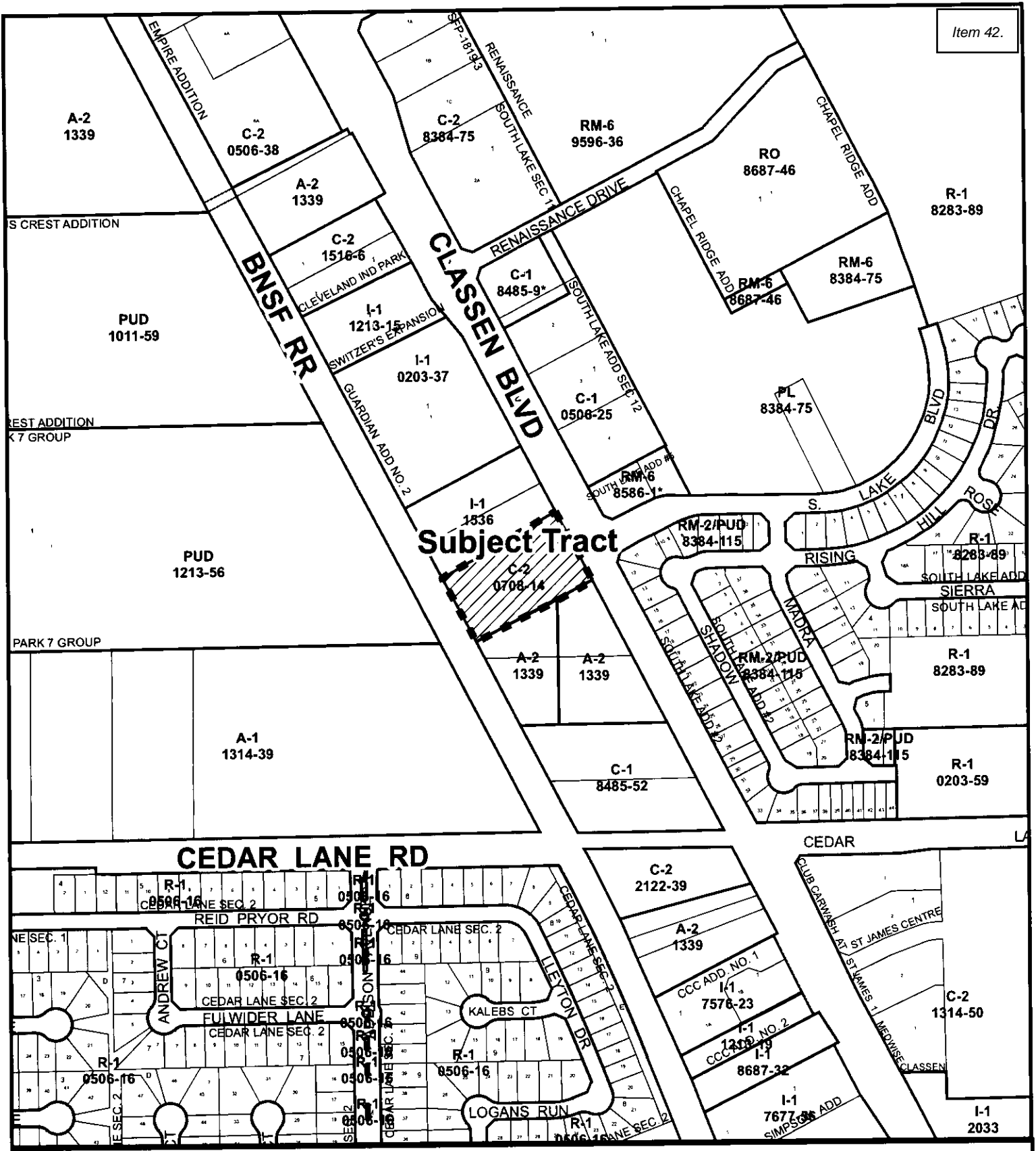
1. **Fire Hydrant.** Fire hydrant is existing.
2. **Permanent Markers.** Permanent markers will be installed prior to the final plat being filed of record.
3. **Sanitary Sewer.** Sanitary sewer is existing.
4. **Sidewalk.** A sidewalk will be constructed in accordance with approved plans and City standards.
5. **Storm Sewers.** Stormwater runoff will be conveyed to a privately maintained detention facility and released into the railroad right-of-way.
6. **Street.** Classen Boulevard is existing.
7. **Water Main.** Water main is existing.

PUBLIC DEDICATIONS.

1. **Easements.** All required easements will be dedicated to the City on the final plat.
2. **Rights-of-Way.** Required right-of-way will be dedicated with the final plat.

RECOMMENDATIONS:

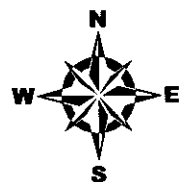
Staff recommends approval of the preliminary plat for Domerica Addition.





Location Map

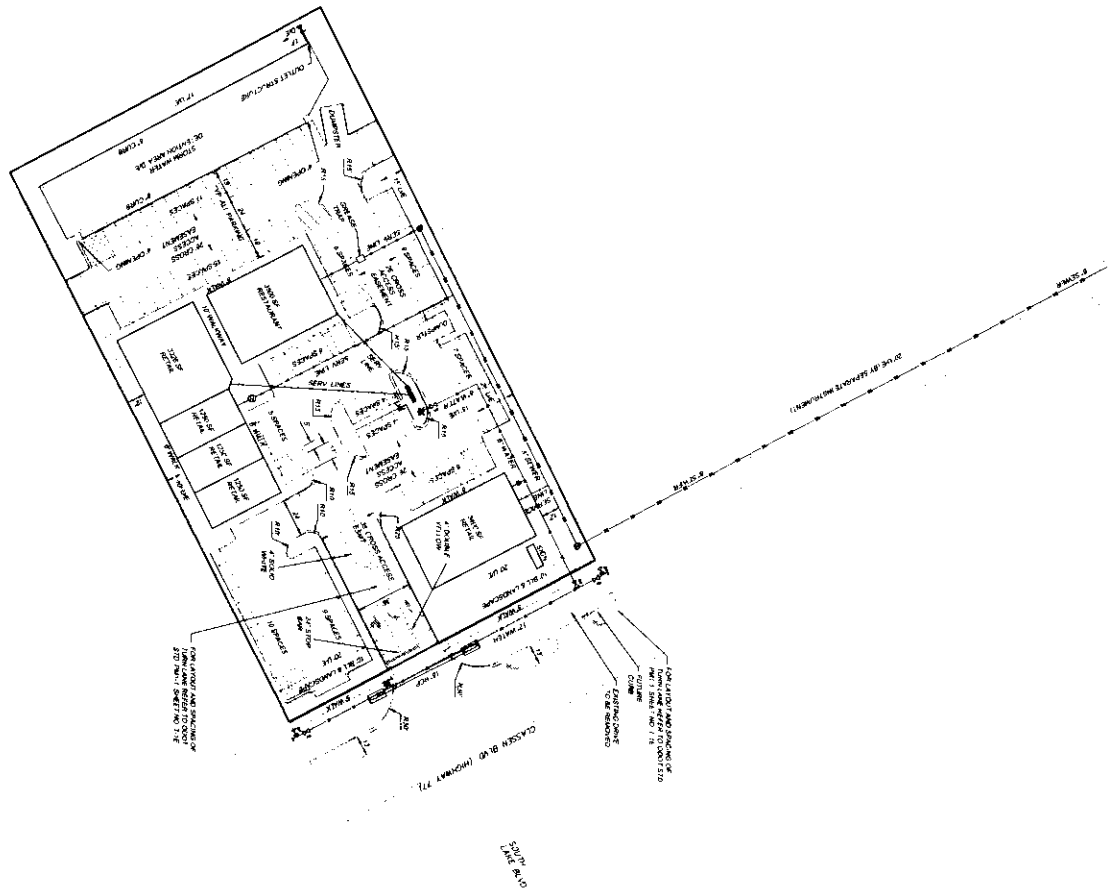


Map Produced by the City of Norman
Geographic Information System.
The City of Norman assumes no
responsibility for errors or omissions
in the information presented.



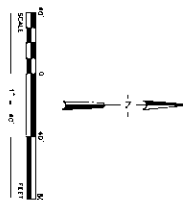
March 3, 2023
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 Subject Tract
 Zoning

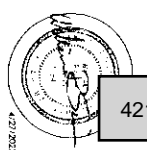


PARKING SPACES = 97
ADA PARKING SPACES =
SF RETAIL = 10,476.59
SF RESTAURANT = 3500

NOTE
ALL SIGNAGE AND STRIPING ASSOCIATED WITH THE PROJECT SHALL CONFORM TO THE LATEST EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD). SPECIFICALLY, PARKING SIGNS SHALL BE PAINTED WHITE. PARKING FOR THE DISABLED SIGNS SHALL BE TYPE R-8, AND ALL SIGNS SHALL BE INSTALLED WITH A 7'5" MOUNTING HEIGHT FROM GROUND TO BOTTOM OF SIGN.

DOMERICA
SITE PLAN

CLASSEN BLVD. AND SOUTH LAKE BLVD.



STREET	NO. OF LANES	BACK-GROUND TRAFFIC (Veh/day)	PROJECTED TRAFFIC (Veh/day)	TOTAL PROJECTED TRAFFIC (Veh/day)	ROADWAY CAPACITY L.O.S. "E"	% CAPACITY USED (BACK-GROUND)	% CAPACITY USED (PROJECTED)
Classen Blvd	5	21,700	819	22,519	36,000	60.28	62.55
South Lake Blvd	2	470	0	470	17,100	2.74	2.74

ITEM: CONSIDERATION OF A PRELIMINARY PLAT FOR DOMERICA ADDITION.

LOCATION: Generally located one-half mile State Highway No. 9. on the west side of Classen Boulevard.

INFORMATION:

1. Owners. Gary and Lynn Do.
2. Developer. Gary and Lynn Do.
3. Engineer. Parkhill Engineering/Lemke Land Surveyi.

HISTORY:

1. Refer to the Planning Commission Staff Report, June 8, 2023.
2. May 23, 2006. City Council adopted Resolution No. R-0506-140 and LUP-0506-16 amending the NORMAN 2025 Land Use and Transportation Plan and designating the west side of Classen Boulevard in Special Planning Area #9C and to amend the NORMAN 2025 Land Use and Transportation Plan from Industrial Designation to Commercial Designation.
3. November 27, 2007. City Council adopted Ordinance No. O-0708-14 placing this property in the C-2, General Commercial District and removing it from I-1, Light Industrial District.
4. June 8, 2023. Planning Commission, on a vote of 5-0 recommended to City Council that the preliminary plat for Domerica Addition be approved.

IMPROVEMENT PROGRAM:

1. Refer to the Planning Commission Staff Report, June 8, 2023.

PUBLIC DEDICATIONS:

1. Refer to the Planning Commission Staff Report, June 8, 2023.

SUPPLEMENTAL MATERIAL: Copies of an advisory memorandum, location map, site plan, preliminary plat, plat Staff report recommending approval, and pertinent excerpts from the Planning Commission minutes are included in the Agenda Book.

ACTION NEEDED: Motion to approve or reject the preliminary plat for Domerica Addition.

ACTION TAKEN: _____

Planning Commission Agenda
June 8, 2023

PRELIMINARY PLAT

ITEM NO. 2

PP-2223-7

ITEM: Consideration of a preliminary plat for **DOMERICA ADDITION, SECTION 1.**

LOCATION: Located at 3360 S. Classen Boulevard.

