



City of Norman, OK

Municipal Building
Council Chambers
201 West Gray
Norman, OK 73069

Master

File Number: K-1920-130

File ID: K-1920-130 **Type:** Contract **Status:** Consent Item

Version: 1 **Reference:** Item 38 **In Control:** City Council

Department: Public Works Department **Cost:** **File Created:** 05/29/2020

File Name: Settlement Release and Agreement with ODOT for FHWA Funds for repairs made as a result of the 2015 floods **Final Action:**

Title: CONTRACT K-1920-130: A SETTLEMENT AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA AND THE OKLAHOMA DEPARTMENT OF TRANSPORTATION AND RELEASE FOR REIMBURSEMENT TO THE CITY OF NORMAN IN THE AMOUNT OF \$142,837.87 IN FEDERAL HIGHWAY ADMINISTRATION FUNDS FOR REPAIRS MADE TO RURAL ROADS AS A RESULT OF THE 2015 FLOODS.

Notes: ACTION NEEDED: Motion to approve or reject Contract K-11920-130 with the Oklahoma Department of Transportation in the amount of \$142,837.87; and, if approved, authorize the execution thereof upon receipt of payment from ODOT, increase Other Revenue/Misc Grant Reimbursement (109-331346) by \$142,837.87.

ACTION TAKEN: _____

Agenda Date: 06/09/2020

Agenda Number: 38

Attachments: ODOT Settlement, FHWA Projects Summary, Project Location Map, May Flooding Location Map, May Rainfall Graph

Project Manager: Tim Miles, Capital Projects Engineer

Entered by: cydney.karstens@normanok.gov

Effective Date:

History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:

Text of Legislative File K-1920-130

Body

BACKGROUND: From the time period of May 5th to May 24th, 2015, the City of Norman experienced an EF-1 tornado and multiple flash flooding events. The attached graph, prepared by staff at the National Weather Center, illustrates a historic level of flooding and rainfall in Norman in May 2015. Over 23 inches of rain fell in Norman in May of 2015, or nearly 10 more inches of rain than the previous May, 1957 rainfall record in Norman of 13.43 inches.

According to the National Weather Center, at least five of those rainfall events in May 2015 involved flash flood conditions. Flash floods can be very damaging to the City's infrastructure, particularly roads, bridges and storm water drainage systems. With each flooding event in May 2015, the City encountered more infrastructure damage and road closures. At one point in May, 35 of Norman's roads were closed to traffic due to damage or high water. Most of these roadways are located in rural east Norman. The Public Works Department has continually tracked an inventory of damaged roads and bridges. 66 damage locations from the May 2015 storms were identified as shown on the attached map. By July 31, City staff in collaboration with Cleveland County crews had completed temporary repairs to open 14 public roads and only one public road remained closed to traffic. The total cost to repair the City's infrastructure was estimated to be up to \$3 million dollars. The City's cost for recovery from the tornado and hail storms was an additional \$665,000.

City staff worked closely throughout May 2015 with officials from Oklahoma Emergency Management (OEM), the Federal Emergency Management Agency (FEMA) and Federal Highway Administration (FHWA) regarding storm damage assessments and the potential for state and federal disaster relief financing. Mayor Cindy Rosenthal declared a local disaster by resolution on May 19, 2015. Governor Mary Fallin declared a state disaster by resolution on May 26, 2015. President Obama established a Presidential Disaster Declaration for Cleveland County on May 26, 2015 for the period of May 5-24, 2015, making the City eligible for up to 87.5% reimbursement (75%-federal; 12.5% state) for debris removal from the May 6, 2015 tornado and infrastructure repairs caused by the May 5-24, 2015 floods.

On June 9, 2015, Council approved Contract K-1415-141 with Tetra Tech, Inc. in the amount not to exceed \$500,000, for the Disaster Recovery Management Services related to infrastructure damages sustained in Norman from the May 5-24, 2015 weather events. Due to Federal requirements, Tetra Tech was not eligible to prepare engineering plans for the permanent repairs necessary to further the City's disaster recovery.

On November 24, 2015, Council approved Contract K-1516-71, with Freese and Nichols for the design of five May 2015 Storm Permanent Repair Projects in the amount of \$246,752.00.

On February 17, 2017, Oklahoma Emergency Management (OEM) submitted an appeal to FEMA on the City's behalf for four permanent repairs requiring the installation of bridge size culverts to meet current drainage standards. Both OEM and City staff agree that The Stafford Act makes these permanent repairs eligible for FEMA reimbursement. FEMA disagreed and did not include these repairs in their original reimbursement determination. The monetary amount in the dispute totaled \$2,600,000. On March 21, 2017, FEMA denied this appeal.

On July 25, 2017, City Council awarded Contract K-1617-127 with A-Tech Paving in the

amount of \$451,245.00 for Imhoff Creek Channel Repairs.

On September 12, 2017, Council approved Contract K-1516-71 Amendment No. 1, with Freese and Nichols for a scope change to one current project and the addition of another May 2015 Storm Permanent Repair Project in the amount of \$39,974.

On January 23, 2018, City Council approved Change Order No. 1 to Contract K-1617-127 with A-Tech Paving in the amount of \$299,402.78 for additional damages to Imhoff Creek that occurred after the original contract was awarded.

On May 25, 2018, Oklahoma Emergency Management (OEM) submitted a second appeal to FEMA on the City's behalf for the \$2,600,000 in permanent repairs being disputed by FEMA. On October 26, 2018, FEMA denied this final appeal.

On May 14, 2019, City Council approved Change Order No. 2 and Final Acceptance to Contract K-1617-127 with A-Tech Paving decreasing the contract amount by \$104,105.74.

DISCUSSION: Tonight's agenda item is for City Council consideration of approving a Settlement Agreement and Release with ODOT so that the City can be reimbursed for temporary repairs that were made by the City Public Works/Streets Division on FHWA routes after the 2015 Floods.

The City Public Works/Streets Division completed five different repairs on rural roads in the City of Norman that are designated FHWA routes. These repairs are 100% reimbursable to the City through Federal Emergency Relief. As a result, City Staff carefully documented the labor, materials and equipment used for the five locations shown on the attached table in the amount of \$142,837.87 in an effort to be fully reimbursed for these costs.

The Oklahoma Department of Transportation (ODOT) was responsible for administering these federal funds to the City of Norman. However, an error was made during the payment process and Cleveland County received the funds in two checks that were intended to go to the City of Norman. The first small check in the amount of \$1,635.29 was cashed by Cleveland County before they realized the error. The second check to Cleveland County in the amount of \$141,202.58 was returned to ODOT. These checks were issued to Cleveland County in the fall of 2015. City Staff has been periodically checking with ODOT over the years on the status of the federal reimbursement still owed to the City of Norman. This spring, ODOT was able to track down the necessary information that allowed ODOT's legal department to draft the attached Settlement and Release Agreement for City signatures. Since the reimbursement amount is over \$25,000, City Council must approve this attached agreement prior to the City Manager and City Attorney executing the document and returning it to ODOT for reimbursement.

With City Council approval, funds in the amount of \$142,837.87 will be deposited in revenue account 109-331346 (Other Revenue/Misc. Grant Reimbursement) upon receipt of payment. This will allow the Streets Division General Fund Account to be reimbursed for the fronted repair costs from when the work was completed.

RECOMMENDATION: Staff recommends approval of Contract K-1920-130 with the Oklahoma Department of Transportation with the reimbursement of \$142,837.87 in federal funds being deposited into revenue account 109-331346 (Other Revenue/Misc. Grant Reimbursement), upon receipt of payment.