

REIMBURSEMENT AGREEMENT
Utility Relocation Project
City of Norman, OK

THIS REIMBURSEMENT AGREEMENT For Utility Relocation, 36th Ave. NW, Norman, OK ("Agreement") is made and entered into this _____ day of _____, 20__, by and between the City of Norman ("CITY") and Western Farmers Electric Cooperative, a cooperative corporation organized and existing under the laws of the State of Oklahoma ("WFEC"), who owns the transmission facilities that are in conflict with the expansion of 36th Avenue Northwest currently being constructed by the CITY. The CITY and WFEC are herein sometimes individually referred to as "Party" and collectively as "Parties."

WITNESSETH:

WHEREAS, the CITY agrees to reimburse WFEC, WFEC agrees to perform services, and the Parties generally agree to perform their obligations, contained in this Agreement and as further set forth herein.

WHEREAS, the CITY and WFEC agree and acknowledge that this Agreement sets for the terms of the CITY's reimbursement for alleged damages associated with the relocation of certain facilities as a result of the City's expansion of 36th Avenue Northwest and acknowledges the existence a bona fide dispute as to the amount of each parties' responsibility for said alleged damages (hereafter the "Dispute").

WHEREAS, the CITY and WFEC agree and acknowledge that WFEC, or its hired subcontractors, will perform the Services for said relocation (see below), which Services do not constitute a public construction project of the City of Norman, and which are not bound by the provisions of the Oklahoma Competitive Bidding Act, or the City of Norman's public bidding procedures.

NOW, THEREFORE, for and in consideration of the promises herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. The total engineering, planning and actual work to accomplish the relocation (hereinafter the "Services"), and the estimate of each Party's responsibility for its share of the Services (hereinafter the "Cost Estimates") are collectively set forth in Appendix A, which is attached hereto and fully incorporated herein. The Parties acknowledge and agree that the Cost Estimates are estimates only Customer agrees to, and shall timely reimburse WFEC for its pro-rata share of any unforeseen increase in actual costs. To be reimbursed for such an increase, WFEC must submit information identifying the basis for the requested increase and

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documentation establishing the total amount incurred by WFEC for the related Services in the manner set forth in Paragraph 2 herein.

2. Within sixty (60) days of completion of all Services, WFEC shall submit an invoice to the CITY setting forth the total amount of requested reimbursement. Concurrently with any such invoice, WFEC shall provide CITY a detailed summary of Services completed, and materials purchased to date, including any information required by Paragraph 1 above. CITY shall have thirty (30) days follow receipt of the invoice to submit a question or protest as to any items included in the WFEC invoice and related documents, and WFEC shall respond to any such request or protest within ten (10) days, providing any additional requested information relating to the questioned charge. CITY shall have forty-five (45) days from receipt of the invoice to remit payment to WFEC, less any amounts still in dispute. CITY shall remit payment for any disputed amounts within fifteen (15) days of receipt of satisfactory additional information from WFEC relating to the disputed or questioned charge.
3. CITY hereby grants WFEC a right-of-entry to public rights-of-way and existing CITY utility easements for performance of the Services addressed by this Agreement. Additionally, WFEC shall, at all times, have access to the facilities resulting from the Services under this Agreement that are located within public rights of way or CITY utility easements for the purposes of maintenance and repair.
4. Transmission Owner shall use standards of quality and performance in execution of the Services consistent with prudent electric utility practice, including installation and maintenance of its facilities subject to this Agreement in compliance with the National Electrical Safety Code (NESC).
5. To the extent permitted by law, CITY and WFEC each hereby agree to defend, indemnify, and hold harmless the other Party, its officers, servants, and employees ("Indemnifying Party" or "Indemnifying Parties"), from and against any and all liability, loss, damage, cost, and expense (including attorneys' fees and accountants' fees) caused by an error, omission, or act of simple negligence by the Indemnifying Party during or relating to the performance of services under this Agreement. CITY and WFEC each agree to promptly serve notice on the other party of any claims arising hereunder, and shall cooperate in the defense of any such claims.
6. In acknowledging that this Reimbursement Agreement embodies the final and complete resolution of disputed claims and the express reservation by both parties of respective arguments with respect to the same, the Parties hereby each agree to fully and finally release the other with respect to any damages relating to any claims, in law or equity, known or unknown, that could have been stated with respect to the matters resolved by this Reimbursement Agreement and the Dispute. Such release excepts any claims relating to the enforcement of the terms of this Reimbursement Agreement.

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7. Unless otherwise provided herein, any notice, demand or request provided for in this Agreement shall be in writing and shall be deemed to be properly served, given, or made if delivered in person, or sent by registered or certified mail, addressed to the Party being notified as listed below:

CITY OF NORMAN, OK

**WESTERN FARMERS ELECTRIC
COOPERATIVE**

Address: P.O. Box. 370
Norman, OK 73070

Attention: City Engineer, Scott Sturtz

Address: P.O. Box 429
Anadarko, OK 73005

Attention: Matthew A. Caves

Addresses shall be kept current by written notice made in the manner provided above for any written notice.