INFORMATION:

1. Owner. Pham and Lynn Do.
2. Developer. Pham and Lynn Do.
3. Engineer. Parkhill Engineering/Lemke Land Surveying.

HISTORY:

1. October 21, 1961. City Council adopted Ordinance No. 1318 annexing this property into the Norman Corporate City limits without zoning.
2. January 23, 1962. City Council adopted Ordinance No. 1339 placing this property in the A-2, Rural Agricultural District.
3. July 9, 1998. Planning Commission, on a vote of 8-0, recommended to City Council that this property be placed in I-1, Light Industrial District and removed from A-2, Rural Agricultural District.
4. July 9, 1998. Planning Commission, on a vote of 8-0, approved the preliminary plat for Classen Addition, Section 1.
5. September 8, 1998. City Council postponed Ordinance No. O-9899-3.
6. September 22, 1998. City Council postponed Ordinance No. O-9899-3.
7. October 13, 1998. City Council adopted Ordinance No. O-9899-3, placing this property in I-1, Light Industrial District and removing it from A-2, Rural Agricultural District.

8. November 12, 1998. Planning Commission, on a vote of 6-0, recommended to City Council that the final plat for Classen Addition, Section 1, be approved.
9. February 23, 1999. City Council approved the final plat for Classen Addition, Section 1.
10. February 23, 2001. The final plat for Classen Addition, Section 1, became null and void.
11. May 23, 2006. City Council adopted Resolution No. R-0506-140 and LUP-0506-16 amending the NORMAN 2025 Land Use and Transportation Plan and designating the west side of Classen Boulevard in Special Planning Area #9C and to amend the NORMAN 2025 Land Use and Transportation Plan from Industrial Designation to Commercial Designation.
12. October 11, 2007. Planning Commission, on a vote of 8-0, recommended to City Council this property be placed in C-2, General Commercial District and removed from I-1, Light Industrial District.
13. October 11, 2007. Planning Commission, on a vote 8-0, recommended to City Council that the preliminary plat for Domerica Addition be approved.
14. November 27, 2007. City Council adopted Ordinance No. O-0708-14 placing this property in the C-2, General Commercial District and removing it from I-1, Light Industrial District.
15. November 27, 2007. City Council approved the preliminary plat for Domerica Addition.
16. February 14, 2008. Planning Commission, on a vote of 8-0, recommended to City Council the final plat for Domerica Addition be approved.
17. July 8, 2008. City Council approved the final plat for Domerica Addition.
18. July 8, 2010. The approval of the final plat for Domerica Addition became null and void.
19. November 27, 2012. The approval of the preliminary plat for Domerica Addition became null and void.
20. May 11, 2023. Planning Commission meeting was cancelled due to severe weather.

IMPROVEMENT PROGRAM:

1. Fire Hydrants. Fire hydrants are existing.

2. Permanent Markers. Permanent markers will be installed prior to filing of the final plat.
3. Sanitary Sewers. Sanitary sewer is existing.
4. Sidewalks. Sidewalks will be installed adjacent to Classen Boulevard.
5. Storm Sewers. Stormwater and appurtenant drainage structures will be installed in accordance with plans and City drainage standards. Stormwater runoff will be conveyed to a privately maintained detention facility and released into the railroad right-of-way.
6. Streets/Signalization. Classen Boulevard paving is existing. There maybe a future signalization project located at this intersection.
7. Water Main. Water is existing.

PUBLIC DEDICATIONS:

1. Easements. All required easements will be dedicated to the City on the final plat.
2. Rights-of-Way. All street rights-of-way are existing.

SUPPLEMENTAL MATERIAL: Copies of a location map, preliminary plat and site plan are included in the Agenda Book.

STAFF COMMENTS AND RECOMMENDATION: The engineer/surveyor for the developer has provided cross access easements to the north and to the south of this property to provide internal access for future development as specified with Resolution No. R-0506-140. This will allow the properties to the north and south of this property to have a safe internal connection within this property to Classen Boulevard. No additional direct access to Classen Boulevard will be allowed with future development. This property consists of 2.09 acres and one (1) lot. The owner/developer will be required to pay \$16,210.26 for traffic impact fees in connection with Classen Boulevard and future signalization projects prior to filing the final plat with the Cleveland County Clerk. This project was previously approved in 2008 and there are no changes. Staff recommends approval of the preliminary plat for Domerica Addition, Section 1.

ACTION NEEDED: Recommend approval or disapproval of the preliminary plat for Domerica Addition, Section 1 to City Council.

ACTION TAKEN: _____

File Attachments for Item:

43. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-52 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 12-526 OF THE NORMAN CODE OF ORDINANCES, INCREASING THE NUMBER OF VOTING BOARD MEMBERS OF THE RECIPIENT ENTITY OF CONVENTION AND TOURISM DEVELOPMENT FUNDS FROM THIRTEEN TO NINETEEN TO ALLOW ADDITIONAL BOARD MEMBERS REPRESENTATIVE OF THE SPORTS INDUSTRY AND SPORTS COMMUNITY; PROVIDING FOR THE SEVERABILITY THEREOF.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Jason Olsen, Director of Parks and Recreation

PRESENTER: Jason Olsen, Director of Parks and Recreation

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF ORDINANCE O-2223-52 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 12-526 OF THE NORMAN CODE OF ORDINANCES, INCREASING THE NUMBER OF VOTING BOARD MEMBERS OF THE RECIPIENT ENTITY OF CONVENTION AND TOURISM DEVELOPMENT FUNDS FROM THIRTEEN TO NINETEEN TO ALLOW ADDITIONAL BOARD MEMBERS REPRESENTATIVE OF THE SPORTS INDUSTRY AND SPORTS COMMUNITY; PROVIDING FOR THE SEVERABILITY THEREOF.

BACKGROUND:

The City of Norman contracts annually with the Norman Convention and Visitors Bureau ("VisitNorman") to administer the share of funds collected pursuant to the Norman Transient Guest Room Tax Ordinance set aside specifically for the purpose of encouraging, promoting, and fostering convention and tourism development in the City. On May 9, 2023, the voters of Norman approved the Guest Room Tax rate to be increased from five percent (5%) to eight percent (8%), allowing funding for an additional focus on growing Norman's economic and tourism development related to sport opportunities in Norman.

DISCUSSION:

The contract between the City and the Norman Convention and Visitors Bureau originated in fiscal year 1992-2993 (FYE 93) and has been amended six times since then. The latest version consolidated the various amendments to the original contract into a clean new contract between the parties.

Contract K-2223-170 addresses the increased guest room tax rate approved by the May 9, 2023 vote; expands the voting Board of Directors members by four, expands the composition of the Board to address additional community interests; and clarifies VisitNorman's actions on behalf of the City, in exchange for an allocation of Guest Room Tax revenue. Contract amendments will be considered on July 11, 2023, along with this ordinance on Second and Final Reading.

Section 12-526 of the City Code sets out the Board of Directors composition and is proposed to be updated to conform to the current contract and additional community interests to be included on the VisitNorman Board. These amendments are set forth in Ordinance O-2223-52.

RECOMMENDATION:

Staff recommends approving O-2223-52 upon second and final reading.

**CITY OF NORMAN
ORDINANCE O-2223-52**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA AMENDING SECTION 12-526 OF THE NORMAN CODE OF ORDINANCES, INCREASING THE NUMBER OF VOTING BOARD MEMBERS OF THE RECIPIENT ENTITY OF CONVENTION AND TOURISM DEVELOPMENT FUNDS FROM THIRTEEN TO NINETEEN TO ALLOW ADDITIONAL BOARD MEMBERS REPRESENTATIVE OF THE SPORTS INDUSTRY AND SPORTS COMMUNITY; PROVIDING FOR THE SEVERABILITY THEREOF.

WHEREAS, on May 9, 2023, the voters of Norman approved an increase in the Transient Guest Room Tax rate from 5% to 8%; and

WHEREAS, the increase in tax rate was requested to be shared by the current contracting entities for both convention and tourism and the promotion of arts; and

WHEREAS, , the purpose of the tax rate increase related to convention and tourism was to fund the promotion of sports tourism in Norman; and

WHEREAS, to accomplish such purpose, the current recipient of guest room tax dollars for convention and tourism, Norman Convention and Visitor's Bureau, d/b/a Visit Norman, has requested additional board members to ensure the sports community is represented on its board of directors.

NOW THEREFORE, be it ordained by the City Council of the City of Norman, in the State of Oklahoma, as follows:

SECTION 1: AMENDMENT “12-526 Administration Of Convention And Tourism Development Funds” of the City of Norman Municipal Code is hereby *amended* as follows:

B E F O R E A M E N D M E N T

12-526 Administration Of Convention And Tourism Development Funds

The Council shall contract annually, or by a contract renewable annually, with a not-for-profit corporation to administer the share of funds collected pursuant to the City transient guest room tax ordinance set aside specifically for the purpose of encouraging, promoting and fostering convention and tourism development in the City. The scope and purpose of such corporation shall be solely for encouraging, promoting, and fostering convention and tourism development in the City. Further, with regard to such not-for-profit corporation, it is required that:

- (a) The Board of Directors of such not-for-profit corporation shall be composed as

follows:

- (1) Seven Directors, each as elected by the Norman Convention and Visitor's Bureau (NCVB) Board of Directors, and as chosen generally from organizations and businesses within the City that are significantly affected by convention and tourism activities in the City, such as follows:
 - a. The University of Oklahoma Athletic Department;
 - b. The Norman Public Schools;
 - c. The Norman Chamber of Commerce;
 - d. The City Arts Council;
 - e. The Norman Hotels and Hospitality Industry; and/or
 - f. The Norman Restaurant and Entertainment Industry.
- (2) Two Directors, as each appointed by the Mayor of the City, and as chosen generally from organizations and businesses within the City that are significantly affected by convention and tourism activities in the City, such as follows:
 - a. The University of Oklahoma; and/or
 - b. The organized athletic groups.
- (3) Four Directors, each as elected by the NCVB Board of Directors and as chosen generally from the City community to serve in at-large capacities.
- (4) Four Ex-Officio representatives as follows:
 - a. The Mayor of the City or a City Council member appointed by the Mayor to serve in this role;
 - b. The City Manager, or another City employee as designated by the City Manager to serve in this role;
 - c. The Executive Director of the City Chamber of Commerce; and
 - d. The Executive Director of the City Economic Development Coalition.
- (b) Provided further, the terms of the Board Members shall not exceed three years; however, this shall not preclude a single Board Member from serving a second or subsequent term;
- (c) In addition to entering into a contract with the City to provide for encouraging, promoting and fostering convention and tourism development in the City, the City Council shall annually approve the budget and scope of services of such not-for-profit corporation; and
- (d) Such not-for-profit corporation will report to the City Council, at least quarterly, on its activities and expenditures for the previous three-month period.

