

## CONTRACT

THIS CONTRACT made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Rudy Construction Co. as Party of the First Part, hereinafter designated as the CONTRACTOR, and the City of Norman, a municipal corporation, hereinafter designated as the CITY, Party of the Second Part.

### WITNESSETH

WHEREAS, the CITY has caused to be prepared in accordance with law, specifications, and other bidding documents for the work hereinafter described and has approved and adopted all of said bidding documents, and has caused Notice to Bidders to be given and advertised as required by law, and has received sealed proposals for the furnishing of all labor and materials for the following projects:

### BID 1213-75 ROAD RECONSTRUCTION 2010 BOND PROJECTS

as outlined and set out in the bidding documents and in accordance with the terms and provisions of said CONTRACT; and,

WHEREAS, the CONTRACTOR in response to said Notice to Bidders, has submitted to the CITY on the manner and at the time specified, a sealed proposal in accordance with the terms of this Contract; and,

WHEREAS, the CITY, in the manner provided by law, has publicly opened, examined, and canvassed the proposals submitted and has determined and declared the above-named CONTRACTOR to be the lowest and best Bidder on the above-prepared project, and has duly awarded this CONTRACT to said CONTRACTOR, for the sum named in the proposal, to wit:

(WRITTEN) Seven Hundred Sixty Thousand Eight Hundred Seventy Eight and 55/100 (DOLLARS);

(NUMERALS) (\$ 760,878.55 ) .

NOW, THEREFORE, for and in consideration of the mutual agreements and covenants herein contained, the parties to this CONTRACT have agreed, and hereby agree, as follows:

- 1) The CONTRACTOR shall, in a good and first-class, workman-like manner at his own cost and expense, furnish all labor, materials, tools, and equipment required to perform and complete said work in strict accordance with this CONTRACT and the following CONTRACT Documents: The Bid Notice published in the Norman Transcript, the Notice to Bidders, Instructions to Bidders, the Contractor's Bid or Proposal, the Construction Drawings, Specifications, Provisions, and Bonds thereto, all of which documents are on file in the Office of the Purchasing Agent of the City of Norman, and are made a part of this CONTRACT as fully as if the same were set out at length.
- 2) The CITY shall make payments as stipulated in the contract documents to the CONTRACTOR in the following manner: On or about the first day of each month, the project engineer, or other appropriate person, will make accurate estimates of the value, based on CONTRACT prices, or work

done, and materials incorporated in the work and of materials suitably stored at the site thereof during the preceding calendar month. The CONTRACTOR shall furnish to the project engineer, or other appropriate person, such detailed information as he may request to aid him as a guide in the preparation of the monthly estimates.

Each monthly estimate for payment must contain or have attached an affidavit in accordance with the Constitution of the State of Oklahoma, Title 62, Section 310.9.

On completion of the work, but prior to the acceptance thereof by the CITY, it shall be the duty of the project engineer, or other appropriate person, to determine that said work has been completely and fully performed in accordance with said CONTRACT Documents; and upon making such determinations said official shall make his final certificate to the CITY.

The CONTRACTOR shall furnish proof that all claims and obligations incurred by him in connection with the performance of said work have been fully paid and settled; said information shall be in the form of an affidavit, which shall bear the approval of the surety on the CONTRACT Bonds for payment of the final estimate to the CONTRACTOR; thereupon, the final estimate (including retainages) will be approved and paid.

3) It is further agreed that the CONTRACTOR will commence said work within 10 days following receipt of a NOTICE-TO-PROCEED, and prosecute the same vigorously and continuously. The contract period is as follows:

Iowa Street (west of intersection) & Iowa-Barbour Intersection (Phase 1):  
“Fixed Completion Date”– August 2, 2013

Iowa Street (east of intersection) (Phase 2):  
“Fixed Completion Date”– October 18, 2013

Hayes Street:  
“Fixed Completion Date”– December 13, 2013

4) That the CITY shall pay the CONTRACTOR for the work performed as follows:

- a. Payment for unit price items shall be at the unit price bid for actual construction quantities.
- b. Construction items specified but not included as bid items shall be considered incidental and shall not be paid for directly, but shall be included in the bid price for any or all of the pay quantities.

Should any defective work or materials be discovered or should a reasonable doubt  
rise  
as to the quality of any work completed, there will be deducted from the next  
estimate  
an amount equal to the value of the defective or questionable work and shall not be  
paid until the defects are remedied.

And that the CONTRACTOR'S bid is hereby made a part of this Agreement.

