



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 01/09/2024

**REQUESTER:**

**PRESENTER:** Kathryn L. Walker, City Attorney

**ITEM TITLE:** CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2324-127: A MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA AND THE BOARD OF REGENTS OF THE UNIVERSITY OF OKLAHOMA FOR THE PURPOSE OF DEVELOPING A CONTRACTUAL RELATIONSHIP RELATED TO THE EXCHANGE OF LAND AND FUNDING FOR MUTUALLY BENEFICIAL PUBLIC PROJECTS AND APPROPRIATION OF FUNDS; ACCEPTANCE OF EASEMENTS E-2324-39 THROUGH E-2324-125 AND DIRECTING THE FILING THEREOF.

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### **BACKGROUND:**

On April 2, 2019, the citizens of Norman voted in favor of a \$72 million transportation bond issue, which includes nineteen (19) projects. With the anticipated \$67 million in federal dollars being leveraged for these projects, approximately \$139 million is budgeted for the nineteen (19) projects (please see the attached project list and map showing the approved projects).

On August 19, 2019, City staff advertised Request for Proposal RFP 1920-16 to solicit Consulting Engineering Services for the fourteen (14) bond projects still requiring design. The selection committee consisting of three (3) City staff and two (2) citizens "shortlisted" nine (9) consultant teams for interviews, which were held on October 2, 2019. The five (5) consultant teams selected after interviews to complete the design on these projects are:

- Garver, Norman
- Cowan Group, Oklahoma City
- Freese and Nichols, Oklahoma City
- MacArthur Associated Consultants, Oklahoma City
- Olsson Associates, Oklahoma City

These consultants are being assigned the various projects by City staff based on capacity, performance on their current projects and capabilities of their firm to complete a specific project.

On November 26, 2019, City Council awarded the consultant design contract for the Jenkins Avenue Widening Project to Freese and Nichols of Oklahoma City in the amount of \$827,005.

On September 8, 2020, the Norman City Council approved Programming Resolution R-2021-46 requesting federal funds for the Jenkins Avenue Widening Project. This resolution states the City's commitment to adhere to the terms and conditions of a federally funded project, including engineering design, acquisition of all necessary rights-of-way and relocation of utilities and encroachments at 100% City's cost. In return, the Association of Central Oklahoma Governments (ACOG), through the Oklahoma Department of Transportation (ODOT), agrees to provide 80% of the construction cost, up to a project maximum of \$7,500,000 in federal funds, and administration of the construction with the matching share (20%) from the City of Norman.

On June 14, 2022, City Council approved the on-call right-of-way acquisition services contract for the Jenkins Avenue Widening Project to Pinnacle Consulting Group, Inc. (Pinnacle) of Oklahoma City in the amount of \$74,500.

On May 23, 2023, City Council accepted the first four (4) easements from two (2) properties on the project in the amount of \$23,746.

On June 13, 2023, City Council accepted a private utility easement for ONG and a public utility easement, both within Reaves Park for the purpose of relocating existing overhead utilities underground.

On September 12, City Council accepted eight (8) easements from three (3) properties on the project in the amount of \$15,734.

The City's current construction cost estimate for the project is \$9,755,000 plus 12% Construction Engineering (\$1,170,600) for a total of \$10,925,600. Based on this amount, City 2019 Bond Funds will pay \$3,425,600 or 31% and federal funds will pay \$7,500,000 or 69% of construction and construction management costs. Federal funds have been secured for federal fiscal year 2023-2024 (FFY 2024). City staff anticipates a fall 2024 bid opening with construction starting in early of 2025.

## **DISCUSSION:**

Right-of-way acquisition necessary for the Jenkins Avenue Widening 2019 Bond Project, consists of one hundred two (102) separate easements on thirty (30) parcels, which includes eighty-seven (87) easements on twenty-three (23) parcels owned by the University of Oklahoma. Pinnacle Consulting Management Group (Pinnacle) oversaw and reviewed the appraisal of each parcel, and assisted City staff in the preparation of offer letters to each property owner affected, based on the appraised values and damages. These easements vary in size and were designed as small as possible to minimize impacts to the adjacent property. Right-of-way acquisition areas have been minimized on this project by utilizing temporary construction easements where possible to complete grading activities outside of the street and sidewalk improvements.

Discussions with the University of Oklahoma have been ongoing as current funding is insufficient for the acquisition of the easements for the Jenkins project at appraised value. The project certainly benefits the University, but it is generally constrained from making donations by the Oklahoma Constitution. Conversations between the parties have been related to ways to document an even exchange of value in the land transaction. An update on these discussions

was provided to Council on August 29, 2023. At that time, the University was proposing a land exchange, with the end result being that the University would have fee title to a portion of Westwood Golf Course to protect it from further development that could impact future runway expansion plans. Council was not comfortable with this approach.

Through the fall, the parties discussed the protection required by the FAA for runway protection zones. Current FAA guidance indicates that recreational uses like golf courses are compatible with runway protection zones and an avigation easement for runway protection zones is sufficient to protect from future development. FAA guidance could change and the University desires some future protection of the runway protection zone. This also represents significant value in the proposed land exchange transaction. To address this issue, the MOU provides that the City will provide an avigation easement, subject to an agreeable legal description which is expected in the next 90 days. However, if the FAA requires that the University hold fee title to the property at some point in the future as a condition of approval of runway extension plans, the City will transfer title at that time. The University would then lease the property back to the City for use as a golf course or park for 50 years, at \$1.00 per year, with the option to extend the lease for another 50 years. Additionally, if the University were to sell the property at some point in the future, the City would have a right of first refusal. If airport operations on the golf course property cease for more than 2 years, the City would also have a reversionary right. OU values this property right transaction at \$2 million.

The value exchanged pursuant to the MOU is as follows:

Appraised Value of the Needed Easements:	\$ 4,164,175
City Payment for Easements:	\$ 827,300
Value of Property Right Conveyance:	\$ 2,000,000
Value of Project to OU:	\$ 1,000,000
Value of Timely Completion:	\$ 350,000

With Council’s approval, Staff will obtain signed right of way, utility easements, and temporary construction easements to complete this project. Upon receipt of these documents, Staff will make payment of \$827,300 funds available in the Jenkins Avenue Widening Bond Project – Land (Account Org. 50594019, Object 46001, Project No. BP0417) to the University. This will require a budget transfer of \$318,680 within the same project – Construction (Account Org 50594019, Object 46101, Project No. BP0417) to the above mentioned Land Account. Once the avigation easement legal description is finalized, Staff will present it to the Mayor for signature.

**RECOMMENDATION:**

1. Staff recommends approval of Contract K-2324-127.
2. Staff recommends the Mayor be authorized to sign the Avigation Easement upon receipt of a satisfactory legal description as provided in the MOU.
3. Staff recommends a budget transfer of \$318,680 from the Jenkins Avenue Widening Bond Project Construction (Account Org. 50594019, Object 46101, Project No. BP0417) to Land (Account Org. 50594019, Object 46001, Project No. BP0417).

4. Staff recommends the University of Oklahoma/Board of Regents easements (Easement E-2324-39 through E-2324-125) be accepted with payments and filing, where applicable, be directed thereof.