



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 04/23/2024

**REQUESTER:** City of Norman Police Department

**PRESENTER:** Major Brent Barbour, Norman Police Department

**ITEM TITLE:** CONSIDERATION OF ACCEPTANCE, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF AMENDMENT TWO TO CONTRACT K-2122-88: BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, THE NORMAN MUNICIPAL AUTHORITY, AND CROSSLAND CONSTRUCTION COMPANY, INC., INCREASING THE CONTRACT AMOUNT BY \$975,723 FOR A REVISED CONTRACT AMOUNT OF \$14,924,576 TO PROVIDE ADDITIONAL CONSTRUCTION SERVICES FOR THE EMERGENCY COMMUNICATIONS AND OPERATIONS CENTER (ECOC) AND BUDGET APPROPRIATION AS OUTLINED IN THE STAFF REPORT.

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### **BACKGROUND:**

This item is an Amendment to our contract with Crossland Construction Company, Inc., (Crossland) to build the Emergency Communications and Operations Center Project (ECOC). The additional services would provide completed construction of the vehicle storage facility as outlined in the original construction documents (Alternate #1), bid package, and related contract at a guaranteed maximum price. The background and history of the Project that has solidified funding and brought the City to this point are outlined below.

On April 1, 2014, the voters of Norman approved Ordinance O-1314-33, extending the dedicated ½ percent Public Safety Sales Tax (PSST) permanently (effective October 1, 2015). The Ordinance directed that 71 employees added to the City public safety workforce be made permanent; an additional 19 employees be added over a period of four years (13 police officers to staff a School Resource Officer program; 4 additional Dispatchers; and 2 Emergency Vehicle Mechanics); and a program to replace or acquire Critical Public Safety Capital Needs be implemented. The Critical Public Safety Capital Needs were identified, in priority order, as follows:

Emergency Communication System Replacement - \$15,000,000

Emergency Operations/Dispatch Center Facility - \$ 6,500,000

Fire Apparatus Replacement Program - \$ 6,800,000

Reconstruct/Relocate Fire Station #5 - \$ 3,500,000

TOTAL - \$31,800,000

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In discussions and presentations leading up to the approval of the PSST extension, the plan to finance the Emergency Communications (Radio) System and Emergency Operations Center (ECOC) facilities through some type of debt issuance was discussed and acknowledged, due to the need to have those facilities functional before sufficient PSST revenues would accrue. Under this plan, available PSST Fund balance would be used as a partial “down payment” on the Communication System and ECOC facility and PSST Fund balance would be used to pay for the fire apparatus and Fire Station 5 reconstruction on a pay-as-you-go basis, as funds became available after the Radio System and ECOC were financed.

Subsequent to the passage of the PSST extension (“PSST II”), Fire Department staff provided a presentation to the City Manager and Council Finance Committee outlining the urgency of replacing a platform fire truck with an estimated cost of \$1,100,000 as the most critical need of the Fire Department. The Police Department staff also presented the need to hire the School Resource Officer program personnel a year in advance of the originally projected time. It was predicted that the PSST Fund would be able to absorb these advanced expenses, but the amount of debt financing required with this accelerated schedule would be increased. The Finance Department and Legal Department staff, in consultation with the City’s financial advisor and bond counsel teams, proposed a financing package, including the Emergency Communications System, the ECOC Facility and the fire platform truck. This comprehensive financing package for the Critical Public Safety Capital needs was discussed and approved by the Council Finance Committee on February 12, 2015. Proposals from qualified local and regional banking institutions to provide approximately \$22,825,000 in financing with a final maturity in 12 years, secured by a pledge of the PSST II proceeds, were solicited.

Responses in the form of interest rate proposals were received on March 10, 2015, and the lowest and best interest rate bid was forwarded for consideration of the Norman Municipal Authority (NMA) Trustees and Council. Information on the tabulated interest rate bid proposals was distributed at the meeting as an attachment. The Norman Municipal Authority Trustees and Council considered two resolutions. Several actions were accomplished by the resolutions. Resolution R-1415-90 was a resolution of the NMA to issue the debt, and R-1415-91 was a resolution of the City of Norman authorizing the issuance of the debt by the NMA in an aggregate amount not to exceed \$22,825,000.

The NMA Resolution (R-1415-90) authorized the following actions:

- Authorize the Issuance of the PSST Revenue Notes;
- Pledge the Revenues of the PSST II sales tax and a portion of the dedicated Capital Sales Tax, subject to annual appropriation, to the repayment of the note indebtedness;
- Waive Competitive Bidding and Authorize the Note to be sold on a Negotiated Basis; Authorize a Sales Tax Agreement between the City of Norman and the NMA;
- Establish the Tax-Exempt Nature of the Note; and
- Authorize the Chair of the NMA Board of Trustees to execute final documents related to the financing.

