



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 02/14/2023

**REQUESTER:** Ken Danner, Subdivision Development Manager

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

**TITLE:** CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF A REQUEST TO RETURN A CASH SURETY FOR DEFERRED CONSTRUCTION FOR PAVING IMPROVEMENTS IN CONNECTION WITH FOUNTAIN VIEW ADDITION, SECTION 1. (GENERALLY LOCATED ¼ MILE SOUTH OF WEST TECUMSEH ROAD ON THE EAST SIDE OF 48<sup>TH</sup> AVENUE NW).

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### **BACKGROUND:**

City Council, at its meeting of August 14, 2012, approved deferred construction for paving improvements in connection with Fountain View Addition, Section 1 (generally located ¼ mile south of West Tecumseh Road on the east side of 48<sup>th</sup> Avenue N.W.) subject to receipt of payment in cash or certificate of deposit. The owners submitted Certificate of Deposit No. 55833 to City Staff in the amount of \$52,640. The final plat for Fountain view Addition, Section 1 dedicated 48<sup>th</sup> Avenue N.W. right-of-way and the final plat was filed of record with the Cleveland County Clerk on August 29, 2012. Fountain View Addition, Section 1 is a single-family residential development of 87 lots with street access to 48<sup>th</sup> Avenue N.W.

### **DISCUSSION:**

Mr. Sean Rieger, attorney for the owner has requested that the City release the obligation and return the cash surety for the deferred construction for paving improvements based on the fact it has been held for over ten (10) years. Section 19-602 B7 of the Code of the City of Norman states that *"If construction of the deferred facility has not commenced within ten (10) years from the date of deferment, then the cost paid or the certificate of deposit may be returned upon action of the Council upon written request of the payor."* Because more than ten (10) years have passed since submittal of the deferred construction payment, the owner has now requested that the City release the obligation and return the cash surety.

It should be noted, on April 2, 2019, Norman voters approved the City's 2019 Transportation Bond Program including major improvements to 48<sup>th</sup> Avenue N.W. from Rock Creek Road to Tecumseh Road. The 48<sup>th</sup> Avenue N.W. Paving Project is scheduled for construction in 2029 at an estimated cost of \$8,096,113 million including design, utility relocation and construction. City Bond funds will be matched with federal funds and local development fees to pay the project costs.

### **STAFF RECOMMENDATION:**

City staff has concluded the following options are available to the City Council regarding this matter:

1. Release the cash surety. If the cash surety is released, the City will likely install the paving improvements at a future date at the City's cost. There is no mechanism available to the City to require a future owner or developer to install the improvements.
2. Require the developer to construct the street improvements in connection with 48<sup>th</sup> Avenue N.W.
3. Retain the cash surety until 2029 when improvements to 48<sup>th</sup> Avenue NW are completed.

As a result of the 2019 Transportation Bond Election, there is now a future paving project for 48<sup>th</sup> Avenue N.W. Fountain View Addition should contribute to the local share of the project.

**Staff recommends Option Number 3, retaining the cash surety.**