



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 11/22/2022

**REQUESTER:** Paul D'Andrea, Capital Projects Engineer

**PRESENTER:** Shawn O'Leary, Public Works Director

**ITEM TITLE:** CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF RESOLUTION R-2223-67: A RESOLUTION OF THE COUNCIL OF THE CITY OF NORMAN, OKLAHOMA, APPROPRIATING \$2,281,034 FROM THE NORMAN FORWARD FUND BALANCE FOR THE JAMES GARNER AVENUE PROJECT FROM ACRES STREET TO FLOOD AVENUE.

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### **BACKGROUND:**

On October 13, 2015, Norman Voters approved the \$150 million, 15-year, Norman Forward Sales Tax initiative. The program outlined various citywide projects to improve the quality of life for the citizens of Norman. One of these projects is the James Garner Avenue – Acres Street to Flood Avenue project. This project was to be allotted a budget from Norman Forward funds of \$6,000,000.

On November 8, 2016, the Norman City Council approved programming Resolution R-1617-49 requesting federal funds to extend 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. The scope of this project includes:

- Construction of a new two-lane extension of James Garner Avenue from Acres Street to Flood Avenue
- New roadway bridge over Robinson Street
- New two-lane modern roundabout intersection at Flood Avenue
- Landscaping and Low Impact Development measures in roadway medians
- Reconstruction and extension of a portion of the Legacy Trail to accommodate the new roadway.
- New lighting along the street and Legacy Trail.

- Reconstruction of local residential streets as necessary.

In March 14, 2017, City Council approved the design contract (K-1617-105) with Cabbiness Engineering in the amount of \$427,000 for the James Garner Avenue Project from Acres Street to Flood Avenue, and Cabbiness began preliminary design for the project.

On August 13<sup>27</sup>, 2019, Council approved Amendment No. One to Contract K-1617-105, with Cabbiness Engineering in the amount of \$2,275 for the design of the James Garner Avenue Project from Acres Street to Flood Avenue.

On March 23, 2021, City Council approved Amendment No. Two to Contract K-1617-105 with Garver, L.L.C., successor to Cabbiness Engineering in the amount of \$5,675 for the design of the James Garner Avenue Project from Acres Street to Flood Avenue.

On January 26, 2022, the City of Norman purchased property North of Robinson Street from the Judith E. Drabek Foundation Trust in the amount of \$81,936 for the construction of the NORMAN FORWARD James Garner Avenue Phase II Project from Acres Street to Flood Avenue Project.

On February 28, 2022, the City of Norman obtained property North of Robinson Street from the University of Oklahoma for the construction of the James Garner Avenue Phase II from Acres Street to Flood Avenue Norman Forward Project.

On April 12, 2022, City Council approved Amendment No. Three to Contract K-1617-105 with Garver, L.L.C., in the amount of \$34,400 for the design of the James Garner Avenue Project from Acres Street to Flood Avenue.

On May 24, 2022, the Norman City Council accepted easement E-2122-65 establishing a roadway, sidewalk, and utility easement across the lands purchased for construction of the James Garner Phase II-Acres Street to Flood Avenue Norman Forward Project.

On June 14, 2022, the City of Norman entered into a funding agreement (K-2122-135 & R-2122-129) with ODOT for the James Garner Avenue-Acres Street to Flood Avenue Norman Forward Project. The agreement split the project construction costs between City of Norman funds and federal funds administered by ODOT. The federal share was capped at \$4,825,733, leaving the City to pay \$1,664,597 based on the engineer's estimate at the time of the agreement.

On August 17, 2022, the City was invoiced by ODOT for its portion of the construction cost based on new estimates. The City's portion of construction at that time was estimated to be \$1,662,153. The City paid that amount, as invoiced, to ODOT per the project funding agreement.

## **DISCUSSION:**

On October 20, 2022, ODOT opened bids for the James Garner Avenue-Acres Street to Flood Avenue Norman Forward project. There were three bids. The low bid was from Redlands Contracting, LLC for a total of \$7,820,546.33. This low bid was approximately 15% over the final engineer's estimate.

Since the federal funding provided through ODOT for this project was capped at \$4,825,733, the remaining portion of the cost must be paid by the City of Norman per the accepted funding agreement in order to award the project. The City's portion amounts to \$2,994,813.33, of which \$1,662,153 has already been paid. This leaves an additional \$1,332,660.33 in construction costs to be paid by the City.

In addition to the construction contract, the City will be required to pay for construction engineering and testing services estimated to be \$938,465.56 (12% of construction cost). Furthermore, the City has committed to an additional \$170,000 yet to be paid for a public art piece for the center of the new roundabout intersection at Flood Avenue. This brings the remaining construction cost total for the City to \$2,441,125.89. Currently, the project budget only has \$160,092.09 available as appropriated to date. This leaves a total of \$2,281,033.80 in City funds estimated to be required to complete the project.

In June of 2022, based on current project estimates at the time, it appeared that this project would have surplus funds of approximately \$1,500,000. Because of this, \$1,500,000 was removed from the project and placed back into the Norman Forward Fund Balance account to help fund other projects in the Norman Forward Program. However, due to the unprecedented increases in bids seen since then, it is apparent that the full funding of the project will be necessary to proceed with the James Garner Avenue – Acres Street to Flood Avenue project. On October 25, 2022 the Norman Forward Citizens Financial Oversight Board made the following is a summary of the recommendations regarding the funding for the James Garner Avenue project:

1. That savings from the Norman Forward Central Library project be used to reallocate the \$1,500,000 to the Norman Forward James Garner Avenue Extension Project.
2. That any funding that remains allocated to the Central Library project in the Norman Forward Fund after this re-allocation be returned to the Norman Forward Fund balance.
3. That the Council make available from City funds the remaining necessary funds to fully fund the difference in the construction cost of the James Garner Avenue Extension project at the level of the bids received by ODOT in October, 2022 (estimated at approximately \$800,000) on the timeline established by the ODOT project guidelines.

The full recommendation letter from the Norman Forward Citizens Financial Oversight Board is attached for reference.

Subsequent to the issue being brought to the Citizens Financial Oversight Board, it was discovered that the full \$6,000,000 intended for this project from the Norman Forward Program, was never fully appropriated from the Norman Forward Fund Balance. Only, \$5,370,248 was ever actually placed into the project accounts, leaving the project \$629,752 short. Staff recommends restoring the full original project budget from the Norman Forward Fund Balance account.

If Council approves the restoration of the full original project budget, the remaining project shortfall would be reduced to \$151,281.80. The following is a table of the project costs and funding:

Total Project Cost Estimate:	\$11,472,905
Federal Share:	\$4,825,733
CON Share:	\$6,647,172
Current Project Funding:	\$4,366,138
Funding Difference Needed:	\$2,281,034

Due to a savings on the Central Library Norman Forward Project, the Norman Forward Fund Balance account now has the necessary \$2,281,034 available to cover the remaining cost of the James Garner Avenue-Acres to Flood project. Staff recommends using these funds to restore the original James Garner Avenue budget from within the Norman Forward Program and provide the additional funding necessary to complete the project.

Upon Council approval, the City will have until December 22, 2022 to pay the invoiced funds to ODOT. ODOT is ready to issue a Notice to Proceed in December, 2022 and the contractor will have 90 days to begin work, for a projected construction start date of March 2023.

**RECOMMENDATION:**

Staff recommends the appropriation of \$2,281,034 from the Norman Forward Fund Balance account (51-29000) to the James Garner Avenue – Acres Street to Flood Avenue Norman Forward Project construction account (NFP109, 51594405-46101).