



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: K-2021-127

File ID: K-2021-127

Type: Contract

Status: Consent Item

Version: 1

Reference: Item 19

In Control: City Council

Department: Legal Department

Cost: \$19,500.00

File Created: 05/17/2021

File Name: Historic Berry Farms, LLC, Property Acquisition

Final Action:

Title: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2021-127: AN ACQUISITION AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND HISTORIC BERRY FARMS, L.L.C., REGARDING THE FINAL RESOLUTION OF ACQUISITION OF A SIDEWALK EASEMENT AND PAYMENT OF OTHER COMPENSATION RELATING TO CERTAIN REAL PROPERTY FOR THE PURPOSE OF THE LINDSEY STREET IMPROVEMENT PROJECT AND BUDGET TRANSFER BETWEEN THE PROJECT ACCOUNT AS OUTLINED IN THE STAFF REPORT.

Notes:

Agenda Date: 05/25/2021

Agenda Number: 19

Attachments: K-2021-127 - HBF Acquisition Agreement, E-2021-83 - HBF Sidewalk Easement

Project Manager: Beth Muckala, Assistant City Attorney

Entered by: sarah.encinias@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File K-2021-127

Body

BACKGROUND: On August 28, 2012, the City of Norman voters approved a \$42.5 million bond project that includes eight major transportation/storm water projects, including the Lindsey Street Improvement Project. City Council adopted Resolution R-1112-63 on November 22, 2011 programming Federal Program Urbanized Area (STP-UZA) funds for the Lindsey Street Improvement Project. Council, on December 18, 2012, approved Contract K-1213-126 with Leidos Engineering (formerly SAIC) for the design of the project. Council also approved the Right of Way, Public Utility, and Encroachment Agreement, Contract K-1415-86, with the Oklahoma Department of Transportation on January 3, 2015.

On April 28, 2015, City Council approved Resolution R-1415-104, which authorized the City Attorney to institute eminent domain actions against certain property owners in furtherance of the Lindsey Street Improvement Project. One such action was previously pursued against Historic Berry Farms, LLC. A report was issued, the property owners reserved objections, but the City was permitted to proceed with the project, which has since been completed. The legal matter remained pending until the property owner approached the City regarding a final acquisition through private settlement that would result in a final resolution of the eminent domain action without a jury trial.

DISCUSSION: The Acquisition Agreement provides for direct acquisition of the necessary parcel and avoids the necessity of a jury trial. The parties have agreed to a payment of \$19,500 to the property owner, as well as release of \$6,700 in funds currently held by the Court, and deferred construction funds of more than \$13,000 currently in the possession of a financial institution on the parties' behalf, relating to the Lindsey Street construction.

The compensation to property owners includes payment for the necessary permanent easement acquisition, which is being brought to City Council for acceptance as a companion item, as well as damages to the remaining parcel. This agreement has been under negotiation for many years and experienced delays, including time periods during which the parties worked amicably to resolve certain damage issues. The property owner is currently undergoing a sale of the property and wished to conclude the agreement prior to passing title to the property to its buyer. City Staff has evaluated the agreement in light of the acquisition, property, and relevant project, and has determined that this resolution is equitable and a favorable conclusion for the City regarding its acquisition of this property.

Funds are available for Project BP0189, but \$13,500 must be transferred from the Construction Account (50595552-46101) to Land Account (50595552-46001).

RECOMMENDATION: Based upon the above and foregoing, it is the recommendation of the City Staff that the proposed Acquisition Agreement, Contract K-2021-127 and its companion item, Easement E-2021-83, be approved, that a transfer of funds from Construction (50595552-46101) to Land (50595552-46001) be approved, along with direction that any additional approvals, executions, and filings be accomplished by the City Manager or his designee(s), as necessary to accomplish the purposes of the Acquisition Agreement.