



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 02/27/2024

REQUESTER: Elisabeth Muckala, Assistant City Attorney

PRESENTER: Elisabeth Muckala, Assistant City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT OR POSTPONMENT OF CONTRACT K-2324-145: A REVOCABLE RIGHT-OF-WAY LICENSE AND AGREEMENT BETWEEN THE CITY OF NORMAN AND FLINT HILLS HOMEOWNERS ASSOCIATION, INC. FOR \$5,000 ALLOWING PLACEMENT AND MAINTENANCE OF IRRIGATION, SIGNAGE AND LANDSCAPING WITHIN THE PUBLIC RIGHT-OF-WAY.

BACKGROUND:

Local developer, Ideal Homes, has platted and developed the two neighborhoods in Norman that are the subject of this Revocable Right-of-Way License and Agreement (Contract K-2324-145), called Artisan Crossing and Flint Hills. During the platting process, the plat erroneously failed to retain the medians shown in Exhibit A of the Agreement (located on Founder's Park Boulevard and Flint Hills Street) in the developers' ownership, and instead dedicated them as right-of-way to the City of Norman along with the surrounding street.

The City of Norman does not wish to maintain the medians as public right-of-way. Further, the failure to retain as private property means the developer would be unable to install planned signage, irrigation and landscaping materials that would serve as wayfinding but also enhance the aesthetic appeal of the neighborhood entrances. Due to the unusual circumstances, and to avoid the need to re-plat and correct the error, the applicant has requested a revocable right-of-way permit, to be taken and maintained by Flint Hills Homeowners' Association, Inc. as Licensee, to allow the installation and maintenance of the planned items in the City-owned medians.

DISCUSSION:

This proposed revocable license agreement would allow the placement of landscaping, irrigation and signage as set forth in the Exhibit B attached to the Agreement, within the public right-of-way shown in Exhibit A to the Agreement. The revocable license agreement provides that a one-time rental of \$5,000 will be paid by applicant to the City of Norman. Though these agreements normally have annual fees, special and unique consideration exists here, where the Licensee will agree to maintain the premises for as long as the license is in place, thus relieving the City of responsibility to do so. The Agreement further provides that either party may terminate the license agreement upon thirty (30) days' notice. The Agreement also requires the Licensee maintain the installations and replace the same upon the City's need to work within the

right-of-way. Upon any future termination, the revocable license agreement requires that the applicant complete construction or otherwise return the affected right-of-way to its original condition.

The Agreement provides for indemnification and requires that the Licensee carry applicable insurances protecting the City as an additional insured. Applicant's failure to do any of these things constitutes a breach of the Agreement, allowing termination by the City.

The payment of \$5000 will be receipted into the General Fund, revenue account Other City Expense (109-364229) when received.

RECOMMENDATION:

Based on the above information, staff recommends approval of Contract K-2324-145, a Revocable Right-of-Way License and Agreement with Flint Hills Homeowners' Association, Inc., allowing placement and maintenance of landscaping, irrigation and signage within medians found on Founders' Park Boulevard and Flint Hills Street.