



Legislation Text

File #: R-1718-115, **Version:** 1

RESOLUTION R-1718-115: A RESOLUTION TO THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, DECLARING A RECOUPMENT PROJECT FOR COSTS ASSOCIATED WITH IMPROVEMENTS TO ROCK CREEK ROAD, AN ARTERIAL ROAD, FROM 36TH AVENUE N.W. TO GRANDVIEW AVENUE.

BACKGROUND: The Rock Creek Road Improvement Project will improve the remaining unimproved ½ mile of Rock Creek Road from Grandview Avenue to 36th Avenue NW. The project is included in the City's FYE 2018-2022 Capital Improvement Program and is anticipated to be constructed in Fall 2020. There has been significant development in the area that has generated the need for these improvements. Rock Creek Road currently carries 3,800 vehicles per day and an abundance of pedestrians and bicycle traffic.

On November 22, 2011, City Council approved Resolution R-1112-59, Programing Federal Surface Transportation Program Urbanized Area (STP-UZA) Funds for the widening and reconstruction of Rock Creek Road, from Grandview Avenue to 36th Avenue NW.

On May 27, 2014, City Council accepted \$246,009.99 in deferral funds from Brookhaven No. 41 Addition (\$158,289.50), The Falls at Brookhaven Addition (\$81,640) and C.P. Land Addition (\$6,080.49). City Council also appropriated these deferral funds in the amount of \$246,009.99 from the Site Improvement Cash (Account 010-0000-229-2411) to the Rock Creek Road Widening Project Design (Account 050-9552-431.62-01, Project TR0094).

On May 27, 2014, City Council approved engineering services Contract K-1314-127 with Freese and Nichols, Inc. of Oklahoma City, Oklahoma for the design of the Rock Creek Road Widening Project between Grandview Avenue and 36th Avenue NW in the amount of \$203,400.

On September 26, 2017, City Council approved Contract K-1718-62, a Right-of-Way and Utility Agreement with ODOT for the construction of the Rock Creek Road Widening Project from Grandview Avenue to 36th Avenue NW.

Proposed improvements for the Rock Creek Road Widening Project include:

1. Widening Rock Creek Road from 2-lane to 3-lane between Grandview Avenue and 36th Avenue NW
2. Addition of 5-foot on-street bike lanes
3. ADA Compliant sidewalks on both sides of Rock Creek Road
4. Modern roundabout to replace 3-way stop at Grandview Avenue
5. Stormwater improvements

The estimated total cost of this project is \$2,800,000.

Currently, City staff has contracted with Smith Roberts Land Service Inc., acquisition agent, to acquire the necessary right-of-way and easements within the project boundaries to construct and maintain the proposed project. On acquisitions valued over \$10,000, an appraisal of the property is required to determine fair market value for the parcel. Easements less than \$10,000 utilize values from recent comparable property sold in the area to establish a fair market value. In addition to paying landowners for the acquired property, they are paid for any damages including fence replacement, tree replacement, and other items located within the easement that may need to be replaced or relocated. After the easement values are determined, the acquisition agent meets with the landowner to discuss the purchase of the easement. If the landowner agrees with the terms, then the documents are signed and the landowner is compensated for the easement including any damages upon City Council approval.

If the landowner and appraiser cannot agree on a fair value for the property, the land may be acquired through a process called eminent domain, which allows a government to acquire private property for public use with compensation. In this process, a third party establishes an independent fair market value of the property being acquired, which becomes the

purchase price of the property regardless of whether it is more or less than the original appraised value.

Under City development regulations, improvement of arterial roadways is a cost normally paid by the developer when property adjoining the roadway is developed. However, since the roadway is being improved prior to all development of adjoining land, a mechanism to require the developer to pay the development costs that would normally be paid by the developer is applicable. Section 16-603 of the Norman Code, adopted by Council on February 11, 1997, established a recoupment process to recover costs associated with the widening of arterial streets. Recoupment will allow the City of Norman to recover funds used to purchase right-of-way. Recoupment will also allow the City to recover funds used to cover the cost of design, utility relocation, and construction to the extent that those costs are not paid from bonds or federal grants. This recoupment ordinance applies to unplatted parcels along and adjacent to Rock Creek Road.

DISCUSSION: Originally, four (4) parcels were identified as being unplatted and subject to recoupment when this resolution was first presented to Council for approval at the June 12, 2018 meeting. At that meeting, legal counsel for one of the parcel owners objected to the parcel's inclusion in the recoupment project based upon the belief that the attributable right of way had already been dedicated to the City. Following that meeting, City Staff, the property owner, and its legal counsel met to determine the parcel's status regarding recoupment. When it was determined a legal conveyance did not already exist of record conveying the right of way, the parcel owner agreed to donate the right of way to the City consistent with the short form plat for the parcel. With this donation, this parcel is no longer subject to recoupment.

There are now three (3) remaining unplatted parcels that will require acquisition of either right-of-way and/or easements for the project. All other platted parcels along Rock Creek Road have dedicated additional street right-of-way for the project and have paid deferral fees and traffic impact fees for this project. A recoupment map and table of the three (3) remaining parcels are attached. With the adoption of Resolution R-1718-115, the City will be able to recover the appropriate costs for the Rock Creek Road Reconstruction Project when each parcel is platted and developed in the future. According to the City's Recoupment Ordinance, if a parcel does not develop within 20 years, the recoupment fee is waived. If the parcel develops between years 15 and 20, then the Recoupment assessment will be reduced proportionately each year down to zero at the twentieth year.

These property owners have been notified at least ten (10) days before Council considers adopting the recoupment resolution for the Rock Creek Road Widening Project, as required by city code. If approved, the attached Resolution will be filed with Cleveland County to provide notice to all future property owners and their agents. When the Rock Creek Road Widening Project is completed, another Resolution will be prepared for Council's consideration, indicating the actual cost of the project and the associated recoupment fee for the three (3) parcels. Recoupment fees are collected by the City upon approval by Council of a final plat of the property that is developed after the initial recoupment resolution is adopted.

RECOMMENDATION NO. 1: As outlined above, the Recoupment Resolution is presented with this item, as outlined in Section 16-603 of the Norman Code, to preserve the right of the City to collect normal arterial roadway development costs that would normally be paid by the property developer, if the unplatted property is developed over the next twenty years. Staff recommends that Council approve Resolution R-1718-115.