



# City of Norman, OK

Municipal Building Council  
Chambers  
201 West Gray Street  
Norman, OK 73069

## Text File

File Number: K-1213-39

**Introduced:** 7/10/2012

**Current Status:** Consent Item

**Version:** 1

**Matter Type:** Contract

title

CONTRACT NO. K-1213-39: A RIGHT-OF-WAY, PUBLIC UTILITY AND ENCROACHMENT AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION (ODOT) IN THE AMOUNT OF \$36,168.10 FOR STATE AID PROJECT NO. SSP-114B (108)SS, STATE JOB NO. 20266(07)(08)(09) FOR THE RELOCATION OF UTILITIES ON STATE HIGHWAY 9 FROM 36TH AVENUE S.E. TO 72ND AVENUE S.E. AND ADOPTION OF RESOLUTION NO. R-1213-21.

**ACTION NEEDED:** Motion to approve or reject Contract No. K-1213-39 with ODOT; and, if approved, adopt Resolution No. R-1213-21 and authorize the execution of the contract and resolution; and direct payment in the amount of \$36,168.10 to ODOT.

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

body

**BACKGROUND:** The Oklahoma Department of Transportation (ODOT) has a long-term plan to systematically widen State Highway 9 from the end of the current four-lane section just west of 24th Avenue Southeast to the City of Tecumseh. The project will be completed in phases beginning at the west end and continuing to the east. The overall widening will take several years and the completion is not currently scheduled by ODOT. This contract is for the second phase of the widening which encompasses the area from just east of 36th Avenue Southeast to just east of 72nd Avenue Southeast. This section of the State Highway 9 Widening Project involves the construction of a new four-lane rural road section with shoulders.

Prior to widening State Highway 9, ODOT will be required to acquire additional right-of-way to accommodate the construction. Utilities located along the widening project that will interfere with the construction due to depth or location will be relocated prior to the beginning of the construction. Utilities currently located in the existing right-of-way are required to relocate at the expense of the utility company. The relocation costs for any utilities located within the newly acquired right-of-way or in an easement that pre-dates the existing right-of-way are paid to the utility by the parties involved in the widening project. Without proper right-of-way and utility relocation, the projects cannot be completed.

The road widening project is an ODOT funded project using federal transportation funds. The City of Norman is not participating in the funding of the roadway construction. However, the City is required to participate in the funding of the utility relocation based upon Oklahoma State Statute - Title O.S. 2011 § 1205 - Acquisition Policy. The applicable section of the State Statute is stated below:

“Paragraph (c): For all construction projects within the limits of municipalities, other than projects on the Interstate Highway System, as described in the Federal Aid Highway Act of 1956, the municipality or county involved and the Department shall equally share the cost of all necessary rights-of-way, clear of all obstructions, including structures of any kind or nature and utility lines, poles, pipelines, or other facilities above or below the surface of the ground. If federal aid funds are available for the project, the municipality and the Department shall equally share the local portion of the costs for acquiring and clearing the right-of-way, including the cost of removing and relocating utility facilities located on private owned rights-of-way.”

According to the Statute, the City is only required to participate in the utility relocations that are located outside of the existing right-of-way or within a private easement that predates the existing State Highway 9 right-of-way. Per the attached ODOT cost estimate, the following utilities will be relocated at a cost to the project: Duke Energy, Oklahoma Natural Gas (ONG)/Enogex, Arrow Oil & Gas, Magellan Midstream, Oklahoma Electric Cooperative (OEC), Oklahoma Gas and Electric Company (OG&E), Infonet, and AT&T/ SWB. In this agreement, the City is not required to participate in the cost of relocating utilities owned and operated by the City such as water lines and sanitary sewer lines. The City’s utilities located within the newly acquired right-of-way are being relocated under a separate agreement with City of Norman Utilities Authority and ODOT. All utilities currently within the right-of-way are required to be relocated at the cost of the owner of the utility.

This project allows 80% federal funding for the relocation of utilities. The remaining 20% will be split between ODOT and the City of Norman as required in the State statute stated above. Participation in the relocation costs by the City of Norman is required for the project to be completed. Funds were allocated for this project in the City’s FYE 2013 Capital Improvement Program budget based on the relocation cost estimates provided by ODOT.

**DISCUSSION:** Prior to right-of-way acquisition and utility relocation, ODOT requires the City of Norman to enter into a project agreement and to adopt it by Resolution for the remaining 20% (10% City/\$10% ODOT). ODOT has requested the City approve the attached agreement that addresses the responsibilities of the City of Norman and ODOT. Staff has reviewed the project agreement and resolution.

In summary, the City’s responsibilities are:

- Grant right-of-entry to and the use of all existing streets, alleys, and other City owned property
- Be financially responsible for 50% of the local relocation costs of the utilities
- Remove all encroachments
- Prohibit parking in the project area
- Comply with the Department’s standards for driveway entrances
- Determine and locate, with ODOT approval, a detour route over existing City streets should

it be necessary during construction. The City will be responsible for all costs for operation and maintenance of roadways due to the detour

- Obtain a storm water permit from the ODEQ for City utility relocations if necessary
- Agree the construction shall be in conformance with the plans prepared by the City
- Maintain the roadway, traffic control signals, traffic control signs and right-of-way after construction
- Regulate traffic control including speed of vehicles, parking, stopping, and turns

In summary, ODOT's responsibilities are:

- Coordinate all necessary utility adjustments with the owner(s) having utilities within the project limits
- Be financially responsible for 50% of the location relocation costs of the utilities
- Construct the project in accordance with the plans and specifications
- Advertise and let the construction contract for this project
- Construct the project in accordance with the plans
- Provide competent supervision of the construction

The utility relocation will be funded 80% by the Federal Highway Administration (FHWA), 10% by ODOT and 10% by local funds. ODOT has provided the attached estimate for the relocation of the utilities showing the total cost and the share the City is expected to contribute. Based on the ODOT estimate, the total utility relocation cost is \$379,000. FHWA's share is \$303,200.00, ODOT's share is \$39,631.90 and the local match is \$36,168.10. The City's share will cover the relocation costs for utilities located outside the existing right-of-way such as electric, telephone, gas, and any pipelines as discussed above. The City does not have to share in the relocations of City owned utilities resulting in ODOT paying a large share of costs. Funds are available in the State Highway 9 Utilities 36th to 72nd, Utilities (Account No. 050-9539-431.67-01) Project Number TR0088.

ODOT is currently negotiating the purchase of the necessary additional right-of-way and this process is expected to be completed by January, 2013. Following acquisition of right-of-way, the relocation of all utilities will begin with an expected completion date of July, 2013. The current construction schedule for the roadway is to begin the construction June, 2015 with a completion date in December, 2016.

**RECOMMENDATION NO. 1:** Staff recommends approval of Contract No. K-1213-39 with the Oklahoma Department of Transportation (ODOT).

**RECOMMENDATION NO. 2:** Staff further recommends adoption of Resolution No. R-1213-21, execution of the contract and resolution with payment in the amount of \$36,168.10 to be directed to ODOT.