5) That the CONTRACTOR will not undertake to furnish any materials or to perform any work not specifically authorized under the terms of this Agreement unless additional materials or work are authorized by written Change Order, executed by the CITY; and that in the event any additional are provided by the CONTRACTOR without such authorization, the CONTRACTOR shall not be entitled to any compensation therefore whatsoever.

6) That if any additional work is performed or additional materials provided by the CONTRACTOR upon authorization by the CITY, the CONTRACTOR shall be compensated therefore at the unit price and as agreed to by both parties in the execution of the Change Order.

7) That the CONTRACTOR shall perform the work and provide the materials strictly in accordance with the specifications as to quality and kind and all work and materials shall be subject to rejection by the CITY through its authorized representatives for failure to meet such requirements, and in the event of such rejection, the CONTRACTOR shall replace the work and materials without compensation therefore by the CITY.

8) The CONTRACTOR shall complete the work in accordance with the terms of this Agreement. The CONTRACTOR further agrees to pay as liquidated damages as stipulated in the contract document General Conditions for each calendar day thereafter.

9) The CONTRACTOR shall furnish surety bonds and certificate of insurance as specified herein which bonds and insurance must be approved by the CITY prior to issuance of the Work Order and commencement of work on the project. The CONTRACTOR shall provide written documentation from the Maintenance Bond Company that all work, including Change Orders, is covered by the Maintenance Bond before final acceptance of the project.

10) IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed, in four (4) duplicate originals, the day and year first above written.

11) To that end, no provision of this CONTRACT or of any such aforementioned document shall be interpreted or given legal effect to create an obligation on the part of the CITY to third persons, including, by way of illustration but not exclusion, sureties upon performance bonds, payment bonds or other bonds, assignees of CONTRACTOR, subcontractors, and persons performing labor, furnishing material or in any other way contributing to or assisting in the performance of the obligations of the CONTRACTOR; nor shall any such provisions be interpreted or given legal effect to afford a defense against any obligation owed or assumed by such third person to the CITY or in any way to restrict the freedom of the third person to the CITY or in any way to restrict the freedom of the CITY to exercise full discretion in its dealing with the Contractor.

12) The sworn, notarized statement below must be signed and notarized before this Contract will become effective.

STATE OF Oklahoma )  
 ) ss:  
COUNTY OF OKlahoma )

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DOUG WALKER, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by CONTRACTOR to submit the above CONTRACT to the CITY. Affidavit further states that CONTRACTOR has not paid, given or donated or agreed to pay, give, or donate to any officer or employee of the CITY any money or other thing of value, either directly or indirectly, in the procuring of the CONTRACT.



Rudy Construction Co.  
Contractor

Subscribed and sworn to before me this 3 day of May, 2013.

[Signature]  
Notary Public

IN WITNESS WHEREOF, the said parties of the First and Second Part have hereunto set their hands and seals respectively the 3rd day of May, 2013, and the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Corporate Seal) (where applicable)

Principal

ATTEST:

Authorized Representative

[Signature]  
Corporate Secretary (where applicable)

WITNESS

Signed: [Signature]

Title: President

Address Box 14575 - Oklahoma City, Okla. 73113

Telephone: 405-478-9900

CITY OF NORMAN:

Approved as to form and legality this 17 day of May, 2013.

[Signature]  
City Attorney

Approved by the Council of the City of Norman, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

Contract No. K-1213-181

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**CONTRACT AFFIDAVIT**

STATE OF Oklahoma )  
 ) ss:  
COUNTY OF Oklahoma )

Doug Walker, of lawful age, being first duly sworn, on oath says that (s)he is the Agent authorized by the Firm of Rudy Construction Co. to submit the above Contract to the City of Norman, Oklahoma.

Affidavit further states that such firm has not paid, given or donated or agreed to pay, give, or donate to any officer or employee of the City of Norman, Oklahoma, any money or other thing of value, either directly or indirectly, in the procuring of the Contract.

[Signature]  
Contractor

Subscribed and sworn to before me this 3 day of May, 2013.

[Signature]  
Notary Public

My Commission Expires:

10/20/16



**PERFORMANCE BOND**

Bond No.: 105907981

Known all men by these presents, that Rudy Construction Co. as PRINCIPAL, and \* See below Corporation organized under the laws of the State of Connecticut and authorized to transact business in the State of Oklahoma, as SURETY, are held and firmly bound unto THE CITY OF NORMAN, a Municipal Corporation of the State of Oklahoma, herein called CITY, in the sum of Seven hundred sixty thousand eight hundred seventy eight DOLLARS, (\$ 760,878.55 ), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally.