(Code 1976, § 8-528; Ord. No. O-9293-22; Ord. No. O-9495-30; Ord. No. O-9798-10; Ord. No. O-0910-40, § 1)

AFTER AMENDMENT

12-526 Administration Of Convention And Tourism Development Funds

The Council shall contract annually, or by a contract renewable annually, with a not-for-profit corporation (the "contracting entity") to administer the share of funds collected pursuant to the City transient guest room tax ordinance set aside specifically for the purpose of encouraging, promoting and fostering convention and tourism development in the City. The scope and purpose of such corporation shall be solely for encouraging, promoting, and fostering convention and tourism development in the City. Further, with regard to such not-for-profit corporation, it is required that:

- (a) The Board of Directors of such not-for-profit corporation shall be composed as follows:
 - (1) ~~Seven~~Thirteen Directors, each as elected by the ~~Norman Convention and Visitor's Bureau (NCVB)~~contracting entity's Board of Directors, and as chosen generally from organizations and businesses within the City that are significantly affected by convention and tourism activities in the City, such as follows:
 - a. The University of Oklahoma Athletic Department;
 - b. The Norman Public Schools;
 - c. The Norman Chamber of Commerce;
 - d. The City Arts Council;
 - e. The Norman Hotels and Hospitality Industry; ~~and/or~~
 - f. The Norman Restaurant and Entertainment Industry; and/or
 - g. The Norman sports industry and sports community.
 - (2) Two Directors, as each appointed by the Mayor of the City, and as chosen generally from organizations and businesses within the City that are significantly affected by convention and tourism activities in the City, such as follows:
 - a. The University of Oklahoma; and/or
 - b. The organized athletic groups.
 - (3) Four Directors, each as elected by the ~~NCVB~~contracting entity's Board of Directors and as chosen generally from the City community to serve in at-large capacities.
 - (4) Four Ex-Officio representatives as follows:
 - a. The Mayor of the City or a City Council member appointed by the Mayor to serve in this role;
 - b. The City Manager, or another City employee as designated by the City Manager to serve in this role;
 - c. The Executive Director of the City Chamber of Commerce; and
 - d. The Executive Director of the City Economic Development Coalition.
- (b) Provided further, the terms of the Board Members shall not exceed three years; however, this shall not preclude a single Board Member from serving a second or subsequent term;
- (c) In addition to entering into a contract with the City to provide for encouraging, promoting and fostering convention and tourism development in the City, the City Council shall annually approve the budget and scope of services of such not-for-profit corporation; and

(d) Such not-for-profit corporation will report to the City Council, at least quarterly, on its activities and expenditures for the previous three-month period.

(Code 1976, § 8-528; Ord. No. O-9293-22; Ord. No. O-9495-30; Ord. No. O-9798-10; Ord. No. O-0910-40, § 1)

PASSED AND ADOPTED BY THE CITY OF NORMAN CITY COUNCIL

_____.

AYE

NAY

ABSENT

ABSTAIN

Presiding Officer

Attest

Larry Heikkila, Mayor, City of
Norman

Brenda Hall, City Clerk, City of
Norman

File Attachments for Item:

44. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF ORDINANCE O-2223-53 UPON SECOND AND FINAL READING: AN ORDINANCE GRANTING TO ONE GAS, INC., ACTING BY AND THROUGH ITS OKLAHOMA NATURAL GAS COMPANY DIVISION, AND ITS SUCCESSORS AND ASSIGNS, FOR A PERIOD OF TWENTY-FIVE (25) YEARS FROM APPROVAL AND ACCEPTANCE OF THIS ORDINANCE, A NON-EXCLUSIVE FRANCHISE AND RIGHT TO ENTER THE PUBLIC WAYS TO INSTALL, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM WITHIN, ALONG, ACROSS, OVER AND UNDER THE PUBLIC WAYS OF THE CITY OF NORMAN, OKLAHOMA FOR THE TRANSPORTATION, DISTRIBUTION AND/OR SALE OF GAS TO CONSUMERS AND THE PUBLIC GENERALLY IN THE CITY; DEFINING THE WORDS AND PHRASES THEREIN; PROVIDING FOR ASSIGNMENT, SALE OR LEASE OF THE FRANCHISE; PROVIDING THAT THE CITY MAY ENACT AN ORDINANCE CHARGING PERSONS TRANSPORTING GAS THROUGH GRANTEE'S DISTRIBUTION SYSTEM A FEE ON THE CALCULATED VALUE OF SUCH TRANSPORTED GAS; PROVIDING FOR USE AND REPAIR OF THE PUBLIC WAYS; PROVIDING FOR REGULATION OF SERVICE; ESTABLISHING DEPTH OF PIPELINES; ESTABLISHING RIGHTS AND DUTIES IN THE MOVEMENT AND ALTERATION OF PIPELINES; PROVIDING FOR INDEMNIFICATION OF THE CITY OF NORMAN; PROVIDING FOR GRANTEE'S RULES AND REGULATIONS; PROVIDING FOR INSPECTION OF GRANTEE'S RECORDS; REQUIRING GRANTEE TO PAY A FRANCHISE FEE; ESTABLISHING GRANTOR'S OPTION TO PURCHASE; PROVIDING FOR CONDITIONS OF THE FRANCHISE; PROVIDING FOR CONSTRUCTION OF THIS ORDINANCE UPON THE INVALIDITY OF ANY PART THEREOF; PROVIDING FOR THE SUBMISSION OF THIS ORDINANCE TO AN ELECTION OF THE QUALIFIED VOTERS OF THE CITY; PROVIDING FOR ACCEPTANCE OF THIS FRANCHISE BY GRANTEE AND BOTH AN EFFECTIVE AND AN OPERATIVE DATE THEREOF AND DECLARING AN EMERGENCY; REPEALING ALL OTHER ORDINANCES DIRECTLY IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Oklahoma Natural Gas

PRESENTER: Kathryn Walker, City Attorney

ITEM TITLE:

CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF ORDINANCE O-2223-53 UPON SECOND AND FINAL READING: AN ORDINANCE GRANTING TO ONE GAS, INC., ACTING BY AND THROUGH ITS OKLAHOMA NATURAL GAS COMPANY DIVISION, AND ITS SUCCESSORS AND ASSIGNS, FOR A PERIOD OF TWENTY-FIVE (25) YEARS FROM APPROVAL AND ACCEPTANCE OF THIS ORDINANCE, A NON-EXCLUSIVE FRANCHISE AND RIGHT TO ENTER THE PUBLIC WAYS TO INSTALL, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM WITHIN, ALONG, ACROSS, OVER AND UNDER THE PUBLIC WAYS OF THE CITY OF NORMAN, OKLAHOMA FOR THE TRANSPORTATION, DISTRIBUTION AND/OR SALE OF GAS TO CONSUMERS AND THE PUBLIC GENERALLY IN THE CITY; DEFINING THE WORDS AND PHRASES THEREIN; PROVIDING FOR ASSIGNMENT, SALE OR LEASE OF THE FRANCHISE; PROVIDING THAT THE CITY MAY ENACT AN ORDINANCE CHARGING PERSONS TRANSPORTING GAS THROUGH GRANTEE'S DISTRIBUTION SYSTEM A FEE ON THE CALCULATED VALUE OF SUCH TRANSPORTED GAS; PROVIDING FOR USE AND REPAIR OF THE PUBLIC WAYS; PROVIDING FOR REGULATION OF SERVICE; ESTABLISHING DEPTH OF PIPELINES; ESTABLISHING RIGHTS AND DUTIES IN THE MOVEMENT AND ALTERATION OF PIPELINES; PROVIDING FOR INDEMNIFICATION OF THE CITY OF NORMAN; PROVIDING FOR GRANTEE'S RULES AND REGULATIONS; PROVIDING FOR INSPECTION OF GRANTEE'S RECORDS; REQUIRING GRANTEE TO PAY A FRANCHISE FEE; ESTABLISHING GRANTOR'S OPTION TO PURCHASE; PROVIDING FOR CONDITIONS OF THE FRANCHISE; PROVIDING FOR CONSTRUCTION OF THIS ORDINANCE UPON THE INVALIDITY OF ANY PART THEREOF; PROVIDING FOR THE SUBMISSION OF THIS ORDINANCE TO AN ELECTION OF THE QUALIFIED VOTERS OF THE CITY; PROVIDING FOR ACCEPTANCE OF THIS FRANCHISE BY GRANTEE AND BOTH AN EFFECTIVE AND AN OPERATIVE DATE THEREOF AND DECLARING

AN EMERGENCY; REPEALING ALL OTHER ORDINANCES DIRECTLY
IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

BACKGROUND:

Oklahoma Natural Gas (ONG) recently approached the City about the upcoming expiration of its current franchise and a desire to propose a new franchise agreement to the voters of Norman for approval. The purpose of this memorandum is to provide a basic review about the law regarding franchises in Oklahoma and a review of the proposed franchise agreement.

Franchises: The Basics

A franchise is a right or privilege conferred by law to one or more parties to do some act which cannot be exercised by private individuals at their mere will and pleasure.¹ A franchise allows the holder a right to occupy or burden the streets or public grounds.² A franchise is required before a utility can use the streets, alleys or public grounds to construct and operate its utility.³ More than one franchise can be granted for the same use and purpose.⁴

In *City of Okmulgee v. Okmulgee Gas Co.*,⁵ the Oklahoma Supreme Court detailed the history of franchises in Oklahoma. When the framers were developing the Oklahoma Constitution, they had for their consideration the Constitutions of 45 states and the construction by the courts in those states of those constitutions.⁶ Some delegates to the convention were from the Indian Territory and some were from the Oklahoma Territory.⁷ Each territory dealt with utility franchises differently.⁸ In the Oklahoma Territory, municipalities had the power to grant charters for up to twenty one years in duration.⁹ Municipalities in Indian Territory were empowered to contract, through its mayor and council, with any person or company to construct and operate water and gas systems, as well as to construct street railroads.¹⁰ Some states had laws in place to grant exclusive privileges and franchises, and others had laws that granted a perpetual franchise while reserving in the legislature the right to alter, amend, annul, revoke, or repeal any charter of corporations or franchises when the legislature determined it to be injurious to the citizenry.¹¹ Other states had laws that granted limited franchises for a set number of years.¹² After reviewing the history, the Court said that “[F]rom the historical events and conditions existing about the

¹ *State of California v. Central Pac. R. Co.*, 127 U.S. 1 (1888); *Oklahoma Gas & Electric Company v. Wilson & Company*, 288 P. 316 (1930).

² *Overholser v. Oklahoma Interurban Traction Co.*, 119 P. 127 (Okla. 1911).

³ *Bartlesville Elec. Light & Power Co. v. Bartlesville Interurban Ry. Co.*, 109 P. 228 (Okla. 1910).

⁴ OKLA. CONST. XVIII, §7.

⁵ *City of Okmulgee v. Okmulgee Gas Co.*, 282 P. 640 (Okla. 1929).

⁶ *Id.* at 644.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

time the framers of the Constitution assembled and prepared and submitted to the people for their ratification the Constitution, they had in mind the reservation of power in our Constitution by the people to themselves. They also had in mind that the surest way of securing franchises satisfactory to the people was for the people to vote such franchises".¹³

Ultimately, the adopted provision in the Oklahoma Constitution reserves the decision of granting a franchise to the voters. It says:

No municipal corporation shall ever grant, extend, or renew a franchise, without the approval of a majority of the qualified electors residing within its corporate limits, who shall vote thereon at a general or special election; and the legislative body of any such corporation may submit any such matter for approval or disapproval to such electors at any general municipal election, or call a special election for such purpose at any time upon thirty days' notice; and no franchise shall be granted, extended, or renewed for a longer term than twenty-five years.¹⁴

The qualified voters of a municipal corporation can also bring the issue of granting a franchise forward for a vote through the initiative process. An initiative is an electoral process by which a percentage of voters can propose legislation and compel a vote by the electorate.¹⁵ It is one of the few methods of direct democracy in an otherwise representative system.¹⁶ If a petition, signed by a number of qualified voters equal to twenty-five percent (25%) of the total number cast at the most recent general municipal election, is presented to the City, demanding that a franchise be granted, extended or renewed, a special election must be called.¹⁷ The right of the voters to authorize a franchise cannot be taken away by the Legislature.¹⁸

Franchised Utilities in Norman

There are a number of utilities operating in Norman. Companies providing telephone service are granted statewide access to public rights of way by the Oklahoma Constitution.¹⁹ As new technologies have developed, the Oklahoma Attorney General has opined that telephone companies don't need a separate municipal franchise to provide additional services, like video programming, over its telephone lines.²⁰ Thus, the only municipal franchises currently in place are with OG&E, Oklahoma Electric Cooperative (OEC), and Oklahoma Natural Gas (ONG). Although there are two electric providers in Norman, their territories do not overlap.

