



Legislation Text

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AUTHORIZATION FOR ADDITIONAL PAYMENT IN THE AMOUNT OF \$426,884.01 TO THE OKLAHOMA DEPARTMENT OF TRANSPORTATION UNDER CONTRACT K-1516-106, A PROJECT AGREEMENT FOR FEDERAL AID PROJECT STP-214B(042)AG, STATE JOB 29293(04), THE WEST LINDSEY STREET IMPROVEMENTS PROJECT, PHASE 3, FROM 24TH AVENUE S.W. TO BERRY ROAD.

BACKGROUND: On August 28, 2012, the citizens of Norman voted in favor of a \$42.5 million Bond Issue to finance the local share of eight transportation/storm water improvement projects. One of the eight projects involves the widening and reconstruction of Lindsey Street, between 24th Avenue SW and Berry Road. The project also includes major stormwater improvements and aesthetic features.

The West Lindsey Street corridor, between Interstate 35 and Berry Road, is the most congested and accident prone segment of roadway in the Oklahoma City metropolitan area, with an accident rate that is three times the national average for similar types of roadways.

The proposed improvements include:

1. Widening West Lindsey Street from 3 lanes to 4 lanes with a raised landscaped median and additional turn lanes at intersections;
2. Major stormwater improvements throughout the corridor;
3. New bridge over Imhoff Creek;
4. Continuous sidewalks on both sides of the street;
5. Access management to adjacent properties;
6. Multi-modal improvements including bicycle lanes and enhanced bus stops;
7. Aesthetic enhancements including decorative pavement, landscaping and roadway lighting;
8. Underground utilities;
9. Accessibility for disabled individuals

The West Lindsey Street Project is being constructed in four phases. Phases 1 and 2 are completed and involved underground storm water pipelines between Lindsey Street south along Briggs Street to the Canadian River. Phase 3 on West Lindsey Street extends from 24th Avenue SW to west of Berry Road and Phase 4 extends from west of Berry Road to Pickard Avenue. Phases 3 and 4 are currently under construction. The phasing of the project was done to maximize the amount of federal funds leveraged for the construction of the project (see the attached Project Location Map for the boundaries of each phase of the project).

The Association of Central Oklahoma Governments (ACOG) and its member entities receive approximately \$19 million every year for the construction of eligible projects. City staff submitted a project request for Phase 3 in Federal Fiscal Year 2015 and for Phase 4 in Federal Fiscal Year 2016. Both applications were approved and the funding secured. The applications and funding requests were consistent with the policies adopted by ACOG, which limit the total amount of federal funds any member entity can receive during a particular fiscal year. These limitations establish a funding cap that is set at \$9,727,200 for federal funds. Higher cost projects that exceed the funding cap must be overmatched (local funding for project construction of more than twenty percent) by the local entity.

Phase 3 and Phase 4 were bundled for bidding purposes in the spring of 2016. Sherwood Construction Company was the low bidder and was awarded the construction contract by the Oklahoma State Transportation Commission on April 4, 2016. Work began on July 5, 2016 and is scheduled to be completed in October of 2017.

Before the bid opening, as customary with all federally funded projects, the City was asked by the Oklahoma Department of Transportation (ODOT) to deposit the estimated local share of the construction cost sixty days prior to the bid opening.

Council authorized this payment, in the amount of \$ 12,771,017, during the February 23, 2016 meeting, and approved Contract K-1516-106 with the Oklahoma Department of Transportation for the construction and future maintenance of the project. This contract establishes certain responsibilities for ODOT and the City during construction and upon completion of the project. The responsibilities are as follows:

For the City:

- Prepare plans for construction in conformance with ODOT 2009 Standard Specifications;
- Provide necessary rights-of-way to construct the project and relocate any utilities in conflict with the completed roadway;
- Maintain all the improvements upon completion of the project (e.g., roadway, stormwater, traffic signals, lighting, etc.);
- Certify the project will comply with the Americans with Disabilities Act (ADA);
- Comply with environmental requirements.

For ODOT:

- Advertise and bid the construction contract for these projects;
- Construct the projects in accordance with the plans and specifications;
- Provide competent supervision of the construction;
- File jointly with the contractor the Notice of Intent (NOI) for a general construction storm water permit with the U.S. Environmental Protection Agency which authorizes storm water discharges associated with construction activities.

