



Project Name: Klein Road Reconstruction Project

Contract/ Purchase Order No: \_\_\_\_\_

Vendor No: \_\_\_\_\_

### **UTILITY COOPERATIVE AGREEMENT**

This Agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2016 by and between the City of New Braunfels, herein referred to as (“**CITY**”), and Guadalupe Valley Electric Cooperative Inc., herein referred to as (“**UTILITY**”).

#### **RECITALS**

**WHEREAS**, the **CITY** has deemed it necessary to reconstruct Klein Road between Walnut Avenue and FM 1044, herein referred to as the “**PROJECT**”, located within the limits of the Guadalupe County, Texas; and

**WHEREAS**, the proposed roadway reconstruction will necessitate the installation, adjustment, removal, and/or relocation of certain electrical facilities of the **UTILITY** as indicated in the following statement of work: The **UTILITY** is agreeable to design, construct, and relocate as necessary all electric poles, electric lines, electric meters, electric transformers, appurtenances and per the existing Franchise Agreement install required street lighting along the **PROJECT** so as not to be in conflict with any of the proposed improvements such as but not limited to roadway pavement structure, curb & gutters, sidewalks, multiuse paths, drainage structures, traffic conduits & pull boxes, concrete driveways, medians, landscaping; and

**WHEREAS**, the **UTILITY** has submitted and the **CITY** has approved the one time lump sum cost, not to exceed One Hundred Seventy-Four Thousand Three Hundred Forty-Two Dollars and Six Cents (\$174,342.06), for such electrical installations, adjustments, removals, and/or relocations as shown in the attached Exhibit A; and

**WHEREAS**, the **UTILITY** has requested that the **CITY** obtain any additional utility easements necessary for the **PROJECT** as shown in the attached Exhibit B.

**NOW, THEREFORE**, in consideration of the covenants and agreements herein contained, the parties mutually agree as follows:

Upon execution of this agreement by the parties hereto the **CITY** will, by written notice, authorize the **UTILITY** to proceed with the necessary electric utility installations, adjustments, removals, and/or relocations. The **UTILITY** agrees to proceed in such a manner that will not result in avoidable delay or interference with the **PROJECT**. Should the **UTILITY** by its actions cause interference or delay resulting in the imposition of damages upon the **CITY** by a third party, **UTILITY** agrees to be responsible for said damages.

The **UTILITY** will carry out said electric utility installations, adjustments, removals, and/or relocations in accordance with the **PROJECT** no later than 90 calendar days from the date the **CITY** acquires all necessary utility easements and issues a Notice-to-Proceed to the **UTILITY**. Calendar days will be adjusted accordingly due to delays beyond the control of the **UTILITY**, which shall include but not be limited to delays caused by the relocation of other utilities (NBU, AT&T, and TWC), floods, epidemics, adverse weather, or acts of God.

The **CITY** shall pay the **UTILITY** an agreed upon one time lump sum cost of \$174,342.06 as supported by the attached Exhibit A and acquire the necessary utility easements as shown in Exhibit B no later than 60 days of this fully executed agreement.

Both parties shall comply with all federal, state, and local laws and ordinances applicable to the work called for herein.

The **UTILITY** and **CITY** agree that both Parties, each through their public officials, employers, and agents, shall each be responsible for their own negligent acts or omissions or other tortuous conduct in the course of performance of this Agreement, without waiving any sovereign or governmental immunity available to **CITY**. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement will not create any rights in third Parties not signatories hereto. In the event that any portion of this agreement is determined to be void, unconstitutional or otherwise unenforceable, the remainder of this agreement shall remain in full force and effect.

This agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements, and understandings have been merged in this written agreement. No prior agreement or understandings,



verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this agreement. The terms of this agreement are lawful; performances of all duties and obligations herein shall conform with and do not contravene any applicable state, local, or federal statutes, regulations, rules, or ordinances.

This agreement shall not be altered, modified or amended except by an instrument in writing and executed by the parties hereto.

The signatories to this agreement warrant that each has the authority to enter into this agreement on behalf of the part represented.

**IN WITNESS WHEREOF**, the parties have set their hands and seals this day and year set forth below.

**CITY OF NEW BRAUNFELS, TEXAS**

BY: \_\_\_\_\_  
**ROBERT CAMARENO, CITY MANAGER**

DATE: \_\_\_\_\_

**ATTEST:**

BY: \_\_\_\_\_  
**CITY SECRETARY**

DATE: \_\_\_\_\_

**APPROVED AS TO FORM:**

BY: \_\_\_\_\_  
**CITY ATTORNEY**

DATE: \_\_\_\_\_

**GUADALUPE VALLEY ELECTRIC COOPERATIVE, INC.**

BY: \_\_\_\_\_  
**CHIEF OPERATING OFFICER**

DATE: \_\_\_\_\_

**ATTEST:**

BY: \_\_\_\_\_  
**SECRETARY**

DATE: \_\_\_\_\_



THE STATE OF TEXAS                    )(  
COUNTY OF \_\_\_\_\_            )(

Before me, the undersigned authority, on this day personally appeared \_\_\_\_\_ ,  
known to me to be the person and officer whose name is subscribed to the foregoing instrument,  
and acknowledged to me to be the person who executed the same as the act and deed of Guadalupe  
Valley Electric Cooperative, Inc., and Chief Operation Officer thereof, for the purposes and  
consideration therein expressed. Given under my hand and seal of office, this the \_\_\_\_\_ day of  
\_\_\_\_\_, 2016.

\_\_\_\_\_  
Notary Public, State of Texas

| Number | Item                  | Amt Each   | Total               |
|--------|-----------------------|------------|---------------------|
| 10402  | 477 rebuild           | \$15.03    | \$156,342.06        |
| 0      | Concrete poles        | \$6,000.00 | \$0.00              |
| 6      | Single phase potheads | \$3,000.00 | \$18,000.00         |
|        | Total                 |            | \$174,342.06        |
|        | <b>Total Due</b>      |            | <b>\$174,342.06</b> |

Let me know if you have any questions.

**Jeff Ratliff**

Development/Special Projects Manager

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Guadalupe Valley Electric Cooperative, Inc.

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