Oklahoma Natural Gas Franchise

The ONG franchise was first granted by the voters in 1949. The franchise was renewed in the 1970's and again most recently in 1999. During the late 1990's, the State Legislature was considering deregulating utilities. At the time, the City was considering the possibility of buying

¹³ *Id.* at 645.

¹⁴ OKLA. CONST. XVIII, § 5(a).

¹⁵ BLACK'S LAW DICTIONARY 788 (7th ed. 1999).

¹⁶ *Id.*

¹⁷ OKLA. CONST. XVIII, §5(b).

¹⁸ *City of Okmulgee v. Okmulgee Gas Company*, 282 P. 640 (Okla. 1929).

¹⁹ OKLA. CONST. IX, §2.

²⁰ 2006 OK AG 15, §14.

out the natural gas facilities and becoming a natural gas provider in Norman. Ultimately, Ordinance No. O-9899-22 granting a franchise to ONG was submitted to the voters and approved. ONG pays a franchise fee to the City equal to 4.25% of its Gross Receipts received from the distribution of natural gas in Norman.²¹ The franchise agreement allows the City the option to purchase all of the gas facilities, including office buildings, distribution system, machinery, real and personal property, etc. owned by ONG during certain defined time periods and provides for payment of fair market value. The agreement will expire March 2, 2024.

DISCUSSION:

The proposed franchise agreement is substantially similar to the current agreement. Additional definitions for “calculated value”, “dekatherm”, “franchise fee”, “pipeline capacity lease agreement”, “transportation tariff arrangement”, and “transport gas consumer”. Some definitions have been revised. The definition of “gross receipts”, on which the franchise fee is charged, has been revised to explicitly exclude revenues received by ONG from customers as a franchise fee reimbursements and volumetric rate fees that are already remitted to the City. Gross receipts also do not include revenues from incidental charges or miscellaneous fees not directly generated from the distribution of natural gas to consumers. The definition of “Volumetric Rate” has been revised to set an initial rate of 4.25%. A volumetric rate would be the basis for a fee charged by the City for use of public ways to transport gas, should the City adopt an ordinance imposing such a fee.

The proposed term of the franchise is 25 years. The approval of the franchise would grant ONG the right to enter upon the public ways to install, operate, and maintain a distribution system along, across, over and under the public ways for the purpose of transporting, distributing, and/or selling gas to consumers and the public generally within the limits of Norman. As with other franchises, the grant of a franchise would not be exclusive, meaning other franchisees can also occupy the public ways to provide similar services to the extent it is allowed by State law.

ONG must install its distribution system in such a manner as will, consistent with reasonable necessity, cause the least interference with other public uses in the public ways. Before ONG can excavate or disturb the surface of a public way, except in the case of an emergency, 48 hours notice must be given to the City Engineer or the Public Works Director. When the work is completed, ONG, with diligence and dispatch, must restore the public way to a condition in compliance with the City’s reasonable standards or specifications.

If ONG fails to commence or complete any construction, maintenance or restoration work with due diligence and dispatch, the City may cause the work to be done after written notice to ONG, at ONG’s cost. The City is empowered to make reasonable regulations concerning the construction of ONG’s system so long as the regulations are consistent with the franchise agreement, the laws of the State of Oklahoma, federal laws, and the orders, rules and regulations of the Oklahoma Corporation Commission. Any such regulations must also be reasonable.

If the City constructs, or allows someone else to construct or lay cables, conduits, water, sewer, gas or other pipelines in the public ways, it shall not be liable to ONG for any damage to its

²¹ The franchise agreement initially set the fee at 3%; however, a favored nations clause resulted in an increase to 4.25% when another municipality approved a franchise agreement with a 4.25% franchise fee.

pipeline in doing such work unless the City or its agents or contractors are negligent. If the City requires ONG to alter, change or adapt its system in the public ways, it shall be done without reimbursement or compensation from the City.

Finally, the franchise agreement includes the City's option to purchase, take over and acquire ONG's system, including pipes, pipelines, meters and connected apparatus. If the City desired to purchase the system, there are provisions in the agreement for the timing of such a purchase, the basis for value (fair market value) and appraisal.

Ordinance O-2223-53 sets an election date for the franchise of September 12, 2023. In order to meet deadlines set by the Oklahoma Election Board, the ordinance must be approved on July 11, 2023 for a September 12, 2023 election date. The ordinance declares an emergency and will require approval by 2/3 of Council, or 6 votes.

RECOMMENDATION:

Adoption of Ordinance O-2223-53 allows the voters to determine the question of whether a franchise should be granted to Oklahoma Natural Gas. Staff forwards this ordinance to Council for consideration.

AN ORDINANCE GRANTING TO ONE GAS, INC., ACTING BY AND THROUGH ITS OKLAHOMA NATURAL GAS COMPANY DIVISION, AND ITS SUCCESSORS AND ASSIGNS, FOR A PERIOD OF TWENTY-FIVE (25) YEARS FROM APPROVAL AND ACCEPTANCE OF THIS ORDINANCE, A NON-EXCLUSIVE FRANCHISE AND RIGHT TO ENTER THE PUBLIC WAYS TO INSTALL, OPERATE AND MAINTAIN A DISTRIBUTION SYSTEM WITHIN, ALONG, ACROSS, OVER AND UNDER THE PUBLIC WAYS OF THE CITY OF NORMAN, OKLAHOMA FOR THE TRANSPORTATION, DISTRIBUTION AND/OR SALE OF GAS TO CONSUMERS AND THE PUBLIC GENERALLY IN THE CITY; DEFINING THE WORDS AND PHRASES THEREIN; PROVIDING FOR ASSIGNMENT, SALE OR LEASE OF THE FRANCHISE; PROVIDING THAT THE CITY MAY ENACT AN ORDINANCE CHARGING PERSONS TRANSPORTING GAS THROUGH GRANTEE'S DISTRIBUTION SYSTEM A FEE ON THE CALCULATED VALUE OF SUCH TRANSPORTED GAS; PROVIDING FOR USE AND REPAIR OF THE PUBLIC WAYS; PROVIDING FOR REGULATION OF SERVICE; ESTABLISHING DEPTH OF PIPELINES; ESTABLISHING RIGHTS AND DUTIES IN THE MOVEMENT AND ALTERATION OF PIPELINES; PROVIDING FOR INDEMNIFICATION OF THE CITY OF NORMAN; PROVIDING FOR GRANTEE'S RULES AND REGULATIONS; PROVIDING FOR INSPECTION OF GRANTEE'S RECORDS; REQUIRING GRANTEE TO PAY A FRANCHISE FEE; ESTABLISHING GRANTOR'S OPTION TO PURCHASE; PROVIDING FOR CONDITIONS OF THE FRANCHISE; PROVIDING FOR CONSTRUCTION OF THIS ORDINANCE UPON THE INVALIDITY OF ANY PART THEREOF; PROVIDING FOR THE SUBMISSION OF THIS ORDINANCE TO AN ELECTION OF THE QUALIFIED VOTERS OF THE CITY; PROVIDING FOR ACCEPTANCE OF THIS FRANCHISE BY GRANTEE AND BOTH AN EFFECTIVE AND AN OPERATIVE DATE THEREOF; AND REPEALING ALL OTHER ORDINANCES DIRECTLY IN CONFLICT HERewith; AND PROVIDING FOR SEVERABILITY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

SECTION 1. DEFINITIONS

As used in this Ordinance, the following words and phrases shall have the following meanings:

- A. "Calculated Value" shall mean the total Transport Gas measured in Dekatherms (Dth), delivered to a Transport Gas Consumer for a billing period, multiplied by the Settlement Price to arrive at the value of the Transport Gas transported by Grantee for that Transport Gas Consumer.
- B. "Consumer" shall mean any individual person, corporation, company, partnership, firm, unincorporated association, trust, municipality, or public or private entity located within the municipal corporate limits of the City and serviced by the Grantee through any use of the Public Ways.

- C. “Dekatherm” or “Dth” shall mean a measurement of natural gas equal to 1,000,000 British Thermal Units (“Btu”), or 1 MMBtu, on a dry basis. Btu shall be computed on a temperature base of 60 degrees Fahrenheit and a pressure base of 14.73 PSIA.
- D. “Distributed” or “Distribution” shall mean all sales, distribution, or transportation of natural gas to any Consumer or user located within the municipal corporate limits of the City by the Grantee or by others through Grantee’s Distribution System.
- E. “Distribution System” shall mean a system of works, pipes, pipelines, apparatus, machinery, structures, appliances and appurtenances as are reasonably necessary for the transportation, distribution or sale of gas to Consumers.
- F. “Franchise” shall mean the rights and privileges granted by Grantor to Grantee under Subsection A of Section 2 of this Ordinance.
- G. “Franchise Fee” or “Franchise Fees” shall mean the sum of fees to be paid to the City by Grantee under Section 11 of this Ordinance, at Paragraph A(1), as consideration for the use of the Public Ways and shall be inclusive or in lieu of any permit fees, lane closure fees and similar fees or charges for construction, installation, maintenance or restoration work on the Distribution System within the Public Ways.
- H. “Grantee” shall mean ONE Gas, Inc., a corporation acting by and through its Oklahoma Natural Gas Company division, and its successors and assigns.
- I. “Grantor” shall mean the City of Norman, Oklahoma, a municipal corporation, hereinafter also referred to as the “City”.
- J. “Gross Receipts” shall mean any and all compensation derived by Grantee directly from the Distribution of natural gas to a Consumer for any use, including residential, industrial and commercial purposes, and shall include without limitation revenues from any operation or use of any or all of the Distribution System by Grantee or others. Gross Receipts shall not include revenues received by Grantee from Consumers as franchise fee reimbursement nor Volumetric Rate Fees collected by Grantee and remitted to Grantor in accordance with Paragraph 11.A(2) pursuant to an ordinance enacted by Grantor according to Paragraph 3.B(1) hereof, nor shall Gross Receipts include revenues from incidental charges or miscellaneous fees not directly generated by the Distribution of natural gas to Consumers, such as, by way of example, connection and disconnection fees, reconnection fees, customer project contributions, returned check charges, delayed or late payment charges, temporary service charges, and other such charges.
- K. “Install, operate and maintain” shall mean to acquire, erect, construct, install, extend, repair, remove, relocate, replace, or otherwise operate and maintain.

