



Legislation Text

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RESOLUTION R-1819-12: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, DECLARING A RECOUPMENT PROJECT FOR COSTS ASSOCIATED WITH IMPROVEMENTS ON 36TH AVENUE: N.W. FROM TECUMSEH ROAD TO MARKET PLACE.

BACKGROUND: On August 28, 2012, the citizens of Norman voted in favor of a Bond Issue to finance the local share of eight transportation/storm water improvement projects. One of the eight 2012 bond projects is the 36th Avenue NW Widening Project between Tecumseh Road and Indian Hills Road. Please see the attached location map showing the project boundaries.

On November 22, 2011, the Norman City Council approved Programming Resolution R-1112-64, requesting federal funds for the 36th Avenue NW Widening Project. This resolution states the City's commitment to adhere to the terms and conditions of a federally funded project including engineering design, acquisition of all necessary rights-of-way and relocation of utilities and encroachments at 100% of the City's cost. In return, the Association of Central Oklahoma Governments (ACOG), through the Oklahoma Department of Transportation (ODOT), agrees to provide 80% of the construction cost, estimated at \$11,500,000, and administration of the construction with the matching share from the City of Norman.

Proposed improvements for the 36th Avenue NW Bond Project include:

- Widen two miles of roadway from two lanes to four lanes
- New traffic signals at 36th Avenue NW and Franklin Road and 36th Avenue NW and Indian Hills Road
- Interconnect signals between Tecumseh Road and Indian Hills Road
- Dedicated left turn lanes at All Saints Catholic School
- Fifth lane north of Indian Hills Road to Market Place
- Storm water improvements
- Continuous sidewalks along both sides of the roadway with the 10 foot wide legacy trail from Tecumseh Road to Franklin Road on the east side
- Bicycling facilities as listed in the Norman Bike Plan

On March 12, 2013, City Council approved engineering services Contract K-1213-170 with the engineering firm of CP&Y in the amount of \$703,878.50 to design 36th Avenue NW widening project from Tecumseh Road to Indian Hills Road.

Currently, the City has contracted with Smith Roberts Land Services, acquisition agent, to acquire the necessary permanent right of way and temporary easements within the project limits to construct and maintain the proposed project. On property valued over \$10,000, an appraisal of the property is required to determine fair market value for the acquired property. Properties valued at 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 values are determined, the acquisition agent will meet with the landowner to discuss the purchase of the property. If the landowner agrees with the terms, then the documents are signed and the landowner is compensated for the property including any damages as applicable.

If the landowner and appraiser cannot agree on a fair value for the property, the land is acquired through a process called eminent domain, which allows a government to acquire private property for public use with payment or compensation. In this process, a third party determines 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.

According to City Code Section 16-601, all property owners are inherently "responsible for all costs of improvements to all

arterial streets abutting [their] property in compliance with the City of Norman Street Standards and Subdivision Regulations, as amended.” These standards are currently set forth in Chapter 19 of the City Code, titled “Subdivision Regulations.” Chapter 19’s stated purpose is to “require that all land located in the City of Norman be platted . . . prior to the actual accomplishment of development.” Thus, through this mechanism established within Chapters 16 and 19 of the City Code, the City of Norman has made platting the first step to Chapter 19 development. According to Sections 19-314 and 19-315, a developing parcel owner must either construct required public improvements, including road improvements, or make a deferred provision of payment for the cost of these improvements to the City, in order for their final plat to be accepted by the City. As set forth in City Code Section 19-103, the types of development which trigger Chapter 19’s provisions, including the requirement to pay for road improvements, includes several types of use including commercial, industrial and residential use.

Where the City of Norman, developing property owners, or both working together, have undertaken to fund the improvement arterial streets abutting property owners that have not yet submitted to Chapter 19’s platting process, City Code Section 16-602 provides a mechanism to allow recoupment of the share of costs attributable to those undeveloped parcels. Section 16-603 defines the recoupment process and permits the recovery of funds used to purchase right-of-way as well 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. Recoupable construction costs are allocated pro-rata on a linear foot basis to all parcels abutting, and thus benefitted by, the road improvements.

The only exception to application of the recoupment process exists where “properties [] have previously constructed arterial streets adjacent to such properties according to City of Norman requirements or those which have made payments for deferred construction” Those abutting parcels that have paid for the cost of road improvements associated with their parcel’s development through the City’s platting process are not subject to recoupment. With respect to this project, Chapters 16 and 19 permit the City to declare a recoupment project with respect to all unplatted parcels along and adjacent to 36th Avenue NW.

DISCUSSION: There are fifteen (15) unplatted parcels along 36th Ave NW; part of which will be needed as right-of-way and/or easements for this project. All other platted parcels along 36th Ave NW have dedicated additional street right-of-way for the project and have previously paid deferral fees and traffic impact fees for this project. Exhibit A is a map of the unplatted parcel and Exhibit B is a table of the recoupment parcels. With the adoption of Resolution R-1819-12, the City will be able to recover the appropriate costs for the 36th Avenue NW improvements when the parcel is platted and developed in the future. Pursuant to Section 16-603, recoupable costs, subject to an administrative fee, may be recovered in full from these fifteen parcel owners if the parcels within 15 years following completion of the improvement. After the fifteenth year, the recoupable amount decreases until ultimately extinguished 20 years following completion of the improvements.

Fifteen (15) property owners have been notified at least ten (10) days before Council considers adopting the recoupment resolution for the 36th Avenue NW 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 36th Avenue NW Bond Project is completed, another Resolution will be prepared for Council’s consideration, indicating the actual cost of the project and the associated recoupment fees for the affected parcels. In accordance with Chapter 19 of the City Code, 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-1819-12.