



CITY OF NORMAN, OK STAFF REPORT

MEETING DATE: 02/28/2023

REQUESTER: Elisabeth Muckala, Asst. City Attorney

PRESENTER: Elisabeth Muckala, Asst. City Attorney

ITEM TITLE: CONSIDERATION OF APPROVAL, REJECTION, AMENDMENT, AND/OR POSTPONEMENT OF AMENDMENT NO. ONE TO CONTRACT K-2122-96: A REIMBURSEMENT AGREEMENT BY AND BETWEEN THE CITY OF NORMAN, OKLAHOMA, A MUNICIPAL CORPORATION, AND WESTERN FARMERS ELECTRIC COOPERATIVE INCREASING THE CONTRACT AMOUNT BY \$12,807.84 FOR A REVISED CONTRACT AMOUNT OF \$459,276.97, FINALIZING COST SHARE FOR TRANSMISSION LINE RELOCATION OCCASIONED BY THE 36TH AVENUE BOND PROJECT.

BACKGROUND:

On August 28, 2012, the citizens of Norman voted in favor of a General Obligation Bond Issue to finance the local share of eight transportation/stormwater improvement projects. One of the eight 2012 bond projects is the 36th Avenue NW Widening Bond Project between Tecumseh Road and Indian Hills Road.

On November 22, 2011, the Norman City Council approved Programming Resolution R-1112- 64, requesting federal funds for the 36th Avenue NW Bond Project. This Resolution states the City's commitment to adhere to the terms and conditions of a federally funded project including engineering design, acquisition of all necessary rights-of-way and relocation of utilities and encroachments at 100% the City's cost. In return, the Association of Central Oklahoma Governments (ACOG), through the Oklahoma Department of Transportation (ODOT), agrees to provide 80% of the construction cost, estimated at \$11,500,000, and administration of the construction with the matching share from the City of Norman.

On April 9, 2013, City Council approved engineering services Contract K-1213-170 with the engineering firm of CP&Y in the amount of \$703,878.50 to design 36th Avenue NW Bond project from Tecumseh Road to Indian Hills Road.

On August 14, 2018, City Council approved Resolution R-1819-12 declaring the 36th Avenue NW Project a recoupment project.

On February 26, 2019, City Council approved Authorization for Expenditure No. One from Contract K-1314-102 with Smith-Roberts Land Services, Inc., for the 36th Avenue NW Bond

Project - Phase 1, in the amount of \$54,324 for right-of-way acquisition services. On May 28, 2019, City Council approved Amendment No. One to Contract K-1213-170 with CP&Y, Inc., for engineering design of the 36th Avenue NW Widening Bond Project from Tecumseh Road to Market Place, in the amount of \$193,895.

On August 13, 2019, City Council approved Authorization for Expenditure Three under contract K-1314-102 with Smith-Roberts Land Services, Inc., for right of way acquisition services for Phase Two of the 36th Avenue Northwest Widening Bond Project, from Franklin Road to Market Place, in the amount of \$130,116.

On November 12, 2019, City Council approved Authorization for Expenditure Four under Contract K-1314-102 with Smith-Roberts Land Services, Inc., in the amount of \$20,180 for additional right-of-way acquisition services due to an increase in the number of parcels and appraisals included in Phase 2 of the 36th Avenue Northwest Widening Bond Project.

Necessary parcels for the project have been acquired, some through eminent domain actions that have been completed in the District Court for Cleveland County, Oklahoma.

On February 22, 2022, City Council approved an agreement for reimbursement for relocation of an existing electric transmission line along 36th Avenue NW under Contract K-2122-96 with Western Farmers Electric Cooperative, in the amount of \$446,469.13.

DISCUSSION:

The proposed Amendment No. 1 to Contract K-2122-96 is due to differences between the final construction cost of the relocation and the engineer's estimates used for the agreement. The terms of K-2122-96 was necessarily based on cost estimates subject to a final "true-up" once construction was completed. Construction has completed and WFEC has shared its proposed "true-up" with the City of Norman. The differences in the estimate and final result from both increases and decreases. Increases appear to be attributable to material and labor costs in the industry as well as minor changes required during construction, and all appear to have been reasonably incurred by Western Farmers. Per the proposed amendment, the total net cost increase in the project is \$19,497.51 or 2.26% of the original estimate.

Using the cost sharing parameters of the original contract, the City's share of the increase is \$12,837.84 for a total City of Norman cost of \$459,276.97 (an increase of 2.88%). Western Farmers' allocation of costs was also increased overall as a result of the overall cost increases. Each Party's respective increases (and decreases) overall are demonstrated in the Supplement to Appendix A – Services, attached to Amendment No. 1 to K-2122-88. City staff has carefully reviewed the proposed final cost allocation and finds that it was reasonably incurred (being well below other cost increases recently seen within the construction industry) and allocated in a manner that honors the spirit of the original Reimbursement Agreement. Upon approval of Amendment No. 1, a final payment under K-2122-88 will be due to Western Farmers.

Funds are available in the 36th NW: Tecumseh-Indian Hills project (BP0197) Utility Account (50595552-46701) to cover the cost of the City's share of the amendment.

RECOMMENDATION:

City staff recommends that Amendment No. 1 to Contract K-2122-96 be approved for execution by the Mayor, and that City Staff be authorized to proceed with payments for its responsibility of the relocation project, as set forth in the contract.