- L. “Public Ways” shall mean any street, alley, avenue, boulevard, lane, park, parkway, sidewalk, driveway, utility easement, public right of way, and any other public ways, places, areas, or grounds within the municipal corporate limits of the City as now constituted or as may be added or extended hereafter.
- M. “Settlement Price” shall mean the settlement prices for natural gas futures contracts traded on the New York Mercantile Exchange (NYMEX), or any successor exchange or index, on the 15th day of each month as published daily in *The Wall Street Journal* (WSJ) on the following business day (or the next day in which a Settlement Price is published) for each month of the twelve-month period immediately following.
- N. “Transportation Tariff Arrangement” shall mean any arrangement between Grantee and a Consumer pursuant to which natural gas owned by any party other than the Grantee shall be transported, distributed or sold through any portion of Grantee’s Distribution System and under one of Grantee’s tariffs or special contract for delivery to the Consumer.
- O. “Transport Gas” shall mean all natural gas transported by Grantee pursuant to a Transportation Tariff Arrangement or by other agreement, but not sold by Grantee through Grantee’s Distribution System to any Consumer or user located within the municipal corporate limits of the City.
- P. “Transport Gas Consumer” shall mean a Consumer which uses Transport Gas.
- Q. “Volumetric Rate” shall mean Four Point Two Five Percent (4.25%) of the Calculated Value of Transport Gas as determined by Grantee in accordance with the provisions of this definition. The Volumetric Rate Calculation Form incorporated herein as Exhibit “A” shall be used for the calculation of the Volumetric Rate; provided, that the Grantor enacts an ordinance as described in Paragraph 3.B(1) below, the four point two five percent (4.25%) multiplier labeled “4.25% Bundled Franchise Fee Rate” set forth on “Exhibit A” shall be completed by Grantee and filed with the City Clerk of the City upon Grantee’s acceptance of this franchise and annually by each July following acceptance. The calculation filed upon Grantee’s acceptance of this franchise shall be effective from the date of such filing through and including December 31 of the next succeeding calendar year. The calculation filed by Grantee on July 31 in years following the year of acceptance of this franchise shall be effective on January 1 of the next succeeding calendar year through and including December 31 of such calendar year. The calculation shall be subject to review by the City for mathematical correctness and the City shall notify Grantee in writing within forty-five (45) calendar days after submission if the City deems such calculation to be incorrect. The volumetric rate calculation shall be based on the average of the average Settlement Prices for the twelve-month period beginning in July of the immediately preceding year and ending in June immediately preceding the July 31 calculation. The average Settlement Prices for each month during said twelve-month period shall be calculated by adding the Settlement Prices for such

month and the previous eleven (11) months as published and dividing by twelve. The average Settlement Prices for each of the twelve months shall then be summed and divided by twelve to determine the average of the average Settlement Prices and then multiplied by four point two five percent (4.25%) to obtain the Volumetric Rate; provided, in the event the then-current average of the average Settlement Prices as calculated above and entered on the Volumetric Rate Calculation Form, attached as Exhibit “A” (see line designated on Exhibit “A” as “settlement price average”), exceeds the Index price for ONEOK Gas Transportation, L.L.C., that is listed in the issue of Platt’s “Inside FERC’s Gas Market Report” published on the first business day of the respective month (“Platt’s Index price”), then the Platt’s Index price shall be used to calculate the Volumetric Rate for that delivery month in lieu of the average of the average Settlement Prices entered on the Volumetric Rate Calculation Form (Exhibit “A”) (*i.e.*, for that respective delivery month, the Volumetric Rate shall be determined by taking the Platt’s Index price and multiplying that price by 4.25% or the then applicable increased percentage determined in the same manner set out in Paragraph 11.A(2) of this franchise).

- R. “Volumetric Rate Fee” or “Volumetric Rate Fees” shall mean the fee or fees based on the Volumetric Rate to be collected and remitted to the City by Grantee as required by Paragraph 11.A(2) of this franchise upon the enactment of an ordinance as described in Paragraph 3.B(1).

SECTION 2. GRANT OF FRANCHISE

- A. The Grantor hereby grants to Grantee for the term of twenty-five (25) years from the passage and voter approval of this Ordinance and the filing of a written acceptance by the Grantee, the right to enter upon the Public Ways to install, operate and maintain a Distribution System along, across, over and under the Public Ways for the privilege of transporting, distributing and/or selling gas to consumers and the public generally within the municipal corporate limits of the City.
- B. The Ordinance shall have the effect of and shall be a contract between Grantor and Grantee and shall be the measure of the rights and liabilities of Grantor as well as Grantee.
- C. The franchise granted by this Ordinance is not exclusive and nothing herein shall be construed to divest the Grantor of its control and regulation of the Public Ways.

SECTION 3. FRANCHISE ASSIGNMENT, SALE OR LEASE

- A. Grantee shall not have the right to assign, sell, lease, or otherwise transfer in any manner whatsoever to any third party not affiliated with Grantee the rights and privileges granted under this Ordinance except as hereinafter provided. Any assignment, sale, lease, or other transfer by the Grantee of the franchise granted

herein to any third party not affiliated with Grantee shall be ineffective and void unless:

- (1) The proposed assignment, sale, lease or transfer shall be in writing;
- (2) The prospective assignee, buyer, lessee or other transferee shall agree in writing to accept and become responsible for full performance of all conditions, covenants, obligations, and liabilities contained in this Ordinance; and
- (3) Such writing shall be submitted to the City Clerk of the City.

This Subsection shall not apply to any arrangement which is in compliance with the provisions of Subsection B of this Section. This Section shall not apply to the use of any portion of Grantee's distribution system for the transportation, distribution or sale to any Consumer purchasing, receiving and using natural gas outside the municipal corporate limits of the City.

- B. After the operative date of this Ordinance, Grantee shall have the right to enter into or continue to operate pursuant to any "Transportation Tariff Arrangement" or to enter into or continue any arrangement by which natural gas owned by any party other than Grantee shall be transported, distributed or sold through any portion of Grantee's Distribution System for delivery to any Consumer located within the municipal corporate limits of the City, subject to the following:

- (1) Should Grantor, by separate ordinance, require persons transporting gas pursuant to a Transportation Tariff Arrangement to pay compensation to Grantor for use of the Public Ways in connection with the sale of Transport Gas, said compensation shall be calculated as a Volumetric Rate Fee and collected and remitted by Grantee as provided in Paragraph 11.A(2) of this Ordinance;
- (2) The Transport Gas Consumer shall have obtained a license from the Grantor, if the Grantor shall have a licensing ordinance in effect, for the use of the Public Ways in connection with such transport of natural gas, and the Grantor shall have notified the Grantee in writing of such license.

SECTION 4. USE AND REPAIR OF THE PUBLIC WAYS

- A. Grantee's Distribution System shall be erected, placed, and laid or otherwise installed, operated and maintained in such a manner as will, consistent with reasonable necessity, least interfere with other public uses of the Public Ways.
- B. Before Grantee shall excavate or disturb the surface of any Public Way, except in the case of emergency, at least forty-eight (48) hours notice shall be given to the City's Engineer, Public Works Director or other proper authority designated in writing by the Grantor. After such excavation or disturbance, the Grantee shall,

with due diligence and dispatch, place the Public Way in a condition in compliance with the Grantor's reasonable standards and specifications.

- C. Upon Grantee's failure to commence or complete any construction, maintenance or restoration work required by this Ordinance with due diligence and dispatch, the Grantor may cause such work to be done after written notice to Grantee, given so as to afford Grantee an opportunity to commence and complete such work within a reasonable time. The cost of such construction, maintenance or restoration incurred by Grantor upon Grantee's failure shall then be charged and collected from the Grantee.
- D. Grantor reserves the right to make and enforce reasonable regulations concerning the construction of Grantee's Distribution System located within, along, across, over, or under the Public Ways and to reasonably designate where the Distribution System's works and pipelines shall be placed, so long as such regulations are not unreasonable nor in conflict with this Ordinance, the laws of the State of Oklahoma and the United States or the orders, rules or regulations of the Oklahoma Corporation Commission or other regulatory authority having jurisdiction over Grantee.

SECTION 5. REGULATION OF SERVICE

- A. The Distribution System of the Grantee shall at all times be installed, operated and maintained in accordance with accepted good practice and in such condition as will enable the Grantee to furnish adequate and continuous service as required by the orders, rules and regulations of the Oklahoma Corporation Commission or other regulatory authority having jurisdiction. The requirements set forth in this Section shall not relieve Grantee of any other obligations set forth herein.
- B. In the event that the Oklahoma Corporation Commission or other state regulatory authority shall be deprived of the authority to regulate Grantee, then Grantor shall have the authority to set rates, terms and conditions of service for transportation, distribution or sale of natural gas by Grantee within the municipal corporate limits of the City.

SECTION 6. DEPTH OF PIPELINES

After the operative date of this franchise, Grantee's main or lateral lines installed or replaced in Public Ways shall be installed or replaced at depths which comply with all applicable state and federal rules and regulations establishing minimum safety standards for the design, construction, maintenance and operation of pipelines. Depth shall be measured from the lower of existing grade or proposed future grade as set forth on plans or other specifications existing at the time such lines are installed or replaced.

SECTION 7. DUTY TO MOVE OR ALTER LINES

- A. Grantor reserves the right to lay or permit to be laid cables, electric conduits, water, sewer, gas or other pipelines and to do or permit to be done any underground work deemed necessary and proper by the Grantor, along, across, over or under the Public Ways. In permitting such work to be done, the Grantor shall not be liable to the Grantee for any damage to Grantee's pipeline unless Grantor or its agents or contractors are negligent in causing said damage.
- B. Whenever by reason of establishing a grade or changes in the grade of any street or in the location or manner of construction of any public way, cables, electric conduits, water, sewer, gas or other underground structures, it shall be deemed necessary by the Grantor to alter, change, adapt or conform any portion of Grantee's Distribution System located in the Public Ways, such alterations or changes shall be made within a reasonable time by the Grantee, as ordered in writing by the Grantor, without claim for reimbursement or compensation for damages against Grantor; provided, however, that this Section is not intended to require Grantee to alter, change, adapt or conform any portion of its Distribution System without reimbursement or compensation where the right to locate the same, whether by private right-of-way grant, utility easement or otherwise, was acquired prior to its location in the public way.
- C. If Grantor shall require the Grantee to adapt or conform its Distribution System or in any way to alter, relocate or change its property to enable any other person, firm, corporation or entity (whether public or private), other than the Grantor, to use the Public Ways, the Grantee shall be reimbursed by the person, firm, corporation or entity desiring or occasioning such change for any and all loss, cost or expense occasioned thereby.
- D. "Person," "firm," "corporation," and "entity" as used in Subsection C of this Section shall not include regular departments of the Grantor, or any trust or authority formed by or for the benefit of Grantor for public utility purposes, but shall include any other agency or authority of the City, whether acting in a governmental or non-governmental capacity, including, but not limited to, any urban renewal authority, or any other agency or authority, which as a part of its program clears whole tracts of land within the municipal corporate limits and relocates citizens for the purpose of urban development or similar aims.

SECTION 8. INDEMNIFICATION OF GRANTOR

The Grantee shall indemnify, become responsible for and forever save harmless the Grantor from any and all damages, judgments, reasonable costs and expenses, including attorney fees, which the Grantor may suffer or incur, or which may be legally obtained against the Grantor, for or by reason of the negligent use, repair or occupation of any public way within the municipal corporate limits of the City by the Grantee pursuant to the terms of this Ordinance or resulting from the negligent exercise by the Grantee of any of its privileges or by reason of its carrying on its business in the City (except where such damages, judgments, reasonable costs and

expenses, including attorney fees, result from the negligence of Grantor or its agents or contractors); provided, however, that in the event of such claim or claims being prosecuted against the Grantor, the Grantee shall have the right to defend against the same, and to settle or discharge same in such manner as it may see fit, and the Grantor shall give prompt written notice to the Grantee of the presentation or prosecution of such claims.

SECTION 9. GRANTEE'S RULES AND REGULATIONS

The Grantee shall have the right to make and enforce such reasonable rules and regulations as it may deem necessary for the extension of its facilities, the sale of its gas and the prudent conduct of its business, provided that such rules and regulations shall neither be in conflict with the laws of the State of Oklahoma, with the orders, rules or regulations of the Oklahoma Corporation Commission or other regulatory authority having jurisdiction, nor with the ordinances and regulations of the Grantor insofar as they are consistent with the jurisdiction of the Oklahoma Corporation Commission or such other regulatory authority.

