



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 4/25/2023

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

**PRESENTER:** Elisabeth Muckala, Asst. City Attorney

**ITEM TITLE:** CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT AND/OR POSTPONEMENT OF CONTRACT K-2223-149: A PARTICIPATION AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, THE VINEYARD ASSOCIATION, INC., AND DAVID E. AND BRENDA J. YEAKLEY RELATING TO THE VINEYARD DRAINAGE IMPROVEMENT PROJECT INCLUDING A PAYMENT OF \$3,000 FOR A TEMPORARY CONSTRUCTION EASEMENT SET FORTH IN THE CONTRACT.

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### **BACKGROUND:**

For several years, residents of The Vineyard Addition have experienced property damage due to flooding. The Vineyard Addition is a residential subdivision located east of Porter Avenue and South of Tecumseh Road. In July 2015, the City hired Meshek and Associates to perform an analysis of flooding issues reported by the residents of The Vineyard Addition. This included a review of the previous drainage reports and studies that were available. Additional detailed modeling was done to determine if any structural changes could be made that would reduce the risk of flooding in this area.

Meshek and Associates provided preliminary and final project plans for this project. These plans propose to reduce the flood risk by expanding and re-grading the existing detention pond to increase the storm water storage. The existing sidewalk will be shifted several feet to the north to allow for the pond to be expanded. The dam on the eastern boundary of the pond will be raised approximately five feet above existing grade to provide additional storm water storage. Any water from the spillway will be conveyed across a new 7.5-foot-wide flume into Woodcrest Creek east of the new pond. The vertical wall on either side of the flume will vary in height along the length of the channel but will provide at least two feet of depth for stormwater storage and conveyance. This flume will also serve as a sidewalk for residents in the area when weather conditions allow. The existing discharge pipe will be upsized to address the modified flow. The detention pond and channel design will provide protection to residents from flooding caused by pond overtopping for storm events up to the 1 percent frequency storm.

The Oklahoma Department of Emergency Management and Homeland Security (ODEMHS) and Federal Emergency Management Agency (FEMA) provide disaster response and recovery assistance and pre-disaster mitigation grant funding for mitigation projects designed to prevent or reduce future loss of lives and property and/or minimize the costs of future disaster response

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and recovery. The Hazard Mitigation Grant Program provides federal funds up to 75% of the costs associated with hazard mitigation projects. The required 25% local match can be in the form of cash funding or “in kind” services.

Based on discussions with staff at Meshek and ODEMHS, the Vineyard Drainage Improvement Project was submitted for consideration, with City Manager approval, of a Hazard Mitigation Grant Program grant in the summer of 2019 at a cost of \$753,600. In anticipation of approval, Meshek and Associates were consulted for an update of project costs in the summer/fall of 2021. The estimated cost of the project was increased to \$893,590.45 based on increases of materials and other costs that occurred since the original application in 2019. The grant application was amended to reflect these new costs.

On January 19, 2022 the City was notified that the Vineyard Drainage Improvement Project was selected and approved by ODEMHS for \$893,590.45. FEMA grants require the City to pay all costs up front and then receive reimbursement. The grant provides 75% of the project funds with a federal share in the amount of \$670,192.84 and a 25% local match of \$223,397.61. Reimbursed funds will be placed in the Special Grants Fund, Other Revenue – FEMA Stormwater (account 225-333322).

On March 8, 2022, City Council accepted the Hazard Mitigation Grant Program grant in the amount of \$893,590.45 and approved Contract K-2122-104 between the City of Norman and the Oklahoma Department of Emergency Management and Homeland Security entering in to a State and Local Agreement agreeing to comply with the rules of grant administration and the federal regulations regarding purchasing and expending federal funds. Details of the grant are shown below.

<b>DR-4438-0012-OK</b>	<b>Federal Share</b>	<b>Non-Federal Share</b>	<b>Total</b>
Project Costs	\$670,192.84 (75%)	\$223,397.61 (25%)	\$893,590.45 (100%)
Subrecipient Management Costs	\$0.00 (100%)	\$0.00 (0%)	\$0.00 (100%)
Total Obligation	\$670,192.84	\$223,397.61	\$893,590.45

## **DISCUSSION:**

In order to facilitate the anticipated improvements, the parties involved (the City and residents of the Vineyards Addition) must enter into a Participation Agreement setting forth each party’s respective rights and responsibilities. This Agreement sets forth plans for the anticipated construction, and the estimated total cost of \$893,590.45 with local match. The project will be publicly administered and bid, and the City will ensure that the City’s bond and insurance requirements are met. Contract K-2223-47, a contract with Nash Construction Company, Inc. for the construction of the Vineyard Drainage Improvements, is also before the City Council for consideration on this date.

Brenda and David Yeakley own fee title to a portion of property on which the City’s drainage easements are located. A large portion of the construction will occur in this portion of the easement. To facilitate construction, the Yeakley’s have agreed to grant a Temporary

Construction Easement (TCE) over a portion of their property not currently subject to the Drainage Easement, at a negotiated cost of \$3,000, the cost constituting damages and removed trees that the Yeakley's may choose to replace once construction is completed.

Following construction of the drainage improvements, the Agreement provides the Association's agreement to accept permanent and complete maintenance responsibilities for the new infrastructure, as well as landscape maintenance responsibility for the easement area. Finally, the agreement provides for a legal waiver of claims by the Association and Yeakleys against each other as well as the City relating to the Project.

Funds for negotiated TCE and damages in the amount of \$3,000 are available in the Capital Fund, Drainage Projects, Land (Account 50595528-46001; Project DR0020).

**RECOMMENDATION:**

City Staff recommends that Contract K-2223-149 be approved.