



# City of Norman, OK

Municipal Building  
Council Chambers  
201 West Gray  
Norman, OK 73069

## Master

**File Number: R-1920-63**

**File ID:** R-1920-63

**Type:** Resolution

**Status:** Non-Consent Items

**Version:** 1

**Reference:** Item 37

**In Control:** City Council

**Department:** Legal Department

**Cost:**

**File Created:** 10/31/2019

**File Name:** TIF Closeout Appropriations

**Final Action:**

**Title:** RESOLUTION R-1920-63: A JOINT RESOLUTION OF THE TRUSTEES OF THE NORMAN TAX INCREMENT FINANCE AUTHORITY AND THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, APPROPRIATING \$256,048 FROM GENERAL FUND AND CAPITAL FUND BALANCE TO UNIVERSITY NORTH PARK FUND BALANCE AND \$1,100,569.34 FROM UNIVERSITY NORTH PARK FUND BALANCE TO GENERAL FUND AND CAPITAL FUND BALANCE.

**Notes:** ACTION NEEDED: Acting as the City Council and the Norman Tax Increment Finance Authority, motion to adopt or reject Resolution R-1920-63.

ACTION TAKEN: \_\_\_\_\_

**Agenda Date:** 11/26/2019

**Agenda Number:** 37

**Attachments:** City Council Staff Report, R-1920-63, Final Audit

**Project Manager:** Kathryn Walker, City Attorney

**Entered by:** kathryn.walker@normanok.gov

**Effective Date:**

### History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	11/05/2019					

### Text of Legislative File R-1920-63

Body

**BACKGROUND:** City Council approved the University North Park (UNP) Tax Increment Finance District (TIF) Project Plan (Ordinance O-0506-66) on May 23, 2006. The Project Plan authorized public improvements within the TIF up to \$54.725 million, including Initial Project Activities, Traffic and Roadway Improvements, a Hotel Conference Center and Cultural Facilities, Legacy Park, Lifestyle Center and an Economic Development component.

Since the creation of the UNP TIF, a series of development agreements have been approved

by Council and the Norman Tax Increment Finance Authority (NTIFA) to further the components of the Project Plan. To date, approximately \$29.6 million of the tax increment generated within University North Park ("UNP") has been expended on Initial Project Activities, Traffic and Roadway improvements, Legacy Park improvements, and Economic Development. Since 2006, more than \$40 million in sales and ad valorem tax increments have been apportioned each to project costs and to the City's General Fund and Capital Fund pursuant to the Project Plan.

In recent months, and after several years of declines in the rate of growth in the City's overall sales tax, Council directed staff to develop options for reducing or eliminating the tax increment associated with the UNP TIF to help to address General Fund financial issues. Council looked at 10 options and ultimately, Council directed Staff to proceed with Option 8 - End the UNP TIF by eliminating or reducing the project authorizations to an amount less than the apportioned tax funds on hand. After being advised of possible litigation related to unilaterally reducing project authorizations and potentially impacting adopted development agreements, Council adopted Resolution R-1819-83 on March 26, 2019 that set forth the following:

- That, the City desires to enter into binding, mutually acceptable agreements by June 30, 2019 providing for early termination of the UNP increment allocation.
- That, the City Manager shall direct City Staff to negotiate with UNP development partners, the Norman Economic Development Coalition (NEDC), and other community partners to reach a mutually agreeable resolution of all other outstanding matters related to the UNP TIF by June 30, 2019.
- That, the City Manager is directed to prepare the City's budget for the fiscal year ending June 30, 2020 (FYE 20) on the aforementioned goal of ending the UNP TIF sales tax increment allocation by June 30, 2019, and outlining where said funds are budgeted.

The same evening, Council approved a Memorandum of Understanding ("MOU") to provide a framework within which the parties could work together to determine how best to address the outstanding authorizations in the Project Plan and related agreements. The MOU contained an aggressive schedule in recognition of Council's desire to address the increment allocation by the end of the then-current fiscal year. One of the things it also required was an audit of the TIF funds on hand. Council adopted Resolution R-1819-112 on May 14, 2019 appropriating \$60,000 in TIF funds and ratifying the selection of an independent auditing firm, RSM, US, LLP to conduct a special audit.

**DISCUSSION:** Section II(5)(b) of the MOU states that the special audit shall be done, in pertinent part, to verify the amount of funds available for Project Costs with emphasis on compliance with the Operating Procedures and Practices employed by the City to implement the Project Plan and administer the TIF District (Resolution R-0607-69), including collection of incremental sales and ad valorem tax revenues, deposits and transfer of funds in various accounts maintained by the TIF Trust, and verify all relevant calculations, including transfer adjustments and annual growth rate adjustments, payment of fees, and expenditure of funds for payments of authorized Project Costs.

RSM was hired, through a Request for Qualifications process, to conduct the audit (attached) and submitted a final report on October 11, 2019. As is customary with audits, transactions and data were randomly selected and verified. The results of the audit are summarized below:

1. The results of the testing procedures indicated an amount due to the UNP TIF trust account of \$385,432.
2. A fund allocation variance of \$372,685 between the Project Fund and the Economic Development Fund, whereby the Project Fund was under-allocated by the amount, and the Economic Development Fund was over-allocated, was noted.
3. The cash account reconciliations for the City University North Park Tax Increment Finance District Fund (Fund 57) account maintained in the City's Pooled Cash account and the Restricted Cash at Trustee Accounts were reviewed and tested resulting in a total cash amount as of June 30, 2019 of \$13,986,622.
4. The administrative expenses fee of 3-5% allocated from the UNP TIF Trust Fund to the General Fund since FYE 2014, totaling \$1,693,485 was not authorized in the governing documents.

As a result of these findings, RSM recommended that \$256,048 be deposited into the Norman Tax Increment Finance Authority Restricted Trust Accounts to reconcile the findings (detailed on Exhibit 3 to the Audit). Although we believe this will result in more funds that may be needed to pay for the remaining authorized projects in the amended Project Plan, it is Staff's recommendation that the City make the transfer as indicated by the Audit. The Local Development Act, 62 O.S. §861(C) requires that any collections in excess of project costs should be paid into the funds of the respective taxing entities. The errors should be corrected so that each taxing jurisdiction can be assured that Section 861 will be complied with.

Additionally, with the adoption of the Project Plan amendments (Ordinance O-1920-24) and the Amended Master Operating Agreement (Contract K-1920-82), the sales tax revenues received after June 30, 2019 apportioned to the UNP TIF should be transferred back into the General Fund and Capital Fund balance. Since July 1, 2019, the sales tax apportioned to the UNP TIF equals \$1,100,569.34. Resolution R-1920-63 accomplishes the following actions:

1. Accepts the RSM Special Audit.
2. Achieves the corrective accounting entry by transferring \$256,048 from the General Fund balance to the University North Park Fund Balance.
3. Transfers the sales tax increment allocated to the UNP TIF since June 30, 2019 back into the General Fund and Capital Fund, consistent with the MOU (K-1819-116), Resolution R-1819-37, Resolution R-1819-124, and the City's adopted FYE 20 Budget. Future sales tax revenues collected by businesses within University North Park will not be apportioned to the UNP TIF.

**RECOMMENDATION:** Staff recommends adoption of R-1920-63 upon successful adoption of the Project Plan Amendments (O-1920-24) and the Amended Master Operating and Development Agreement (K-1920-82). If those items are not adopted, Resolution R-1920-63 could be adopted for the recommended corrective action, but the section accomplishing the transfer of the sales tax increment allocated to the UNP TIF since June 30, 2019 could not be adopted as it will not be authorized by the Project Plan or agreement.