& 55/100

\* Travelers Casualty and Surety Company of America

WHEREAS, the conditions of this obligation are such that the PRINCIPAL, being the lowest and best Bidder on the following PROJECT:

**BID 1213-75 ROAD RECONSTRUCTION 2010 BOND PROJECTS**

has entered into a written CONTRACT ( K-1213-181 ) with THE CITY OF NORMAN, dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013 for the erection and construction of this PROJECT, that CONTRACT being incorporated herein by reference as if fully set forth.

NOW, THEREFORE, if PRINCIPAL shall, in all particulars, well and truly perform and abide by said CONTRACT and all specifications and covenants thereto; and if the PRINCIPAL shall promptly pay or cause to be paid all indebtedness incurred for labor and materials and repairs to and parts for equipment furnished in the making of this PROJECT, whether incurred by the PRINCIPAL or subcontractors; and if the PRINCIPAL shall protect and hold harmless the CITY from all loss, damage, and expense to life or property suffered or sustained by any person, firm, or corporation caused by PRINCIPAL or his or its agents, servants, or employees in the construction of the PROJECT, or by or in consequence of any negligence, carelessness or misconduct in guarding and protecting the same, or from any act or omission of PRINCIPAL of his or its agents, servants, or employees; and if the PRINCIPAL shall protect and save the CITY harmless from all suits and claims of infringement or alleged infringement or patent rights or processes, then this obligation shall be null and void. Otherwise this obligation shall remain in full force and effect.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in the CONTRACT and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing the sureties, or any of them, from the obligations of this Bond.

It is further expressly agreed that the Principal's obligations under this Bond include payment of not less than the prevailing hourly rate of wages as established by the Commissioner of Labor of the State of Oklahoma and by the Secretary of the U.S. Department of Labor or as determined by a court on appeal.

IN WITNESS WHEREOF, the PRINCIPAL has caused these presents to be executed in its

Performance Bond No. B-1213-78

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name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), and the \_\_\_\_\_ day of \_\_\_\_\_, 2013 and the SURETY has caused these presents to be executed in its name and its corporate seal to be hereunto affixed by its authorized representative(s) on the day of \_\_\_\_\_, 2013.

(Corporate Seal) (where applicable)

ATTEST:

Phil Pratt

~~Corporate Secretary~~ (where applicable)

Witness

Rudy Construction Co.

Principal

Principal

Signed: Doug Walker

Authorized Representative

Title: Doug Walker, President

Address: P.O. Box 14575

Oklahoma City, OK 73113

Telephone: 405-478-9900

(Corporate Seal) (where applicable)

ATTEST:

Carrie True  
Carrie True, Witness

Surety: Travelers Casualty and Surety Company of America

Signed: Dillon Rosenhamer  
Authorized Representative

Printed: Dillon Rosenhamer  
Authorized Representative

Title: Attorney-in-Fact

INSURICA

Address: 5100 N. Classen Blvd., Suite 300,  
Oklahoma City, OK 73118

Telephone: 405-523-2100

### CORPORATE ACKNOWLEDGEMENT

STATE OF Oklahoma )  
 ) ss:  
COUNTY OF Oklahoma )

The foregoing instrument was acknowledge before me this 3rd day of May, 2013, by Doug Walker - President (Name and Title), of Rudy Construction Co., a(n) corporation, on behalf of the corporation.

Performance Bond No. B-1213-78

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WITNESS my hand and seal this 3 day of May, 2013.

My Commission Expires:

10/20/16



Tracy Anderson  
Notary Public

**INDIVIDUAL ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss:

The foregoing instrument was acknowledge before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_ (Name and Title) of \_\_\_\_\_,  
a(n) corporation.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_

**PARTNERSHIP ACKNOWLEDGEMENT**

STATE OF \_\_\_\_\_ )  
COUNTY OF \_\_\_\_\_ ) ss:

The foregoing instrument was acknowledge before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_, by \_\_\_\_\_ (Name and Title)  
\_\_\_\_\_ (partner/agent) on behalf of \_\_\_\_\_,  
a partnership.

WITNESS my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
\_\_\_\_\_



**CITY OF NORMAN**

Approved as to form and legality this 17 day of May, 2013.

  
\_\_\_\_\_  
City Attorney

Approved by the Council of the City of Norman this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor