



## CITY OF NORMAN, OK STAFF REPORT

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

**REQUESTER:** Jason Murphy, Stormwater Program Manager

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

**TITLE:** CONSIDERATION OF APPROVAL, ACCEPTANCE, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2223-47: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, AND NASH CONSTRUCTION COMPANY IN THE AMOUNT OF \$728,216.25 FOR THE VINEYARD DRAINAGE IMPROVEMENT PROJECT, PERFORMANCE BOND B-2223-27, STATUTORY BOND B-2223-28, MAINTENANCE BOND MB-2223-18, AND RESOLUTION R-2223-32 GRANTING TAX EXEMPT STATUS.

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### **BACKGROUND:**

For several years, residents of The Vineyard Addition have experienced property damage due to flooding. The Vineyard Additions 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. 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 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 \$753,600.00. 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 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:**

Following acceptance of the grant and initial FEMA approval of the Project plans, the City approached one adjacent property owner regarding the City’s need for a temporary construction easement to facilitate the completion of the flume as designed. The adjacent property owner was unwilling to negotiate an easement as doing so would require the removal of trees along the boundary where their parcel meets the Vineyard Drainage Easement. The City attempted to address and satisfy the owners concerns, but were ultimately unsuccessful in reaching any amicable agreement. The City then redesigned the Project, and shrank the size of the flume by half, in order to entirely avoid this adjacent property owner’s trees and property. Following redesign, the City applied for and again obtained FEMA approval of the Project plans.

Bid documents and specifications for the Vineyard Drainage Improvement Project were advertised on March 6, 2023 and March 13, 2023 in accordance with State Law. Three (3) bids were received on March 30, 2023.

The low bidder is Nash Construction, of Oklahoma City, Oklahoma in the amount of \$728,216.25. This bid is \$98,736.19 or 11.94% below the Engineer's Estimate of \$826,952.44. Staff has done a comparative analysis of these bids, and believes the bid to be competitive and represents a fair price. The bid tabulation is attached. While the contract is being considered now to preserve the bid timeline, the City intends to temporarily delay its issuance of a Notice to Proceed.

Following their review of the redesigned plans, the adjacent property owner has now asserted an alternate northern boundary for its property that would still presumably create a conflict with the redesigned plans. The City wishes to employ all necessary efforts in attempting to address concerns prior to proceeding with construction but has been unable to convince them to engage in discussions of resolution. The City's efforts in this regard will continue, but if the City is unable to get the adjacent owner to discuss resolution, discussions have already begun with Nash to limit initial construction efforts to only non-disputed areas and for the Project boundary to be altered in an effort to avoid the largest areas potential areas of dispute.

This project will be funded from the Vineyard Drainage Improvement Project DR0020 (Acct. No. 50595528-46101 and 22595528-46101).

If approved, construction of the Vineyard Drainage Improvement Project will begin on May 15, 2023, with an estimated completion of November 11, 2023, weather permitting.

#### **RECOMMENDATION 1:**

Staff has reviewed the bids and recommends Bid-2223-18 for the Vineyard Drainage Improvement Project be awarded to the low bidder, Nash Construction, of Oklahoma City, Oklahoma, for \$728,216.25.

#### **RECOMMENDATION 2:**

Staff further recommends that Nash Construction, be authorized and appointed as Project Agent via Resolution R-2223-32, and the following contract and bonds be approved:

Contract K-2223-47  
Performance Bond B-2223-27  
Statutory Bond B-2223-28  
Maintenance Bond MB-2223-28