



## CITY OF NORMAN, OK STAFF REPORT

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**MEETING DATE:** 5/28/2024

**REQUESTER:** Brenda Hall, City Clerk

**PRESENTER:** Brenda Hall, City Clerk

**ITEM TITLE:** CONSIDERATION OF ACCEPTANCE, APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF REQUEST FOR AUTHORIZATION FOR PARTIAL RELEASE OF RETAINAGE, FROM 5% TO 2.5%, FOR CONTRACT K-1920-133 BETWEEN THE CITY OF NORMAN, THE NORMAN MUNICIPAL AUTHORITY AND CROSSLAND CONSTRUCTION, INC., FOR THE MUNICIPAL COURT PORTION OF THE MUNICIPAL COMPLEX RENOVATIONS PROJECT.

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### **BACKGROUND:**

City Council and Norman Municipal Authority, in its meeting of March 12, 2020, approved Contract K-1920-133 with Crossland Construction Company, Inc., (Crossland) in the amount of \$32,390, to provide Construction Manager at Risk Services (CMaR) for the Municipal Complex Renovation Project. On March 23, 2021, Amendment One was approved by Council to establish the guaranteed maximum price (GMP) of \$6,392,330 for the Development Center portion of the project. On October 26, 2021, City Council approved Amendment Two to K-1920-133, setting a GMP of \$667,562 for the City Hall portion of the project. Amendment Three to Contract K-1920-133 in the amount of \$492,185.38 covered additional costs related to asbestos removal in the Development Center portion of the project. Amendment Four to Contract K-1920-133 in the amount of \$3,500,000 covered the reconstruction of Building A for the Municipal Court facility, which is now under construction.

### **DISCUSSION:**

The Municipal Court Building was ready for final inspections and testing in December, 2023. A Certificate of Substantial Completion was issued on January 17, 2024. Since that time the contractor has completed the list of punch list items with the exception of the Test and Balance Report for the HVAC system. Crossland has been working to resolve issues with existing equipment to resolve the problem. Due to the delay in final acceptance, the contractor has requested that the retainage for the project be reduced from 5% to 2.5% to facilitate payment of sub-contractors for work that is complete and is unrelated to the issues causing the delay in closeout.

Effective November 1, 2022, the Competitive Bidding Act, requires that contracts entered into under the Act allow for reduction of retainage from 5% to 2.5% once the project has reached 50% completion and the owner has determined that satisfactory progress is being made (see 61 O.S. § 226). Though the contract was entered prior to the effective date of this change in the Act, a request for reduction has been made. In considering the request, City Staff now verifies that satisfactory progress has been made and seeks authorization to reduce retainage in accordance with the current version of the Act. City staff has verified that more than 50% of the total project work is complete. Further, City staff believes the work is progressing enough to meet the “satisfactory progress” requirement, and that a reduction in retainage (from 5% to 2.5%) for the Municipal Court portion, as requested, is appropriate at this time.

If approved, the current retainage held would be reduced from \$172,210.76 to \$86,105.38, which would allow payment in the amount of \$57,078.70 to Crossland in accordance with the statute. Retention of the remaining 2.5% of the total contract price will be withheld throughout the remainder of the contract until City staff confirms all final punch list items are complete. Upon said completion, release of the final retainage will accompany a future Council agenda item for final acceptance and final payment of the project.

These retainage funds are being held in the Municipal Complex Renovation/Expansion, Construction (Account 50196644-46101; Project BG0075).

**RECOMMENDATION:**

Staff reduction of retainage for Contract K-1920-133, with Crossland for the Municipal Court portion of the Municipal Complex Renovation Project, from 5% to 2.5% of the total contract amount.