SECTION 10. INSPECTION OF RECORDS

Grantee shall permit Grantor or its agents to inspect, during regular business hours, the books, papers and records kept by Grantee in the ordinary course of business and pertaining to the natural gas business carried on by it in the City, such as plats, maps and atlases identifying Grantee's pipelines in the City, and the books and records necessary to verify the franchise fee payment provided for in Section 11 hereof. Notwithstanding the obligation herein, Grantee shall have the right to request the reasonable protection of proprietary information and to provide redacted documents or require Grantor or its agents to enter into such agreements pertaining to confidentiality as may reasonably protect the proprietary information of Grantee, but which do not unreasonably frustrate the purposes of this Section. Grantor shall promptly notify Grantee in writing of areas newly annexed into or de-annexed from the corporate limits of Grantor, and Grantee shall update its records for the purpose of payment of franchise fees as soon as reasonably practicable after receiving such notice.

SECTION 11. CONSIDERATION FOR FRANCHISE: FRANCHISE FEE

- A. In consideration for the rights and privileges enjoyed under this franchise, Grantee agrees to pay Grantor as follows:
- (1) Grantee shall pay Grantor a franchise fee the sum of which is equal to Four Point Two Five Percent (4.25%) of the Gross Receipts received by Grantee, per billing period, from the transportation, distribution, and sale of natural gas for domestic, commercial or industrial consumption within the municipal corporate limits of the City. All sums due from Grantee shall be in lieu of all other franchise, license, or occupational taxes or fees, which may be levied or attempted to be levied on Grantee by the City.
 - (2) In the event that Grantor, pursuant to Paragraph 3.B(1) of this Ordinance, requires persons transporting gas pursuant to a Transportation Tariff Arrangement to pay compensation to Grantor for use of the Public Ways

in connection the sale of Transport Gas, said compensation shall be calculated as a Volumetric Rate fee for such Transport Gas, which shall be the sum equal to the then current Volumetric Rate multiplied by the number of Dth of Transport Gas reported or distributed through Grantee's facilities within the municipal corporate limits of the City by Grantee or by any third-party to transport customers for consumption within the City. Grantee will in that event collect such Volumetric Rate Fees from persons transporting gas pursuant to a Transportation Tariff Arrangement and remit the same to Grantor.

- B. In the event a customer of Grantee does not pay a monthly bill from Grantee in full, Grantee shall prorate its payments of remissions to the City for sums due on that particular bill so that the amount actually paid by the customer to Grantee on the bill is distributed to Grantee for the natural gas commodity and transportation or distribution service and to the City for sums due on the bill in proportion to the percentage of the total bill actually paid by the customer. In the event Grantee actually collects any outstanding amounts due on a past due, unpaid or partially paid monthly bill to a customer, then Grantee shall pay Grantor its proportionate share of sums due to the City on such bill.
- C. Grantee's franchise fee based upon a percentage of gross cash receipts or a volumetric rate shall be payable monthly on or before the 25th day of each month, on its gross cash receipts for the preceding calendar month.
- D. All sums due from Grantee under this Section shall be in lieu of all other franchise, license, or occupation taxes or fees, which may be levied or attempted to be levied on Grantee by the City including, but not limited to, any permit fees, lane closure fees and similar fees or charges for construction, installation, maintenance or restoration work on the Distribution System within the Public Ways.
- E. The City's chief administrative officer or his designee may waive the Volumetric Rate Fee or any part thereof due from a Transport Gas Consumer, but such waiver shall only be granted if:
 - (1) The Transport Gas Consumer could otherwise obtain its energy needs from another source that would not be subject to the fees imposed in Subparagraph 2 of Subsection 11.A above and sufficient evidence is produced by the Transport Gas Consumer so as to substantiate such alternative source; and
 - (2) Such alternative source, including all other fees, would be less than the cost of utilizing Grantee to furnish and transport the gas or transport alone, as the case may be.
- F. Grantee shall update its records for the purpose of franchise fee payments as soon as reasonably practicable after receiving notice of such waiver.

- G. In the event the accounting rendered to Grantor by Grantee is found to be incorrect, then payment shall be made on the corrected amount, it being agreed that Grantor may accept amount offered by Grantee, but the acceptance thereof by Grantor shall not be deemed a settlement of such item if the amount is in dispute or later found to be incorrect. Grantee shall have no obligation, however, to make payment upon Transport Gas for which Grantee has not been paid. Grantee shall provide notice to Grantor of such delinquent accounts within ninety (90) days and Grantor shall hold Grantee harmless from the cost or liability for the collection of franchise fees on such delinquent accounts.
- H. In the event Grantee shall hereafter accept any franchise from any city in the State of Oklahoma having a population in excess of fifteen thousand (15,000) according to the most recent Federal Census which provides for the payment to such city in excess of the franchise fee provided herein, then Grantee shall forthwith and without demand pay to Grantor such increased rate applicable to the class of service affected.
- I. Grantor agrees that the franchise fee percentage rate set forth in Subsection 11.A, at Paragraphs (1) and (2), of this Ordinance shall in no event exceed the percentage rate hereafter approved to calculate any fee paid to Grantor by any other person or entity for use of the Public Ways if such fee or volumetric rate is based in any way on the amount of revenues or gross receipts from the transportation, distribution, or sale of natural gas or electric energy, excluding any municipally-owned electric utility, by such other person or entity to ultimate Consumers within the City. If at any time after the effective date of this Ordinance the fee or rate required to be paid by another is less than the percentage rate set forth in Paragraphs A(1) or (2) of Section 11, then the percentage rate set forth in Paragraphs A(1) or (2) of Section 11 of this Ordinance shall be reduced to equal such lesser percentage rate on the date such lesser percentage rate becomes effective and without any further action by the City or the qualified electors residing therein.

SECTION 12. GRANTOR'S OPTION TO PURCHASE

- A. Grantor shall have the option and right to purchase, take over and acquire (the "Purchase Option"), on an as-is, where-is basis:
- (1) Grantee's system of pipes, pipelines, meters and connected apparatus that is located in, across, upon and under the public ways within the incorporated limits of the City, and that is used for the purposes of transporting, distributing and selling gas to the City and/or its inhabitants, and
 - (2) non-exclusive rights to use all assignable private rights of way and easements in favor of Grantee to the extent such rights of way and easements are located within the incorporated limits of the City and are used for the purposes of transporting, distributing and selling gas to the

City and/or its inhabitants (collectively the items in (1) and (2) are referred to herein as the “Purchase Option Assets”), provided that the Purchase Option Assets shall not include any of the following:

- i. Grantee’s office locations,
- ii. office equipment (including without limitation computers, computer software, data), books and records, and office supplies,
- iii. vehicles,
- iv. intangible property,
- v. assets used for operations, maintenance, meter reading, monitoring, construction, customer service, recordkeeping, administrative functions, emergency identification and response, or personnel training,
- vi. assets within the incorporated limits of the City that are used exclusively for the provision of gas service to areas outside such incorporated limits, and
- vii. assets that contribute to or assist in the delivery of gas to or from systems outside the incorporated limits of the City.

B. The Purchase Option shall be subject to all the following terms and conditions:

- (i) In order to exercise the Purchase Option, the City must deliver the following (the “Purchase Option Notice”) to Grantee, in writing, any time during the next to final year of this franchise, but no later than December 1, 2038:
 - (A) a written notice that the City intends to exercise the Purchase Option and the proposed closing date, and
 - (B) a copy, certified by the chief administrative officer of the City, of resolution(s) of the City’s governing body along with an opinion of counsel for the City, in form reasonably acceptable to Grantee, stating that, among other things, the City has taken all necessary measures and has all necessary authority to consummate the purchase of the Purchase Option Assets pursuant to the Purchase Option, reflecting the City’s intent to take over, purchase and acquire the Purchase Option Assets (the “Purchase”).
- (ii) If the City fails to provide the Purchase Option Notice during the next to final year of the franchise, then the Purchase Option shall automatically and immediately terminate without notice.

- (iii) Any Purchase by the City shall be on the following terms:
- (A) The closing date of the Purchase shall not be later than the last day of the term of this franchise.
 - (B) At or before closing of the Purchase, the City must pay to Grantee the following:
 - 1. an amount equal to the Fair Market Value (as defined below, and determined in accordance with the Appraisal Procedure) of the Purchase Option Assets as they exist on the date (the “Appraisal Effective Date”) of appointment of the third appraiser, as set forth in the Appraisal Procedure defined below,
 - 2. plus the actual cost or expense of all necessary capital improvements made by Grantee to the Purchase Option Assets and all necessary additions to the Purchase Option Assets from and after the Appraisal Effective Date until the date of closing the Purchase,
 - 3. plus comply with any and all requirements as may be ordered by any State or Federal regulatory agency including, but not limited to, the Oklahoma Corporation Commission pursuant to OAC 165:45-3-5 regarding the sale or disposal of jurisdictional facilities by utility which may include, but may not be limited to, any and all costs associated with isolating and separating Grantee’s distribution system within the incorporated limits of the City that is used at the time to serve customers, current and future, outside the incorporated limits of the City (the “Separate Distribution Assets”) so that (i) the Purchase can effectively take place without interfering with Grantee’s rights and/or obligations to such customers and (ii) Grantee can serve such customers without the use of the Purchase Option Assets (collectively the “Additional Separation Costs”). The Additional Separation Costs shall be determined using the Appraisal Procedure.
 - (C) the City shall Grant permits, licenses and/or easements to Grantee in a form acceptable to Grantee, at no cost to Grantee, for construction, operation and maintenance of existing facilities within the incorporated limits of the City that may be determined to be the most cost effective and/or reliable means of serving customers outside the incorporated limits of the City, in order to not unnecessarily add cost to the Grantee’s other customers in Oklahoma.

- (D) “Fair Market Value” shall mean the fair market sales value of the Purchase Option Assets that would be obtained in an arm’s length transaction between an informed and willing buyer (other than a buyer currently in possession) and an informed and willing seller, in each case under no compulsion to buy or sell, as determined in accordance with the Appraisal Procedure.
- (E) “Appraisal Procedure” shall mean the following procedure for determining the Fair Market Value of the Purchase Option Assets and the Additional Separation Costs (collectively the “Values”).

After Grantee’s receipt of a Purchase Option Notice, Grantor and Grantee shall consult for purposes of determining the Values by mutual agreement.

In the absence of such agreement on or before the 60th day after the Grantee’s receipt of the Purchase Option Notice, then the Values shall be determined by a panel of three independent appraisers, one of whom shall be selected by each of the Grantor and Grantee on or before the 20th day following the expiration of such 60-day period, such selection to be made by a writing delivered by the selecting party to the other. If one party appoints an appraiser pursuant to the immediately preceding sentence, and if the other party fails to appoint a second appraiser within the applicable time limit, the appraisal shall be made by such appraiser. Except as provided in the preceding sentence, on or before the 10th day after appointment of the second appraiser, a third appraiser shall be selected by agreement of the first two appraisers, or if such two appraisers are unable to agree upon a third appraiser by such date, such appointment shall be made by the American Arbitration Association (or its successors).

Each appraiser appointed pursuant to the foregoing procedure shall (i) be experienced in rendering appraisals of gas distribution systems, (ii) be of recognized ability, and (iii) have no real or apparent conflict of interest with Grantor or Grantee (for example, and not by way of limitation, no appraiser shall be a resident or employee of the City nor an officer, employee, stockholder, or director of Grantee).

