



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 02/14/2023

REQUESTER: City of Norman Police Department

PRESENTER: Major Brent Barbour

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF AMENDMENT NUMBER ONE 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 \$13,916,603 FOR A REVISED CONTRACT AMOUNT OF \$13,948,853 TO PROVIDE CONSTRUCTION MANAGEMENT AT RISK SERVICES FOR THE EMERGENCY COMMUNICATIONS AND OPERATIONS CENTER (ECOC) AND BUDGET APPROPRIATION AS OUTLINED IN THE STAFF REPORT.

BACKGROUND:

This item is an Amendment to Contract K-2122-88 with Crossland Construction Company, Inc., (Crossland) to provide completion of building the Emergency Communications and Operations Center Project (ECOC). The additional services would provide completed construction of the facility, grounds, and related elements as outlined in the current construction documents, 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

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. The Norman Municipal Authority Trustees and Council considered two 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.

That financing was completed in 2015 and the design and construction process was moved forward then.

A Request for Qualifications (RFQ 1516-58) was issued on May 16, 2016 asking 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 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-on 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, 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 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 is to be awarded as an amendment to the main contract, and will also include all of the CMaR's profit on the project, itemized in the amendment.

DISCUSSION:

The Architects Design Group of Winter Park, Florida completed construction documents for the project 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 for submission of bids was further delayed and advertised. Bids for the project were opened and reviewed on January 17, 2023. After review of the bids and

additional “value engineering” processes to reduce costs, the GMP for completion of the construction is now being offered for amendment and approval.

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

The final GMP for the project has been proposed by Crossland at \$13,916,603. Due to cost increases in the current construction market, this price is higher than the Architects Design Group’s original estimates. The difference of approximately \$450,000 must be appropriated in order for the GMP amendment to be accepted.

After review and discussion by City staff, it is believed the most appropriate means for funding the project at the bid GMP will include a re-allocation of \$262,978 from the ARPA Vaccine Incentive Program (Account 22110303-44639; appropriated on September 14, 2021) and \$187,022 from the ARPA Affordable Housing project (Account 22330303-45799; appropriated on August 23, 2022) to the Special Grants Fund (ARPA) Emergency Communications Project, Construction (Account 22695523-46101; Project BG0083).

Funds from proceeds of the 2015 Norman Municipal Authority Sales Tax Notes (Revenue Bonds) are available in the Public Safety Sales Tax Fund, Emergency Communications Center Project; Construction (Account 15695523-46101; Project BP0029).

Additionally, a municipal trust such as the NMA cannot pass a sales tax exemption to a Construction Manager. Because this project is partially bond-funded through the Norman Municipal Authority, City Staff will instead collect invoices for taxable materials from Crossland every month and purchase those materials directly from the suppliers and provide them to the Construction Manager at Risk, to avoid the payment of sales tax on materials purchases related to the project.

RECOMMENDATION NO. 1:

Staff recommends that the City Council, acting jointly as the Norman Municipal Authority, approve Amendment One to CMaR Contract K-2122-88 with Crossland Construction Company, Inc., in the amount of \$13,916,603 for a revised contract amount of \$13,948,853 for construction services for the Emergency Communications and Operations Center project and, if approved, authorize the execution thereof.

RECOMMENDATION NO. 2:

Staff recommends that City Council re-allocate \$262,978 that was appropriated for the ARPA Vaccine Incentive Program, ARPA Miscellaneous Services-ARPA Incentives (account 22110303-44639) and \$187,022 that was appropriated for the ARPA Affordable Housing project, ARPA-Finance Miscellaneous-Other (account 22330303-45799) to the Emergency Operations Center ARPA project (BG0083, account 22695523-46101).