



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: K-2021-56

File ID: K-2021-56

Type: Contract

Status: Consent Item

Version: 1

Reference: Item 26

In Control: City Council

Department: Legal Department

Cost:

File Created: 09/16/2020

File Name: Acquisition Agreement with Jerry's L.L.C.

Final Action:

Title: CONTRACT K-2021-56: AN AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND JERRY'S L.L.C. TO ACQUIRE CERTAIN RIGHT-OF-WAY, DRIVEWAY AND TEMPORARY CONSTRUCTION EASEMENTS FROM PROPERTY LOCATED AT 320 NORTH PORTER AVENUE.

Notes: ACTION NEEDED: Motion to approve or reject Contract K-2021-56 with Jerry's L.L.C.; and, if approved, authorize the execution thereof.

ACTION TAKEN: _____

Agenda Date: 09/22/2020

Agenda Number: 26

Attachments: K-2021-56, Exhibit A - Easement Descriptions, Exhibit B - ROW Improvements, Exhibit C - ROW Vacation Description, Exhibit D - Utility Easement

Project Manager: Beth Muckala, Assistant City Attorney

Entered by: beth.muckala@normanok.gov

Effective Date:

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
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Text of Legislative File K-2021-56

Body

BACKGROUND: On April 2, 2019, the citizens of Norman voted in favor of a Bond Issue to finance the local share of nineteen transportation improvement projects. One of the nineteen 2019 bond projects is the Porter Avenue and Acres Street Intersection Bond Project (please see the attached location map showing the project boundaries).

Proposed improvements for the Porter Avenue and Acres Street Intersection 2019 Bond Project include:

Revised geometry of the intersection to enhance traffic operations and pedestrian safety
New traffic signals with ADA compliant ramps and crossings.
New storm water structures meeting current City of Norman codes and ordinances
Dedicated left turn lanes to enhance traffic operations
Reconfigured access from Daws Street to accommodate intersection improvements at Porter and Acres
Utility relocations as needed to accommodate intersection improvements
New ADA compliant pedestrian sidewalks adjacent to the roadway

City Council has so far accepted easements from several Parcels in the Project and on September 14th, the City closed on the purchase of the entirety of Parcel 3, located at 402 N. Porter. The acquisition addressed by this agreement is the final acquisition required for the City to proceed with the Project in a timely manner.

DISCUSSION: Van's Pig Stand is a family-run barbeque business that has been in operation since the late 1920s. The Norman location was the eighth, and opened in 1994. The Van's property, owned in the name of Jerry's L.L.C., is located on the southeast side of the current Daws Street intersection with Porter Avenue. The Project will terminate Daws Street as a through-street to Porter Avenue and construct other intersection improvements, including the acquisition of sufficient landscaped sight-triangle space, and is planned to enhance aesthetics and ensure the safety of this area.

Permanent right-of-way must be acquired from the easternmost portions of two parcels owned by Jerry's L.L.C. Additionally, driveway and temporary construction easements are necessary to accommodate construction of the project. Further, Van's currently makes use of certain parking spaces located along Porter Avenue that will be impacted and eliminated by the Project.

Various discussions have occurred between Jerry's L.L.C. and City staff to address concerns relating to the potential impact of construction and the Project design on the underlying property and Van's business. This agreement represents a solution that is supported both by the property owner and by City Staff as a benefit to, and part of, the overall Project.

Per the agreement, the City will pay Van's \$105,353 for the necessary property acquisitions and associated damages. The value paid is in line with the two appraisals received by the City at the outset of the Project design, as well as a subsequent appraisal acquired by the property owner during discussions. The easements that are to be acquired pursuant to this agreement are also on tonight's agenda for City Council consideration. Thus, acceptance of both the easements and this agreement is necessary to fully effectuate an acquisition.

Additionally, to address the property owner's concerns regarding eliminated parking along Porter and other impacts to the property, the agreement contemplates:

- (1) the grant of an encroachment allowing Van's to retain its current signage, brought as a separate item on this agenda;

(2) the completion by the City of improvements within the portion of the current Daws Street right-of-way that replace eliminated parking and ensure adequate ingress and egress options for the property following completion of the Project;

(3) the agreement by the City and Jerry's L.L.C. to bring a joint application to close the Daws right-of-way adjacent to the property upon completion of these improvements by the City;

(4) the agreement by the property owner to reserve public utility easements within the closed right-of-way when the property owner pursues permanent vacation of the Daws right-of-way in District Court; and

(5) the City's agreement to provide certain signage and notice to aid the ongoing business on the property during and following construction.

If the entire process set forth in the agreement is followed, upon closure and vacation of the Daws right-of-way, the improvements made by the City therein will become the property of Jerry's L.L.C. and subject to the zoning of that parcel. The existing improvements within the right-of-way would be recognized as legal non-conforming, per City Code and as further set forth in the agreement.

The agreement contains provisions granting the City legal release of claims, and language addressing the parties' right to seek legal recourse for any failure to follow the terms. The agreement contains a provision providing that, in the case that either party is successful in pursuing an action on the contract in court, attorney fees and other costs will be allowed to that successful party.

RECOMMENDATION: Based upon the above and foregoing, City Staff recommends approval of this Acquisition Agreement, K-2021-56, with Jerry's L.L.C.