On Thursday, April 21, 2016 at ODOT headquarters in Oklahoma City, bids were opened for the Lindsey Street Project and the low bidder was 5.45% over the engineer's estimate with a bid of \$26,817,149.43. ODOT awarded the bid to Sherwood Construction and invoiced the City of Norman for the additional local funds. On June 14, 2016, City Council approved an additional payment to ODOT of \$1,422,615.42 for a total cost of \$14,193,632.42 to cover the local share of the construction project.

DISCUSSION: One of ODOT's responsibilities under Contract K-1516-106 is to provide competent supervision during construction. This task entails the day to day inspection, contract administration and quality assurance testing of the materials used on the project. The cost of this service is added to the final engineer's construction estimate at the time ODOT requests the local match of the project cost and is calculated at six percent (6%) of the construction cost. This cost is adjusted after bid opening to reflect actual bid costs. The cost of supervision is eligible for 80% federal funds with the city paying the remaining 20% up to the federal cap of \$9,727,200 on a project. As with construction costs, the City is responsible for all costs exceeding the federal funding cap.

Under the City's original agreement with ODOT, ODOT officials may elect to perform construction supervision with ODOT staff or contract with a qualified private firm. This decision is based on the availability of ODOT construction inspectors and engineers. All ODOT staff responsible for construction supervision in the Norman region are being utilized on the I-35/Highway 9 and Lindsey Street Interchange projects. When Lindsey Street Phases 3 & 4 were bid, ODOT officials determined that the necessary ODOT personnel were not available to provide construction supervision on the Lindsey Street Project. ODOT, with City of Norman consultation, contracted with Atkins North America, Inc. (Atkins) to perform the construction supervision and CEC for the testing services. ODOT negotiated fees for Lindsey Street Phases 3 & 4 with Atkins in the amount of \$2,138,460.55 and CEC for \$372,348.83 for a total of \$2,510,809.38 or 9.36% of construction costs. This is 3.36% above the ODOT estimated construction supervision costs. The additional fees include the added expenses that a non-governmental entity must account for that ODOT does not incur. These additional costs are similar to the fees charged on previous city projects where ODOT contracted out the construction management services such as the Robinson Street Underpass, 12th Avenue NE and Robinson Street Intersection and the Cedar Lane Road Bond Project. The key difference in this case is that the federal funding cap has been reached on the project, resulting in the City paying 100% of all additional costs.

Atkins is hired to function as the ODOT Resident Engineer to provide all plan reviews, utility relocation verifications, survey, inspection, project documentation, project audits, change orders, Disadvantaged Business Enterprise (DBE) tracking and final certification of the project when it is complete. They also have an inspector acting as a liaison to provide information to the business owners on the progress of the construction project. Their fees are on a cost not to exceed basis and are based on the time estimate shown in the attached Lindsey Street Construction Management Summary

Table. These hours are estimated based on a 540 day construction period. Atkins is providing 19,866 staff hours of service on this project. It is not uncommon to have three or four Atkins staff members on site every day. The testing services fee is estimated on an expected number of tests derived from plan quantities. CEC is estimating 1424 tests to be needed for soils, aggregate base, asphalt, and concrete.

The Lindsey Street project cannot be completed without construction supervision services. If contract services were not utilized on the project there would not be adequate construction supervision to verify that the project is being constructed per the plans and specifications, and fewer field personnel would be available to communicate with businesses and citizens in the corridor. Atkins has put additional supervisory and management personnel on the project to help with coordination with merchants, property owners and residents.

The City received an invoice in the amount of \$426,844.01 from ODOT dated November 17, 2016 for additional funding for construction supervision on the project. See the attached Project Cost Table for a summary of the project cost to date. Funding for the additional cost is available in Lindsey Street-24th Avenue SW to Berry Road, Construction (account 050-9552-431.61-01; project BP0189).

If approved, a summary of the City's costs on this construction project is as follows:

Total Construction Cost - \$29,327,958.81
Total City Share to Date - \$14,620,516.43 (49.9%)
Total Federal Share to Date - \$14,707,442.38 (50.1%)

RECOMMENDATION: Staff recommends authorization of the additional payment in the amount of \$426,884.01 to ODOT under contract K-1516-106.