If they so desire, the appraisers may jointly retain the services of one or more third-party consultants (the “Third-Party Appraiser Consultants”) for the purposes of performing any engineering and technical work the appraisers desire in order to carry out their duties hereunder, including without limitation the determination of the components of the Fair Market Value of the Purchase Option Assets and/or the Additional Separation Costs.

The appraisers shall determine the Values and communicate such determination to the parties in writing (each such writing a “Return”) on or before the 180th day after the appointment of the last of such appraisers to be appointed, and such determination shall be final, binding and conclusive upon the parties, subject to the provisions set forth below. If three appraisers shall be appointed, the Values shall be the applicable averages of the three appraisals rendered by the appraisers. In the event, however, that the lowest or the highest of the three appraisals, or both, in regard to any component of the Values (*i.e.* the Fair Market Value of the Purchase Option Assets or the Additional Separation Cost), varies by more than ten percent from the middle appraisal, the appraisal or appraisals so varying shall be disregarded in determining such component(s) of the Values.

Regardless of whether the Purchase is actually closed, (i) Grantor and Grantee shall share equally the fees and expenses of the Appraisal Procedure and (ii) Grantor shall pay the costs and expenses related to the Third-Party Appraiser Consultants, as incurred.

Within thirty (30) days of receiving the last Return to be received, Grantor and Grantee shall each serve written notification on one another regarding whether such party agrees or disagrees with the determination of the Values. Any such written notice of agreement or disagreement shall be served personally or by certified mail, return receipt requested, on the City Manager of the City and on the Senior Vice President, Commercial or other equivalent officer of Grantee, respectively. Failure of a party to serve such written notice of agreement or disagreement within thirty (30) days of receiving such Return shall constitute a waiver of the right of the party not serving the notice in a timely manner to disagree with the determination, and such determination shall thereupon become binding on that party. If both parties agree with the determination, then such determination shall be binding on both parties. If either party disagrees with the determination of the appraiser(s) and serves written notice of such disagreement on the other party within thirty (30) days of receipt of the last Return to be received, as provided above, then the parties shall forthwith proceed to district court by the filing of an appropriate civil action for a declaratory judgment by either party against the other party, with the determination of the Values to be decided by non-jury trial. The district judge making such determination shall use the same criteria for determining the Values as are to be used by the appraiser(s) under the Appraisal Procedure. After the judge renders a verdict and the district court enters judgment on such

verdict, either party shall have such further right to appeal the verdict and judgment to an appellate court as may be provided by Oklahoma law. In any such judicial proceeding, the prevailing party, as determined by the court, shall be entitled to recover from the other party all legal fees and expenses that were incurred in connection with such judicial proceeding.

The decision of the appraisers (or the court, as applicable), and the Purchase, shall be subject to all applicable federal, state and local laws, or other applicable rules, regulations or orders.

(F) After closing of the Purchase,

- i. Grantor shall be responsible for all aspects of licensing and operating the Purchase Option Assets and
- ii. Grantor shall indemnify Grantee and hold Grantee harmless of and from all costs, expenses and liabilities relating to the ownership or operation of the Purchase Option Assets that arise or are incurred after the closing.

C. The closing of the Purchase shall occur on a date agreeable to the City and Grantee but in any event no later than one hundred twenty (120) days after the receipt of the last Return and, if any judicial proceeding is timely instituted under subsection B(3)(e) above, the final determination and disposition of all appeals in regard to any such judicial proceeding (such date the “Closing Deadline”). The closing shall occur at a location agreed to by both the City and Grantee.

D. At the closing of the Purchase,

- (1) Grantor shall pay to Grantee, in cash or immediately available funds, the amounts set forth in subsections B(3)(b) and B(3)(e) above,
- (2) Grantor shall execute and deliver to Grantee such documents and instruments as Grantee shall reasonably require to grant and transfer to Grantee the permits, licenses and/or easements described in subsection B(3)(c) above,
- (3) Grantee shall execute and deliver to Grantor such documents and instruments as Grantor shall reasonably request to transfer the Purchase Option Assets to Grantor, as-is and where is, expressly disclaiming any and all express and implied warranties, and
- (iv) each of Grantor and Grantee shall execute and deliver such other documents and instruments as shall be necessary to carry out the intent of this Section.

- E. If Grantor is unable or unwilling to close by the Closing Deadline, Grantee may, at Grantee's option, terminate the Purchase Option by written notice to Grantor. In any such case, Grantor and Grantee shall pay the fees, costs and expenses of the Appraisal Procedure as set forth in subsection B(3)(e).
- F. Any and all sales (including bulk sales), use, transfer, recording, value added, ad valorem, privilege, documentary, gross receipts, registration, conveyance, excise, license, stamp or similar taxes and fees arising out of, in connection with or attributable to the Purchase (the "Transfer Taxes") shall be paid by the City. City and Grantee shall:
 - (1) cooperate in timely making all filings, returns, reports and forms as may be required in connection with the City's payment of the Transfer Taxes and
 - (2) as appropriate, execute and deliver, or cause to be executed and delivered, all instruments and certificates necessary to enable the other to comply with any filing requirements relating to any Transfer Taxes.
- G. The Purchase Option shall be non-assignable by the City.
- H. Nothing contained in the Section shall be construed as denying the City the right of acquiring at any time, the properties and property rights of Grantee in such manner as may be otherwise provided or permitted by applicable laws of the State of Oklahoma.

SECTION 13. CONDITIONS OF FRANCHISE

This contract, franchise, grant and privilege is granted and accepted under and subject to all applicable laws and under and subject to all of the orders, rules, and regulations now or hereafter adopted by governmental bodies now or hereafter having jurisdiction.

SECTION 14. INVALIDITY OF ORDINANCE

If any clause, sentence, or section of this Ordinance shall be held to be invalid, it shall not affect the remaining portions of this Ordinance, which shall remain valid and effective as if such invalid provision did not exist, although the parties shall be entitled to a judicial interpretation or construction of this Ordinance to address the validation of such provision by minimal amendment thereof. Further, should any governmental body now or hereafter having jurisdiction determine that Grantee shall not be permitted to collect in whole or in part the compensation due Grantor by others for Transport Gas as set forth in Paragraph (2) of Subsection B of Section 3 and Paragraph (2) of Subsection A of Section 11 of this Ordinance, Grantee shall thereafter have no obligation to make such payment to Grantor and Paragraph (2) of Subsection B of Section 3 and Paragraph (2) of Subsection A of Section 11 shall be of no force and effect.

SECTION 15. ELECTION REQUIRED

This Ordinance shall not become operative until it shall be approved by a majority of the qualified electors voting thereon residing within the municipal corporate limits of the City at an election called for that purpose, and a special election is hereby called for the purpose of submitting to the qualified electors residing in said City, the question of approval or disapproval of this Ordinance, which election shall be held on the 12th day of September, 2023, between the hours prescribed by law. The Mayor of the City is hereby authorized and directed to issue a proper and lawful call and proclamation of such special election to be held on such date as aforesaid for said purpose, and the City Council of the City are hereby directed to give due and lawful notice of such election and submission of said question to the electors of said City as prescribed by law and the ordinances of the City.

SECTION 16. ACCEPTANCE, OPERATIVE AND EFFECTIVE DATE

In the event this Ordinance is approved by a majority vote of said electors voting thereon at said election, the Grantee shall file with the City Clerk, within thirty days after the official canvass of the votes and declaration by the City Council of the results thereof, a written acceptance. This Ordinance shall become *operative* on the date of filing of such acceptance.

SECTION 17. REPEALER

Each and every other ordinance or part thereof which is directly in conflict with any provision herein as to the grant of a franchise for natural gas services and the regulation thereof is hereby repealed.

SECTION 18. SEVERABILITY

The provisions of this Ordinance are severable, and if any part or provision hereof shall be adjudged invalid by any court of competent jurisdiction, such adjudication shall not affect or impair any of the remaining parts or provisions hereof.

PASSED and approved by the City Council of the City of Norman, Oklahoma, this ____ day of _____, 2023.

Mayor

ATTEST:

City Clerk

APPROVED:

City Attorney

Exhibit “A”

The City of Norman, Oklahoma
Volumetric Rate Calculation Form
For the Transportation of Natural Gas in Pipelines Located in the City of Norman, Oklahoma

Based on the NYMEX settlement prices for each month of the twelve forward months as occurred on the 15th of each month, published the following business day.

Source: *Wall Street Journal*
Deadline: Form must be filed each year with the City Clerk by July 31 and notice sent to the Natural Gas Companies.

Month	Last Year Jul 15	Last Year Aug 15	Last Year Sep 15	Last Year Oct 15	Last Year Nov 15	Last Year Dec 15	This Year Jan 15	This Year Feb 15	This Year Mar 15	This Year Apr 15	This Year May 15	This Year Jun 15
Aug Last Year												
Sep Last Year												
Oct Last Year												
Nov Last Year												
Dec Last Year												
Jan Current Year												
Feb Current Year												
Mar Current Year												
Apr Current Year												
May Current Year												
Jun Current Year												
Jul Current Year												
Aug Current Year												
Sep Current Year												
Oct Current Year												
Nov Current Year												
Dec Current Year												
Jan Next Year												
Feb Next Year												
Mar Next Year												
Apr Next Year												
May Next Year												
Jun Next Year												
Avg Settlement Price												

July ____ through June ____
settlement price average

X. Bundled Franchise Fee Rate

= Volumetric Rate/MCF

%

Note: If the 15th of the month falls on a week-end or holiday,
then use the next business day settlement price.

SPECIAL ELECTION PROCLAMATION AND NOTICE OF ELECTION

Under and by virtue of the Statutes of the State of Oklahoma and acts complimentary, supplementary and enacted pursuant thereto, and Ordinance No. O-2223-53 dated July 11, 2023, authorizing the calling of an election on the Proposition hereinafter set forth, I, the undersigned Mayor of the City of Norman, Oklahoma, hereby call a special election and give notice thereof to be held in the City of Norman, Oklahoma, on the 12th day of September, 2023, for the purpose of submitting to the registered qualified voters in said City the proposed Proposition:

PROPOSITION I

Shall a franchise be granted to the One Gas, Inc., a corporation, acting by and through its Oklahoma Natural Gas Company Division, granting the right to enter upon the public ways to install, operate, and maintain a distribution system along, across, over, and under the public ways for the privilege of transporting, distributing, and/or selling gas to consumers and the public generally within the municipal corporate limits of Norman for a period of twenty-five (25) years beginning the date after which voters have approved the franchise and the franchisee has accepted the franchise; and providing compensation to the City, all in accordance with the terms of Ordinance Number O-2223-53?

The ballot used at said election shall set out the Proposition as above set forth and shall also contain the words:

1 st	<input type="checkbox"/>	YES - FOR THE ABOVE PROPOSITION
2 nd	<input type="checkbox"/>	NO - AGAINST THE ABOVE PROPOSITION

(If the voter desires to vote for the above Proposition, he shall mark the ballot accordingly; if he desires to vote against the above Proposition, he shall mark the ballot accordingly.)

That only the registered qualified voters of the City of Norman, Oklahoma, may vote upon the Proposition as above set forth.

The polls shall be opened at 7:00 o'clock a.m. and shall remain open continuously until and be closed at 7:00 o'clock p.m.

The special election shall be held at the same places and in the same manner prescribed by law for conducting county and state elections and the numbers and locations of the polling places and the persons who shall conduct said election shall be the same as for county and state elections, all as respectively designated and prescribed by the County Election Board of Cleveland County, Oklahoma.

