



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 8/8/2023

REQUESTER: Shawn O'Leary, Director of Public Works

PRESENTER: Elisabeth Muckala, Asst. City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT OR POSTPONEMENT OF AMENDMENT 1 TO CONTRACT K-2223-146: A ROAD USE AND MAINTENANCE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF NORMAN AND NEXTERA ENERGY TRANSMISSION SOUTHWEST, LLC TO PROVIDE A FRAMEWORK FOR ROADWAY PROTECTION, REPAIR AND MAINTENANCE BY NEXT ERA RELATING TO ITS MINCO-PLEASANT VALLEY-DRAPER TRANSMISSION LINE PROJECT.

BACKGROUND:

NextEra Energy Transmission Southwest, LLC ("NEET") is a Delaware Limited Liability Company. NEET and its affiliates have been active in energy generation and transmission projects nationwide, including 15 Wind Energy Centers located across 14 Oklahoma counties. In April of 2022, NEET was awarded the Minco-Pleasant Valley-Draper Project ("Project") by the Southwest Power Pool ("SPP"), to be regulated by the SPP and according to those regulations enforced by the Federal Energy Regulatory Commission ("FERC"). The Project is a 48-mile long 345 kV transmission line interconnecting Minco, Pleasant Valley and Draper substations owned by OG&E, all located within SPP territory.

The project investment is upwards of \$55 million, and the Project is projected to result in congestion savings to Oklahoma between \$286 million and \$804 million over the next 40 years, as well as inject \$14 million in tax revenue for the state over the next 40 years. The 345 kV lines require an easement width of 150 feet and involve typical pole height of 125 feet. The poles are designed to incorporate a compact footprint, withstand harsh weather conditions, and will incorporate concrete foundations and guyed structures.

NEET has been securing necessary easements for its Project for several months and is currently in the process of finalizing the last of those transactions. One such easement will be acquired from the City of Norman for property owned at the northwest corner of the intersection of Franklin Road and 12th Avenue NE. The Norman City Council will also be asked to consider this easement (Easement E-2223-32), an associated compensation agreement (Contract K-2223-147), and a lease (Contract K-2223-148) on the same property to be used temporarily for a "laydown yard" during NEET's construction of the Project.

DISCUSSION:

The Road Use and Maintenance Memorandum of Understanding (“RUA”) was originally approved by the City Council on April 25, 2023. The RUA sets a framework that allows the City and NEET to work together for the ultimate creation of agreements regarding the protection, repair and maintenance to roadways affected by NEET’s construction, maintenance and operation of the Project. The RUA requires NEET to provide final project details in advance of construction. These details must address matters vital to the City of Norman including road and crossing capacities, stormwater implications, floodplain compliance, environmental and severe weather response, and intensity, duration and proposed route of use. The agreement also anticipates procedures for cooperation where road alteration or closures may be required for safety and to accommodate the Project construction.

Upon receipt of necessary information, NEET can work directly with the City of Norman Public Works Department to reach a formal agreement designed to best protect the City’s roadways and crossings. If approved by the City Council as set forth herein, the Director of Public Works would be empowered to approve said final agreement(s). A failure of the parties to reach a final agreement would result in the nullification of this RUA and any remedies against NEET for road damage would be pursued according to Oklahoma common law and statute. Prior to, throughout and following construction, joint inventories will be completed of affected roads and crossings in order to determine NEET’s responsibility for repair and maintenance.

The RUA requires indemnification and sufficient insurances by NEET, which insurance names the City as an additional insured. NEET must indemnify the City for the acts of any authorized representatives, which would include applicable engineers and contractors involved in the execution of Project construction.

As NextEra’s project plans have matured, additional roads have been identified that, as a matter of prudence, the parties feel should be included within the scope of the RUA, while the parties wish to remove one portion of another road. The portions added are:

- West Robinson Avenue from 0.5 miles east of 60th Ave NW to I-35
- 12th Ave NW for 0.5 miles. Originally 12th stopped 0.5 miles north of Franklin but now extends to East Indian Hills Road
- Porter Avenue for 0.5 miles. Originally Porter stopped 0.5 miles north of Franklin but now extends to East Indian Hills
- Broadway Avenue from East Indian Hills Road to Porter Avenue
- East Indian Hills from 12th Avenue to 0.5 miles east of Porter Avenue
- Tecumseh from 12th Avenue NE to 48th Avenue NE

The portion removed is:

- Pullin Lane Franklin Road to End (private street)

To accomplish these additions and the one subtraction, the original agreement must be amended to substitute a new Exhibit A. The agreement remains, in all other aspects, the same as the one originally approved by City Council.

RECOMMENDATION:

City Staff recommends approval of Amendment 1 to the Road Use Agreement with Next Era, Contract K-2223-146.