The City of Norman Resolution (R-1415-91) authorized the following actions:

- Approve the Incurrence of the Indebtedness by the NMA; Waive Competitive Bidding and Authorize the Note to be sold on a Negotiated Basis;
- Authorize a Sales Tax Agreement between the City of Norman and the NMA;
- Establish the Tax-Exempt Nature of the Note; and
- Authorize the Mayor to execute final documents related to the financing.

That financing closed and those revenues for the Project are noted as Bond Proceeds in the PSST Fund Summary in the Capital Improvement Plan budget document. During the budget process, the City budgeted expenditures of \$500,000 in fiscal year 2015-2016 (FY16) for Design (account 15695523-46201) and in FY17, \$2,000,000 for Land (account 15695523-46001; project BP0029) plus \$4,000,000 for materials (account 15695523-46301; project BP0029) for the ECOC facility. This totals the \$6,500,000 identified for the ECOC facility in the original PSST II Plan. With funding for the Project secured, the design and construction process was then moved forward.

A Request for Qualifications (RFQ 1516-58) was issued on May 16, 2016 asking for firms to present their qualifications for architectural and engineering design of the ECOC. Following vetting, including interviews and presentations, the Architects Design Group of Winter Park, Florida was selected for this project, its work to be completed in phases pursuant to Contract K-1617-69. Amendments have been brought to augment the scope of design based on funding.

On May 25, 2021, the City Council appropriated \$9,500,000 in American Recovery Plan Act entitlement funding (Resolution R-2021-128) to provide for the full completion of the ECOC project. The 19,800 square foot design provides for all necessary components and fully hardens the entire structure to help ensure its usability in the event of severe weather emergencies

It was ultimately determined a Construction Manager at Risk (CMaR) format was preferable for this project much as for the City's many ongoing Norman Forward projects. Construction Manager at Risk is a process whereby the Norman Municipal Authority (NMA, or "Owner") will hire a Construction Manager to handle all of the bidding of the different sections of the work and all the subsequent construction activity for the project for a Guaranteed Maximum Price (GMP). The GMP is subsequently considered as an amendment to the CMaR contract after the most responsible bids are secured through the proper bidding procedures that govern public projects. Project bids are sealed and opened consistent with the City's bidding policies. This method allows the CMaR to work for the Owner while gathering bids from their best pre-qualified vendors and subcontractors, who have a history of working with the CMaR. This can deliver better bid pricing to a known project manager. Also, the CMaR process often maximizes opportunities to get participation from local, smaller sub-contractors. It can result in quicker project delivery without change orders due to the GMP agreed upon at the time of awarding the construction contract(s) to the CMaR.

On November 5, 2021, the City advertised its Request for Qualifications and on November 17, 2021 received CMAr service proposals from four (4) construction management service companies. Two (2) firms were selected for interviews which were conducted on December 17, 2021. Based on their experience with other similar projects, Crossland Construction Company, Inc. was selected as the firm having the best proposal for managing the construction work on the ECOC. The CMAr contract, K-2122-88, for \$32,250 was approved by City Council on January 18, 2022.

The construction will be fully bonded when the construction bids are awarded for the GMP. At that stage, the CMAr contract includes all of the necessary professional liability and insurance and affidavits that come with all professional services contracts. Crossland Construction Company Inc. has used this method on many of their projects in the past decade, including work for the City of Norman/Norman Municipal Authority, University of Oklahoma, City of Wichita, KS, City of Tulsa, and Tulsa RiverParks Authority (Gathering Place).

For these projects, since the construction documents were nearly complete, the fee for pre-construction services was relatively small. The CMAr used the completed plans and specifications to secure all bids and create the GMP to be awarded by amendment to this contract. The amount awarded via this CMAr contract is those monthly expenses listed in the contract associated with doing the business of the CMAr for the anticipated duration of the project. If the project extends beyond this time, unless due to the extreme circumstances itemized in the contract, then those costs are borne by the CMAr, which are factors for the project to stay on time and within budget. The GMP, which will be awarded as an amendment to this contract, will also include all of the CMAr's profit on the project, itemized in the amendment. Whereas the costs and profits of a "hard bid" design-bid-build project are often not known (since those are a lump sum bid submitted by each general contractor bidding on the work), the CMAr method allows for full transparency of the budget and costs for each division of work, including profit. This way, all the fees, and services are stated and memorialized in the contract agreement.

