



Legislation Text

File #: K-2021-126, **Version:** 1

CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2021-126: A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND WESTERN FARMERS ELECTRIC COOPERATIVE (WFEC) CONCERNING THE REIMBURSEMENT OF OR COST SHARE WITH WFEC FOR CERTAIN MATERIAL COSTS RELATING TO THE RELOCATION OF EXISTING UTILITY LINES FOR THE 36TH AVENUE N.W., PROJECT FROM TECUMSEH ROAD TO INDIAN HILLS ROAD.

BACKGROUND: On August 28, 2012, the citizens of Norman voted in favor of a Bond Issue to finance the local share of eight transportation/stormwater improvement projects. One of the eight 2012 bond projects is the 36th Avenue NW Bond 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 Bond 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% 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.

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 Bond project from Tecumseh Road to Indian Hills Road.

On June 26, 2018, City Council approved Resolution R-1819-12 declaring the 36th Avenue NW Project a recoupment project.

Proposed improvements for the 36^h Avenue NW Bond Project include:

1. Widen two miles of roadway from two lanes to four lanes
2. New traffic signals at 36th Avenue NW and Franklin Road and 36th Avenue NW and Indian Hills Road
3. Interconnect signals between Tecumseh Road and Indian Hills Road
4. Dedicated left turn lanes at All Saints Catholic School
5. Fifth lane north of Indian Hills Road to Market Place
6. Storm water improvements
7. 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
8. Bicycling facilities as listed in the Norman Bike Plan

On February 26, 2019, City Council approved Authorization for Expenditure No. One to Contract K-1314-102 with Smith-Roberts Land Services, Inc., for the 36th Avenue NW Bond Project - Phase 1, in the amount of \$54,324, for right-of-way acquisition services.

On May 28, 2019, City Council approved Amendment No. One to Contract K-1213-170 for engineering design of the 36th Avenue NW Widening Bond Project from Tecumseh Road to Market Place, with CP&Y, Inc., in the amount of \$193,895.

On November 12, 2019, City Council approved Authorization for Expenditure No. Three, under Contract K-1314-102 with Smith-Roberts Land Services, Inc., for right-of-way acquisition services for Phase Two of the 36th Avenue NW Widening Bond Project, from Franklin Road to Market Place, in the amount of \$130,116.

On February 11, 2020, City Council accepted the last of the easements required for parcels one through eleven, completing the required right-of-way acquisition for Phase One of the 36th Avenue NW Widening Bond Project.

On August 25, 2020, City Council approved Authorization for Expenditure No. Four, under Contract K-1314-102, with Smith-Roberts Land Services, Inc., in the amount of \$20,180 for additional right-of-way acquisition services due to an increase in the number of parcels and appraisals included in Phase Two of the 36th Avenue NW Widening Bond Project.

Right-of-way acquisition on Phase One is complete and several eminent domain actions are currently pending to complete acquisition for Phase Two. City legal counsel is in contact with the property owners' legal counsel in continued efforts to amicably resolve the acquisitions in lieu of completing formal proceedings, if possible.

DISCUSSION: This MOU concerns WFEC's existing utility lines within Phase One of the project (between Tecumseh Road and through the Franklin Road Intersection), which require relocation in order to accommodate the project. The City would ordinarily be responsible for some costs relating utility relocation within private easements occasioned by a project; however certain WFEC infrastructure was mistakenly located by WFEC (or its contractors) within existing City statutory right-of-way. Thus, the parties have endeavored to reach an amicable resolution of each party's share of relocation cost responsibility.

As an entity subject to public bidding requirements, WFEC initiated the relocation process by bidding for the manufacture of certain large utility poles and required anchor bolts. Due to current market conditions, the manufacture of these items has a significant lead time and the contractor was only able to guarantee product cost for a short period of time. The parties had intended to bid all costs and bring one large final agreement setting forth the appropriate and recommended cost split for these materials. However, in order to take advantage of competitive pricing, and to avoid any delay in beginning the relocation or ultimate delay in construction of the project, the parties have agreed to set forth an agreement as to this partial material order now in an MOU. The parties intend to finalize their agreement as to all costs, including these, in one Reimbursement and Cost Share Agreement at a later date.

The way this MOU is structured, the parties will have agreed to a final split on these costs, and City staff would be authorized to provide WFEC with the funds as needed, however further relocation cost

agreements would be brought for one comprehensive approval at a later time (likely in the next month or two). Even if a later agreement is not approved, this MOU would authorize City staff to complete a reimbursement or cost-share on the materials described therein. The timing of reimbursement is anticipated to be set by the later agreement; however, if that agreement is delayed, payment for this portion of materials will be completed within the fiscal year.

Funds are available in the 36th NW: Tecumseh-Indian Hills project (BP0197-LAND, 50595552-46001).

RECOMMENDATION: Staff believes the costs proposed are reasonable and represent the lowest and best bid received by WFEC, and that the agreed cost split for these materials is a fair and equitable representation of the parties' responsibilities. City staff thus recommends that the above described MOU, Contract No. K-2021-126, be accepted, and that City Staff be authorized to provide funds or reimbursement to WFEC as needed pursuant thereto.