

## CONTRACT

THIS CONTRACT by and between the NORMAN UTILITIES AUTHORITY, a Public Trust of the State of Oklahoma, hereinafter designated as the AUTHORITY, and Central Contracting Services, Inc.; hereinafter designated as the CONTRACTOR, effective the date last executed below,

### WITNESSETH

WHEREAS, the AUTHORITY 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 project:

#### **Pendleton Drive Area Waterline Project**

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 AUTHORITY in the manner and at the time specified, a sealed proposal in accordance with the terms of this CONTRACT; and,

WHEREAS, the AUTHORITY, 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:

Nine hundred thirty four thousand, two hundred twenty-five & no/100 Dollars (\$934,225.00).

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 NORMAN TRANSCRIPT;
- the Notice to Bidders;
- the Instructions to Bidders;
- the CONTRACTOR'S Bid or Proposal;
- the Construction Drawings, Specifications, and Provisions; and
- the Bonds thereto;

all of which documents are on file in the Office of the Purchasing Department of the AUTHORITY, and are made a part of this CONTRACT as fully as if the same were set out at length, with the following additions and/or exceptions:

Addendum No. 1 dated January 29, 2013

2) The AUTHORITY shall make payments, minus a retainage as stipulated in the CONTRACT Documents, to the CONTRACTOR in the following manner: On or about the first day of each month, the project manager, or other appropriate person, will make accurate estimates of the value, based on CONTRACT prices, of 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 manager, 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 74, Section 3109-3110, and Title 62, Section 310.09.

On completion of the work, but prior to the acceptance thereof by the AUTHORITY, it shall be the duty of the project manager, 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 AUTHORITY.

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 retainage) will be approved and paid.

3) It is further agreed that the CONTRACTOR will commence said work within TEN (10) calendar days following receipt of a NOTICE-TO-PROCEED, and prosecute the same vigorously and continuously, and complete the same within one hundred eighty (180) calendar days following receipt of NOTICE-TO-PROCEED.

4) CONTRACTOR and AUTHORITY further agree that time is of the essence in completion of this project and that the AUTHORITY will suffer financial loss if the Work is not completed within the time(s) specified in preceding paragraph. They also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding such actual loss. Accordingly, instead of requiring any such proof, AUTHORITY and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay AUTHORITY five hundred dollars (\$500) for each calendar day that expires after the time previously stated, plus any authorized extensions thereof, for completion and readiness for final payment of each portion of the Work.

- 5) That the AUTHORITY 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. (or) Payment for the lump sum price items shall be at the price bid for actual construction complete in place.
  - 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 arise 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 CONTRACT.

6) That the AUTHORITY reserves the right to add to or subtract from the estimated quantities or amount of work to be performed up to a maximum of 15% of the total bid price. The work to be performed or deducted shall be at the unit price bid.

7) 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 AUTHORITY; and that in the event any additions are provided by the CONTRACTOR without such authorization, the CONTRACTOR shall not be entitled to any compensation therefore whatsoever.

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

9) 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 AUTHORITY 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 AUTHORITY.

10) The CONTRACTOR shall furnish surety bonds and certificate of insurance as specified herein which bonds and insurance must be approved by the AUTHORITY prior to issuance of the Work Order and commencement of work on the project.

11) The CONTRACTOR shall indemnify, hold harmless, and defend the AUTHORITY from and against any and all liabilities, claims, penalties, fines, forfeitures, suits and the cost and expenses incidental thereto (including cost of defense, settlement, and the reasonable attorney's fees) which may be alleged against the AUTHORITY or which the AUTHORITY may incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction, or damage to any property, contamination of or adverse effects on the environment, or any violation or alleged violation of governmental laws, regulations orders, to the extent that such damage was caused by the CONTRACTOR or CONTRACTOR'S agents negligence, willful or intentional act or omission, breach of contract or a failure of CONTRACTOR'S warranties to be true, accurate, or complete.

To that end, no provision of this CONTRACT or of any such aforementioned documents shall be interpreted or given legal effect to create an obligation on the part of the AUTHORITY to third persons, including, by way of illustration but not exclusion, sureties upon performance bonds, payment bonds or other bonds, assignees of the 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 AUTHORITY or in any way to restrict the freedom of the AUTHORITY to exercise full discretion in its dealing with the Contractor.

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

STATE OF OKLAHOMA )  
 )§  
COUNTY OF OKLAHOMA )

James L. Tipken, 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 AUTHORITY. Affiant further states that CONTRACTOR has not paid, given or donated or agreed to pay, give, or donate to any officer or employee of the AUTHORITY any money or other thing of value, either directly or indirectly, in the procuring of the CONTRACT.

James L. Tipken

Submitted and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Dana N. Switzer  
Notary Public

My Commission Expires: 7-12-15



IN WITNESS WHEREOF, AUTHORITY and CONTRACTOR have executed this AGREEMENT.

DATED this 15<sup>th</sup> of February, 2013.

(Corporate Seal) (where applicable)

ATTEST

James L. Tipken  
Corporate Secretary (where applicable)

Central Contracting Services, Inc.  
PRINCIPAL

Signed:

James L. Tipken  
Authorized Representative

James L. Tipken, President  
Name and Title

Address:

17301 S. Sunnyslane

Norman, OK 73071

405-895-6250

Telephone:

NORMAN UTILITIES AUTHORITY

APPROVED as to form and legality this 20 day of February, 2013.

  
\_\_\_\_\_  
AUTHORITY Attorney

Approved by the Trustees of the NORMAN UTILITIES AUTHORITY this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_.

NORMAN UTILITIES AUTHORITY

ATTEST

By: \_\_\_\_\_

Title: Chairman

\_\_\_\_\_

Secretary