Construction documents for the project were completed by the Architects Design Group of Winter Park, Florida in November of 2022. On November 30, 2022 City of Norman Bid Package #1 for the project was released. Due to unexpected delays and related holiday conflicts, the original December 13, 2022 deadline submission of bids was delayed and advertised. Bids for the project were opened and reviewed on January 17, 2023. After review of the bids and additional Value Engineering work, the GMP for completion of the construction was offered for amendment and approval.

On February 14, 2023 contract amendment No. One was approved by City Council to accept the GMP project, submitted bids, and initiate construction services for the construction of the ECOC facility. The GMP for the project was contracted at \$13,916,603. Due to significant inflation in the current construction market, this price was higher than originally estimated and required additional funding. To address this barrier, the City Council approved the reallocation of \$450,000 of ARPA funds to the project. (Project BG0083)

Funds from proceeds of the 2015 Norman Municipal Authority Sales Tax Notes are available in the Public Safety Sales Tax Fund Emergency Communications Center Capital Projects; Project BP0029.

Further, since this project is being partially funded with bond money through the Norman Municipal Authority, the Norman Municipal Authority cannot pass the sales tax exemption on to the Construction Manager. Our Staff has collected invoices for taxable materials from Crossland Construction Company, Inc. every month and purchase those materials directly from the suppliers to avoid sales tax payments for those materials purchases.

## **DISCUSSION:**

The plan to complete the ECOC project with a vehicle storage building was part of the original 2017 design. The storage facility was reluctantly removed during a value engineering process in 2019 and returned during the final design when funding for the full scope of the project (hardening, size, etc.) was provided in 2020. The vehicle facility was fully designed and was included as an alternative option No 1 in the construction GMP bidding process completed in January 2023. Due to significant construction price increases in 2022, this alternate was not able to be funded with available project resources.

The approximately 3,300 square foot building will allow for the safe and secured storage of the City of Norman Emergency Services Command Post, Emergency Management trailers and mass care equipment, and City outdoor warning system parts and materials. The combined value of these assets approximates the bid cost of the vehicle storage building, and there is currently no alternative facility to secure this equipment. These critical city resources, which are maintained by both the Norman Fire and Police Departments, are relied upon for use by the city as a whole to provide services and resources to our residents in critical times of need.

After recommendation from the City Public Safety Sales Tax Committee, an effort to identify potential funding sources to ensure completion of this facility was undertaken. In discussion with the construction project team the city was advised the cost to fund the facility at a later time after completion of the ongoing project would be significantly more. Among other factors, this price increase would be the result of on scene management services, mobilization of trade services, continuing inflationary processes. Finding that the cost of the facility today was nearly equal to the cost of critical equipment needing protection from weather and other risks this process was initiated.

This effort has identified ARPA funding, currently appropriated for the Imhoff Creek Stabilization Project (DR0062-CONST2), which may be replaced by FEMA grant opportunities. This ongoing project is underway, but delayed in time as the necessary design and evaluation phases continue. Due to this potential FEMA funding opportunity and time requirements for the expenditure of ARPA funds, staff recommends transfer of funds between the projects with intent to seek FEMA funds or other future city actions as needed while the Imhoff Creek project continues.

Additionally, during the process of review, \$6,840 was identified as unused from the ARPA Non-Profit Support Administration allocation. This balance is unexpected savings and Finance staff recommends allocating these funds to this project to close out that fund.

On March 7, 2024, City of Norman Bid Package #4 for the project was released. Bids for the project were opened and reviewed on March 28, 2024. After review of the bids, the GMP for completion of the construction was offered for amendment and approval. The amendment for the project was set at \$975,723.

Our Consultants from ADG Blatt (Oklahoma City) have participated throughout the entire process up to our current point of construction of the project. Further, the City Attorney's office has reviewed and approved the amendment documents.

**RECOMMENDATION 1:**

Staff recommends that City Council approve Amendment Number Two to CMaR Contract K-2122-88 with Crossland Construction Company, Inc., in the amount of \$975,723 for a revised contract amount of \$14,924,576 for construction services for the Emergency Communications and Operations Center project and, if approved, authorize the execution thereof.

**RECOMMENDATION 2:**

Staff recommends that City Council reallocate \$968,883 that was appropriated for the ARPA Imhoff Creek Stabilization (Project DR0062, Account 22595303-46101 CONST2) to Emergency Operations Center ARPA (Project BG0083, Account 22695523-46101 CONST).

**RECOMMENDATION 3:**

Staff recommends that City Council reallocate \$6,840 that was appropriated for the ARPA Non-Profit Support Admin (Account 22110187-44199) to Emergency Operations Center ARPA (Project BG0083, Account 22695523-46101 CONST).