

CONTRACT

THIS CONTRACT by and between the NORMAN UTILITIES AUTHORITY, a Public Trust of the State of Oklahoma, hereinafter designated as the AUTHORITY, and Matthews Trenching Co., 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 Contract Documents for the work hereinafter described; and has approved and adopted all of said Contract Documents; and has given and advertised an Invitation to Bid as required by law; and has received sealed Bids for the furnishing of all labor, materials and equipment for the following project:

PROJECT WW0330
12TH AVENUE NE MANHOLE REPLACEMENT
NORMAN, OKLAHOMA

in accordance with and as outlined and set out in the terms and provisions of said Contract Documents; and,

WHEREAS, the CONTRACTOR in response to said Invitation to Bid, has submitted to the AUTHORITY in the manner and at the time specified, a sealed Bid in accordance with the terms of this said Contract Documents; and

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

One Million One Hundred Eighty Thousand Two Hundred Fifty and No Cents Dollars (\$1,180,250.00)

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 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 said CONTRACT Documents, per the Table of Contents, including, but not limited to:

- the Invitation to Bid published in the Norman Transcript
- Notice to Bidders
- the Instructions to Bidders;
- the CONTRACTOR'S Bid or Proposal;
- the Bonds thereto;
- Multiple affidavits
- the Conditions of the Contract
- the Technical Specifications and Construction Drawings

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

Addendum No. 1 – 4/19/21

Addendum No. 1 – 4/21/21

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 last 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) The CONTRACTOR shall commence said work within ten (10) calendar days following receipt of a NOTICE-TO-PROCEED, prosecute the same vigorously and continuously, and complete the same within one hundred ninety (190) consecutive calendar days following receipt of NOTICE-TO-PROCEED.

4) Time is of the essence in completion of this project and the AUTHORITY will suffer financial loss if the Work is not completed within the time(s) specified in preceding paragraph. CONTRACTOR and AUTHORITY 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, CONTRACTOR and AUTHORITY therefore further agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay ONE HUNDRED SIXTY DOLLARS (\$160) for each calendar day that expires after the time specified in preceding paragraph, plus any authorized extensions thereof, for completion and readiness for final payment of each portion of the Work.

5) 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) 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.

7) The CONTRACTOR shall 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) The parties mutually agree and acknowledge that this is an Oklahoma AGREEMENT and any dispute shall be resolved in accordance with the Laws of the State of Oklahoma and actions if necessary shall be brought in the District Court of Cleveland County. In the event of ambiguity in any of the terms of this AGREEMENT, it shall not be construed for or against any party on the basis that such party did or did not author the same

9) 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 a Change Order.

10) 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.

11) 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 NOTICE-TO-PROCEED and commencement of work on the project.

The following statement must be signed and notarized before this Contract will become effective.

STATE OF _____)

COUNTY OF _____)

I certify that I am the duly authorized agent of _____, CONTRACTOR.

I further certify that neither the CONTRACTOR nor the anyone subject to the his/her direction or control has 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.

Matthews Trenching Co., Inc.

By: _____

Gary L. Matthews, President
(printed/typed name and title)

Subscribed and sworn to before me this _____ day of _____, 20 ____.

Notary Public (or Clerk or Judge)

My Commission Expires: _____

(SEAL)

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

DATED this _____ day of _____, 20__.

ATTEST

Matthews Trenching Co., Inc.
PRINCIPAL

Signed:

Corporate Secretary (where applicable)

Authorized Representative

Gary L. Matthews, President
Name and Title

(Corporate Seal) (where applicable)

Address: PO Box 15479
Oklahoma City, OK 73155

Telephone: (405) 677-4525

NORMAN UTILITIES AUTHORITY

APPROVED as to form and legality this _____ day of _____, 20__.

AUTHORITY Attorney

Approved by the Trustees of the NORMAN UTILITIES AUTHORITY this _____ day of

_____, 20__.

NORMAN UTILITIES AUTHORITY

ATTEST

By: _____

Title: Chairman _____

Secretary _____

PERFORMANCE BOND

Know all men by these presents that Matthews Trenching Co., Inc., as PRINCIPAL, and Fidelity and Deposit Company of Maryland, a corporation organized under the laws of the State of Illinois, and authorized to transact business in the State of Oklahoma, as SURETY, are held and firmly bound unto NORMAN UTILITIES AUTHORITY, a Public Trust of the State of Oklahoma, herein called AUTHORITY, in the sum of One Million One Hundred Eighty Thousand Two Hundred Fifty and No Cents Dollars (\$1,180,250.00), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally.

WHEREAS, the conditions of this obligation are such, that the PRINCIPAL, being the successful bidder on the following PROJECT:

PROJECT WW0330
12TH AVENUE NE MANHOLE REPLACEMENT
NORMAN, OKLAHOMA

has entered into a written CONTRACT (K-2021-108) with the AUTHORITY, dated _____ to perform and complete said 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 the 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 AUTHORITY from all loss, damage, and expense to life or property suffered or sustained by any person, firm, or corporation caused by the 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 the PRINCIPAL or his or its agents, servants, or employees; and if the PRINCIPAL shall protect and save the AUTHORITY 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 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 name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the ____ day of _____, 20____, 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 _____, 20 ____.

(Corporate Seal) (where applicable)

ATTEST

Corporate Secretary (where applicable)

Matthews Trenching Co., Inc.
PRINCIPAL

Signed:

Authorized Representative

Gary L. Matthews, President
Name and Title

Address: PO Box 15479
Oklahoma City, OK 73155

Telephone: (405) 677-4525

(Corporate Seal)

ATTEST

Corporate Secretary

Fidelity and Deposit Company of Maryland
SURETY

Signed:

Authorized Representative

Carey L. Kennemer, Attorney-in-fact
Name and Title

Address: 9401 Cedar Lake Avenue
Oklahoma City, OK 73114

Telephone: (405) 463-7512

CORPORATE ACKNOWLEDGEMENT

STATE OF _____)
COUNTY OF _____)§

The foregoing instrument was acknowledged before me this ____ day of _____,

20 ____, by Gary L. Matthews, President of Matthews Trenching Co., Inc.,
Name and Title Contractor
an Oklahoma corporation, on behalf of the corporation.

