



## CITY OF NORMAN, OK STAFF REPORT

---

**MEETING DATE:** 11/09/2021

**REQUESTER:** Elisabeth Muckala

**PRESENTER:** Elisabeth Muckala

**ITEM TITLE:** CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT OR POSTPONMENT OF CONTRACT K-2122-69: A REAL ESTATE PURCHASE AND SALE AGREEMENT WITH THE DRABEK TRUST FOR THE ACQUISITION OF PROPERTY NEEDED FOR THE JAMES GARNER NORMAN FORWARD FLOOD TO ACRES PROJECT.

---

### **BACKGROUND:**

On November 8, 2016, the Norman City Council approved programming Resolution R-1617-49 requesting federal funds to widen James Garner Avenue from Acres Street to Flood Avenue. This Resolution states the City's commitment to adhere to the terms and conditions of a federally funded project. Through the Association of Central Oklahoma Governments (ACOG), the Oklahoma Department of Transportation (ODOT) agrees to provide 80% of the cost of construction with a 20% matching share from the City of Norman. In order to receive the federal funding, the City of Norman is required to enter in an agreement with ODOT to complete the design, acquire all rights-of-way and relocate existing utilities/encroachments at City's cost.

This Norman Forward Street Improvement Project will create a new entry into downtown and will help alleviate traffic on both Flood Avenue and Porter Avenue.

In March of 2017, the Norman City Council approved the design contract (K-1617-105) with Cabbiness Engineering, for the James Garner Avenue Project from Acres Street to Flood Avenue, and Cabbiness began preliminary design for the project.

On August 27, 2019 the Norman City Council approved Amendment No. One for contract K-1617-105, between the City of Norman and Cabbiness Engineering, in the amount of \$2,275 for the design of the James Garner Avenue Project from Acres Street to Flood Avenue.

Upon completion of preliminary plans, it was determined that the City of Norman is in ownership of all required rights-of-way for the James Garner Phase 2-Acres Street to Flood Avenue project, except for two parcels: one owned by the University of Oklahoma which is in the process of being acquired; and the subject parcel, located along the BNSF Railroad Right-of-Way from Robinson Street to Flood Avenue, which is owned by a private trust. A portion of this parcel is required to accommodate the new James Garner Extension.

In March, 2021, the Council amended the current contract (K-1617-105) with Garver, LLC in order to add Right-of-Way Acquisition Services for this parcel, a part of the James Garner Phase 2 Norman Forward Project, for a total contract increase of \$5,675.

## **DISCUSSION:**

Pursuant to ODOT standards, this parcel was appraised and an offer made to purchase 1.19 acres from the 2.09 acre parcel, for a total offer amount of \$44,850. The owner of the parcel (Trustee of the Vernon James Drabek Revocable Living Trust dated 2/01/1996) counter-offered, accepting the City's offered value of \$0.90/SF, but asking that the entire parcel be acquired at a cost of \$81,936, which is equivalent to the value set by the City's appraisal for the parcel.

Considering the low overall cost of the property, the small amount of parcel that would remain following acquisition, and the potential benefit to the City from owning additional property proximate to this intersection location, City Staff determined that accepting the counter-offer to purchase the entire parcel could be advantageous to the City. City Staff has thus negotiated, through City legal counsel, an agreement for the fee acquisition of the entire parcel.

The Real Estate Purchase and Sale Agreement ("Purchase Agreement") with the owner allows for a straight-forward acquisition and affords the City opportunities to perform necessary title work and environmental evaluation as required by ODOT's processes. A forty-five (45) day due diligence period is allowed (which staff feels is adequate considering that the parcel is vacant) and flexibility for closing at an earlier or later date, at the parties mutual agreement or based upon any particular needs of the City. The Purchase Agreement further provides for a small earnest deposit (\$5,000, a little more than 6% of the total parcel price), to be ultimately applied to the overall purchase price. The Purchase Agreement also contains a typical arrangement for the parties' division of closing costs for the purchase.

City Staff believes the negotiated Purchase Agreement is an equitable arrangement for both the City and the property owner and that a purchase under these terms will be of benefit to the James Garner Flood to Acres Norman Forward Project.

Funds for the purchase are available in the Norman Forward Fund, James Garner Flood to Acres project, Land account (Account 51594405-46001; Project NFP109).

## **RECOMMENDATION NO. 1:**

City Staff recommends approval of the Purchase Agreement, Contract K-2122-69.

## **RECOMMENDATION NO. 2:**

City Staff further asks that the City Manager be authorized and empowered to execute necessary documents, cooperate with the seller as necessary, and to perform any other functions needed in order to carry out the full intent of Contract K-2122-69.