WITNESS my hand as Mayor of the City of Norman, Oklahoma, and the Seal of said City affixed hereto on the 11th day of July, 2023.

Larry Heikkila, Mayor

ATTEST:

Brenda Hall, City Clerk

File Attachments for Item:

45. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2324-15: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF A SPECIAL ELECTION TO BE HELD ON SEPTEMBER 12, 2023.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Brenda Hall, City Clerk

PRESENTER: Brenda Hall, City Clerk

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2324-15: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF A SPECIAL ELECTION TO BE HELD ON SEPTEMBER 12, 2023.

Resolution

R-2324-15

A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, GIVING THE SECRETARY OF THE CLEVELAND COUNTY ELECTION BOARD NOTICE OF A SPECIAL ELECTION TO BE HELD ON SEPTEMBER 12, 2023.

- § 1. WHEREAS, Title 26 of the Oklahoma Statutes, §13-102, requires Notice of Election be given to the Secretary of the Cleveland County Election Board by Resolution of the City Council; and
- § 2. WHEREAS, the purpose of the Special Election is set forth in Ordinance O-2223-53 which is incorporated herein by reference; and
- § 3. WHEREAS, the Special Election is to be conducted on the 12th day of September, 2023.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA:

- § 4. That notice be given of the Special Election by transmittal of this Resolution to the Secretary of the Cleveland County Election Board.

PASSED AND ADOPTED this 11th day of July, 2023.

Mayor

ATTEST:

City Clerk



File Attachments for Item:

46. CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF ORDINANCE O-2223-54 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA REPEALING ARTICLE 2-111-2, ART IN PUBLIC PLACES PROGRAM, AND PROVIDING FOR THE SEVERABILITY THEREOF.



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 07/11/2023

REQUESTER: Erinn Gavaghan, Norman Arts Council

PRESENTER: Kathryn Walker, City Attorney

ITEM TITLE: CONSIDERATION OF ADOPTION, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF ORDINANCE O-2223-54 UPON SECOND AND FINAL READING: AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA REPEALING ARTICLE 2-111-2, ART IN PUBLIC PLACES PROGRAM, AND PROVIDING FOR THE SEVERABILITY THEREOF.

BACKGROUND:

Article 2-111-2 of the City Code creating the Art in Public Places program was adopted in 2007 to set up a mechanism by which City of Norman water service customers could opt to donate money to the Art in Public Places Fund by including an additional amount of money with the utility bill payment. It created a Public Arts Board to oversee the selection, purchase, commission, acquisition and placement of public art in the City of Norman. The Board reports to the Norman Arts Council, who was charged with expending the monies collected according the ordinance.

Erinn Gavaghan made a presentation to City Council last fall asking for some modifications to the program to make it run more efficiently and effectively. Council supported these modifications and directed Staff to work on an ordinance.

DISCUSSION:

Since the initial direction last fall, there have been discussions about how best to accomplish the program changes. Additionally, an increase in the Transient Guest Room Tax was proposed during the winter of 2022/2023, approved by Council in February and by the voters in May, which necessitated a review of the contract to determine if any changes should be made to address the additional funding. In examining the contract, which had not been updated for many years, Staff saw an opportunity to achieve Council's direction related to the Art in Public Places Program through its contractual arrangement with Norman Arts Council. These changes will make it easier for the Norman Arts Council to manage the program in a way that works best for them while allowing both parties to be more nimble if modifications are needed. The contract amendment will be on Council's agenda when this ordinance is scheduled for Second and Final Reading.

Ordinance O-2223-54 repeals the Art in Public Places Program in its entirety in favor of providing for the program in the Norman Arts Council contract.

RECOMMENDATION:

Provided Council approves the related contract amendments, Staff recommends approval of Ordinance O-2223-54 upon Second and Final Reading.

**CITY OF NORMAN
ORDINANCE O-2223-54**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA,
REPEALING ARTICLE 2-111-2, ART IN PUBLIC PLACES PROGRAM.**

WHEREAS, the Norman Arts Council has administered funds and coordinated Public Arts Board efforts since the Art in Public Places Program was created; and

WHEREAS, the Norman Arts Council Board requested that the City make modifications to the ordinance such that the Public Arts Board would operate as a subcommittee of the Norman Arts Council Board of Directors to improve efficiency and oversight; and

WHEREAS, administration of the Art in Public Places Program funds is better addressed through a contract with the Norman Arts Council than legislative ordinance and it is the intent to ask Council to approve a revised contract with the Norman Arts Council in coordination with the Second and Final Reading of this proposed ordinance.

NOW THEREFORE, be it ordained by the City Council of the City of Norman, in the State of Oklahoma, as follows:

SECTION 1: **REPEAL** “2-309 Public Arts Board” of the City of Norman Municipal Code is hereby *repealed* as follows:

R E P E A L

2-309 Public Arts Board

- ~~(a) *Creation.* The Public Arts Board (PAB) shall function as a subcommittee of the City Arts Council (Council).~~
- ~~(b) *Membership.*~~
 - ~~(1) *Number.* The Public Arts Board shall consists of a total of seven members. The PAB shall elect one Chairman and one Vice-Chairman. Members shall be appointed by the following entities:~~
 - ~~a. Three members to be nominated by the Mayor and confirmed by the City Council.~~
 - ~~b. One member to be appointed by the Board of Directors of the City Arts Council.~~
 - ~~c. Two members to be appointed by the City Arts Council Roundtable Advisory Group.~~
 - ~~d. One member to be appointed by the board of the Norman Convention and Visitors Bureau.~~
 - ~~e. The Director of Parks and Recreation or his designee shall serve as an~~

~~ex-officio member.~~

- (2) ~~Qualifications.~~ Members chosen to serve on the PAB shall be selected according to the following criteria:
 - a. Knowledge or expertise in the area of public art.
 - b. Ability to manage funds responsibly.
 - c. Objectivity in selection of art for public display.
 - d. Residency in the City for at least one year.
- (3) ~~Term.~~ Members of the Public Arts Board shall serve staggered three-year terms. Any person who has served:
 - a. Two full consecutive terms; or
 - b. 50 percent or more of a full term and two consecutive full terms on the PAB;

~~will not be eligible for consecutive reappointment to the PAB, unless appointing entity finds that such reappointment is in the best interests of the City based upon unusual circumstances or special conditions, or unless the term limits for the PAB are specifically set forth in the state statutes or in the bylaws of the PAB. Any person who has served less than 50 percent of a full term will be eligible for consecutive reappointment for a full term.~~
- (4) ~~Vacancy.~~ Whenever a vacancy shall occur, either by death, resignation, removal, change of residency, impending expiration of term or for any other cause, such vacancy shall be filled by the appointing entity.
- (5) ~~Attendance at meetings.~~ The effective operation of a board depends upon regular attendance of the members at the meetings. The Board shall meet no less frequently than quarterly to evaluate and propose works of art for public places. If members miss 25 percent of the meetings held by the Board in a given year, such member shall be subject to dismissal upon a two-thirds vote of the remaining members of the Board.
- (6) ~~Quorum.~~ The quorum for the conduct of business at any meeting shall be the majority of all the members of the PAB. No action shall be taken in the absence of a quorum, except to adjourn the meeting to a subsequent date.
- (7) ~~Manner of acting.~~ In all matters coming before the PAB, the affirmative vote of a majority of those present shall be the action of the PAB, provided that a quorum is present, except that amendments of the operating procedures shall require the affirmative vote of five members of the PAB. Ex-officio members shall not be entitled to vote.
- (8) ~~Conflict of interest.~~ In the event any members shall have a personal interest of any kind in a matter, then before the PAB, they shall disclose their interest to the PAB. The PAB shall consider the interest and determine, by a vote, whether said member is qualified to participate in action on the matter before the PAB. The City Attorney shall advise on any conflict of interest, and the City Attorney's opinion shall be final.
- (9) ~~Rules of order.~~ Generally, meetings can be held in any manner that ensures orderly and focused discussion and facilitates the input of all members of the PAB. When necessary, in order to effectively conduct business, as determined

by majority of those present, Robert's Rules of Order shall be in effect.

- (10) *Residency requirements.* Members of the PAB must reside within the corporate limits of the City.
- (11) *Appointment of committees.* The Chairman of the PAB, with the concurrence of a majority of the Board members, may establish such committees as may be necessary for the conduct of the business of the PAB. The Chairman shall appoint the members of such committees.
- (12) *Amendments.* The operating procedures of the PAB may be amended at any regular meeting of the PAB, provided that the proposed amendment has been introduced at a prior regular meeting of the PAB.

(e) *Mission.* The mission of the Public Arts Board is as follows:

- (1) To create exciting, appealing, and harmonious public spaces by integrating art into public places in the City.
- (2) To celebrate the multicultural and diverse character of the City with place-specific art.
- (3) To enhance the City's image locally, regionally, and nationally by ensuring the creation of the highest quality art for display in public places.
- (4) To promote artists to live and to work in the City and to participate in public presentations of their art in the City.
- (5) To encourage federal, State, and private support for the City's public art program.
- (6) To enhance and enrich the lives of the City's residents and visitors by incorporating visual arts into public spaces.
- (7) To contribute to the City's civic pride and sense of identity through the selection and display of public art.
- (8) To increase access to works of art for residents and visitors to the area.
- (9) To enhance the City's reputation as a City that celebrates the arts.

(d) *Duties and powers of the Public Arts Board.*

- (1) Adopt operating procedures for the operation of the PAB.
- (2) Prescribe methods for competitive selection of art for display, including a method for appealing the decisions of the Public Arts Board.
- (3) Prescribe procedures for the acquisition and display of art in public places.
- (4) Solicit submissions for works of art to be displayed in public places.
- (5) Maintain a detailed record of all art in public places, including site drawings, photographs, designs, names of artists, and names of architects, where feasible, and said records shall be housed by and maintained by the City Arts Council. The PAB shall attempt to give appropriate recognition to the artists and provide publicity and promotional materials regarding art in public places on the City website and with annual inserts provided in the City utility bill.
- (6) Contract with artist (after approval by the City Arts Council) for the donation, commission, or purchase of art, and providing for the ownership in the name and title of said art to be held by the City.
- (7) Review all art submissions and make recommendations to the City Arts Council regarding which pieces should be displayed by the City in a public

~~place, as well as the location of the display of said art. Such determinations are to be made in accordance with the mission stated herein and according to the operating procedures as adopted by the PAB.~~

- ~~(8) Seek community input whenever possible from those potentially affected by the placement of public art.~~
- ~~(9) Develop a master plan for the placement of public art in the City and present said plan to the City Council for approval within nine months from the effective date of the ordinance from which this division is derived.~~
- ~~(10) Employ outside consultants as necessary to assist in the mission of the PAB.~~
- ~~(11) Make recommendations to the City Arts Council regarding the acquisition, commission, and display of public art.~~
- ~~(12) Submit to the City Council, not later than March of each year, a report of its activities for the prior year.~~
- ~~(e) Receipt of monies from the Art in Public Places Fund. Upon receipt of monies from the Fund, the City Arts Council shall deposit such monies into an account used solely for the actions of the PAB in furtherance of the purposes set forth in this division.~~

~~(Code 1976, § 4-202; Ord. No. O-0708-5, § 3; Ord. No. O-1718-37, § 1)~~

SECTION 2: SEVERABILITY CLAUSE Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

PASSED AND ADOPTED BY THE CITY OF NORMAN CITY COUNCIL

_____.

AYE

NAY

ABSENT

ABSTAIN

Presiding Officer

Attest

Larry Heikkila, Mayor, City of
Norman

Brenda Hall, City Clerk, City of
Norman