



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 01/18/2022

**REQUESTER:** City of Norman Police Department

**PRESENTER:** Major Brent Barbour

**ITEM TITLE:** CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF CONTRACT K-2122-88: A CONTRACT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, THE NORMAN MUNICIPAL AUTHORITY, AND CROSSLAND CONSTRUCTION COMPANY, INC., IN THE AMOUNT OF \$32,250 FOR CONSTRUCTION MANAGER AT RISK SERVICES FOR THE CONSTRUCTION OF THE EMERGENCY COMMUNICATIONS CENTER/ EMERGENCY OPERATIONS CENTER (ECC/EOC).

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### **BACKGROUND:**

This item is a contract with a construction company to provide Construction Manager at Risk (CMaR) services for the Emergency Communications Center / Emergency Operations Center Project (ECC/EOC). The background and history of the Project that has solidified funding and brought the City to this point is 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 (EOC) 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 ECC/EOC 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 ECC/EOC 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 ECC/EOC 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 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 015-9523-419.62-01) and in FY17, \$2,000,000 for Land (account 015-9523-419.60-01; project BP0029) plus \$4,000,000 for materials (account 015-9523-419.63-01; project BP0029) for the ECC/EOC facility. This totals the \$6,500,000 identified for the ECC/EOC 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 ECC/EOC. 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 ECC/EOC 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.

Project management is ongoing and Amendment No. 3 to Contract K-1617-69 is brought to the City Council/Norman Municipal Authority for consideration along with this item.

## **DISCUSSION:**

It was ultimately determined that a Construction Manager at Risk ("CMaR") format was preferable for this project, much as for many of the City's ongoing Norman Forward projects. 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 EOC/ECC.

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 amended construction contract(s) to the CMaR.

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 architectural and engineering design development is well established, the fee for pre-construction services will be relatively small. The CMaR will use the current plans and specifications to secure all bids and create the GMP 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 initial contract agreement.

Further, since this project is in part being funded with bond money through the Norman Municipal Authority, the Norman Municipal Authority cannot pass the sales tax exemption on to the Construction Manager. Where necessary, City/NMA Staff will collect 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.

## **RECOMMENDATION:**

Staff recommends that the City Council/Norman Municipal Authority approve Contract K-2122-88 with Crossland Construction Company, Inc., for a pre-construction cost of \$32,250 plus \$4,013.25 for each month thereafter, and a CMaR construction fee of 3.65%; and, if approved, authorize the execution thereof. Funds from proceeds of the 2015 Norman Municipal Authority Sales Tax Notes are available in the Public Safety Sales Tax Fund, Emergency Communications Center, Construction (Account 15695523-46101, Project BP0029). Funds are also available in the Special Grants Fund/ARPA, Emergency Operations Center, Construction (Account 22695523; Project BG0029).