8. The validity, interpretation and performance of this Agreement and each of its provisions shall be governed by the applicable laws of the State of Oklahoma, regardless of the conflicts of law provisions thereof.
9. This Agreement constitutes the entire agreement between the Parties hereto with reference to the subject matter hereof, and no change or modification as to any of the provisions hereof shall be binding unless reduced to writing and approved by a duly authorized representative of CITY and WFEC. This Agreement shall not be assigned by either Party without the prior written consent of the other Party.
10. This Agreement and the rights and obligations hereof, shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties hereto, as applicable.
11. The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if it did not contain the particular portion or provision held to be void. The Parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.
12. The undersigned representative hereby represents that he or she has authority from the appropriate Party to execute this Agreement on that Party's behalf.
13. This agreement may be executed in counterparts, with each such counterpart representing a valid execution of the document as a whole, and each such execution enforceable as a matter of law.

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14. Neither Party may assign this agreement without the written permission of the other Party.

IN WITNESS WHEREOF, the Parties have executed this Agreement through their undersigned duly authorized representatives, effective as of the date(s) first set forth above.

City of Norman ("CITY"):

By: _____
Mayor Breea Clark

ATTEST: _____
Brenda Hall, City Clerk

Date: _____

Date: _____

Approved as to legality and form this _____ day of _____, 2022.

City Attorney's Office

Western Farmers Electric Cooperative ("WFEC"):

By: _____
Gary Ray Roulet, Chief Executive Officer

ATTEST: _____
Angela Daugherty, Executive Administrator

Date: _____

Date: _____

Approved as to legality and form this _____ day of _____, 2022.

General Counsel's Office

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APPENDIX A - SERVICES

This Appendix A is incorporated and made a part of the REIMBURSEMENT AGREEMENT (“Agreement”) between the City of Norman (“CITY”) and Western Farmers Electric Cooperative (“WFEC”). The cost estimate for the total scope of Services provided in this Appendix A shall collectively be called the “Cost Estimate.” CITY and WFEC hereby acknowledge and agree that the Cost Estimate is only an estimate, and that the Parties shall “true up” actual costs at the completion of the project. City hereby agrees to, and shall, reimburse WFEC for its share of all actual costs, including any applicable taxes associated with these Services in compliance with the Reimbursement Agreement executed between the Parties.

BACKGROUND

This Utility Relocation project consists of relocating portions of an existing .54 mile section of WFEC’s 138kV transmission line at the 36th Avenue NW and Franklin Road Junction in order to accommodate the City’s expansion of 36th Avenue Northwest.

SERVICES

The scope of work to be completed (“Services”) shall be as described below, plus any work or services necessary or advisable to complete the Services:



Figure A1: Showing the redesign of the 36th & Franklin Intersection

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Pursuant Figure A1, the orange line shows the new transmission line route spanning from Structure 9 to Structure 11. In accordance with this route relocation and design, the structures referenced below will be removed, repositioned, and replaced. Conductor will also be removed and reinstalled on these structures.

- Structure 8 will be replaced with a new direct-embed steel structure.
- Structures 9 and 11 will be replaced with self-supporting steel structures with concrete foundations to accommodate the transmission line turn and crossing.
- Structure 10 and associated stub pole and guy wires will be removed.
- Structure 12 will be replaced with a wooden structure.
- Structures 21, 22, 23, and 24 will be repositioned with wood structures
- Structure 6 has been replaced with a direct imbed steel pole by WFEC. This structure was removed and replaced in order to accommodate construction at the City's new community park.

COST ALLOCATION ESTIMATE¹

Pursuant this Agreement the Parties agree to allocate the costs of the Utility Relocation Project as follows:

Category Costs	Total	City of Norman	WFEC
Engineering Design, Survey and Relocation Expenses and Services	\$58,250.00	\$48,250.00	\$10,000.00
Overhead	\$54,033.88	\$27,016.94	\$27,016.94
Transportation	\$7,170.00	\$3,585.00	\$3,585.00
Construction Inspection	\$31,705.00	\$15,852.50	\$15,852.50
Interest During Construction	\$5,458.10	\$2,729.05	\$2,729.05
WFEC Internal Construction Costs for Structure 6	\$54,717.00	\$0.00	\$54,717.00
Construction services for structures 8 and 9	\$214,457.50	\$107,228.75	\$107,228.75
Construction services for structures 10, 11 and 12	\$205,566.82	\$205,536.80	\$0.00
Construction services for structures 21, 22, 23 and 24.	\$160,412.79	\$0.00	\$160,412.79
Conductor Removal and Install	\$72,480.14	\$36,240.07	\$36,240.07
Total estimated	\$864,251.23	\$446,469.13	\$417,782.10

¹ The listed costs are inclusive of the amounts referenced in that previous Memorandum of Understanding dated May 11, 2021 between the parties, Contract No. K-2021-126 ("MOU"). Thus, this Contract No. K-2122-96 hereby supersedes and replaces the MOU in its entirety.