WITNESS my hand and seal this ____ day of _____ 20 ____.

Notary Public

My Commission Expires: _____

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF _____)
COUNTY OF _____)§

The foregoing instrument was acknowledged before me this ____ day of _____,

20 ____, by _____ an individual.
Name and Title

WITNESS my hand and seal this ____ day of _____ 20 ____.

Notary Public

My Commission Expires: _____

PARTNERSHIP ACKNOWLEDGEMENT

STATE OF _____)

)§

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,

20 ____, by _____ partner (or agent) on behalf of
Name and Title

_____, a partnership.

WITNESS my hand and seal this ____ day of _____ 20 ____.

Notary Public

My Commission Expires: _____

NORMAN UTILITIES AUTHORITY

APPROVED as to form and legality this _____ day of _____, 20____.

AUTHORITY Attorney

Approved by the Trustees of the NORMAN UTILITIES AUTHORITY this _____ day of

_____, 20____.

NORMAN UTILITIES AUTHORITY

ATTEST

By:

Title:

Chairman

Secretary

STATUTORY BOND

Know all men by these presents that Matthews Trenching Co., Inc., as PRINCIPAL, and Fidelity and Deposit Company of Maryland, a corporation organized under the laws of the State of Illinois, and authorized to transact business in the State of Oklahoma, as SURETY, are held and firmly bound unto NORMAN UTILITIES AUTHORITY, a Public Trust of the State of Oklahoma, herein called AUTHORITY, in the sum of One Million One Hundred Eighty Thousand Two Hundred Fifty and No Cents Dollars (\$1,180,250.00), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally.

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

PROJECT WW0330
12TH AVENUE NE MANHOLE REPLACEMENT
NORMAN, OKLAHOMA

has entered into a written CONTRACT (K-2021-108) with the AUTHORITY, dated _____ to perform and complete said PROJECT, that CONTRACT being incorporated herein by reference as if fully set forth.

NOW, THEREFORE, if the PRINCIPAL, shall properly and promptly complete the work on this PROJECT in accordance with the CONTRACT, and shall well and truly pay all indebtedness incurred for labor and materials and repairs to and parts for equipment furnished in the making of the PROJECT, whether incurred by the PRINCIPAL, his subcontractors, or any material men, then this obligation shall be void. Otherwise this obligation shall remain in full force and effect. If debts are not paid within thirty (30) days after the same becomes due and payable, the person, firm, or corporation entitled thereto may sue and recover on this Bond, subject to the provisions of 61 O.S. 1981 §2, for the amount so due and unpaid.

It is further expressly agreed and understood by the parties hereto that no changes or alterations in said 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 obligation 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 name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the ____ day of _____, 20____, 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 on the ____ day of _____, 20____.

(Corporate Seal) (where applicable)

ATTEST

Corporate Secretary (where applicable)

Matthews Trenching Co., Inc.
PRINCIPAL

Signed:

Authorized Representative

Gary L Matthews, President
Name and Title

Address: PO Box 15479
Oklahoma City, OK 73115

Telephone:

(405) 677-4525

(Corporate Seal)

ATTEST

Corporate Secretary

Fidelity and Deposit Company of Maryland
SURETY

Signed:

Authorized Representative

Carey L. Kennemer, Attorney-in-fact
Name and Title

Address: 9401 Cedar Lake Avenue
Oklahoma City, OK 73114

Telephone: (405) 463-7512

CORPORATE ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
COUNTY OF _____)§

The foregoing instrument was acknowledged before me this ____ day of _____,

20 _____, by Gary L. Matthews, President of Matthews Trenching Co., Inc.
Name and Title

an Oklahoma corporation, on behalf of the corporation.

WITNESS my hand and seal this ____ day of _____ 20 ____.

Notary Public

My Commission Expires: _____

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____.

20 _____, by _____ an individual.
Name and Title

WITNESS my hand and seal this ____ day of _____ 20 ____.

Notary Public

My Commission Expires: _____

STATE OF OKLAHOMA)
COUNTY OF _____)§

My Commission Expires: _____

NORMAN UTILITIES AUTHORITY

APPROVED as to form and legality this _____ day of _____, 20____.

AUTHORITY Attorney

Approved by the Trustees of the NORMAN UTILITIES AUTHORITY this _____ day of _____, 20____.

NORMAN UTILITIES AUTHORITY

ATTEST

By: _____

Title: Chairman

Secretary

MAINTENANCE BOND

Know all men by these presents that Matthews Trenching Co., Inc., as PRINCIPAL, and Fidelity and Deposit Company of Maryland, a corporation organized under the laws of the State of Illinois, and authorized to transact business in the State of Oklahoma, as SURETY, are held and firmly bound unto NORMAN UTILITIES AUTHORITY, a Public Trust of the State of Oklahoma, herein called AUTHORITY, in the sum of One Million One Hundred Eighty Thousand Two Hundred Fifty and No Cents Dollars (\$1,180,250.00), for the payment of which sum PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns jointly and severally.

WHEREAS, the conditions of this obligation are such, that the PRINCIPAL, being the successful bidder on the following PROJECT:

PROJECT WW0330
12TH AVENUE NE MANHOLE REPLACEMENT
NORMAN, OKLAHOMA

has entered into a written CONTRACT (K-2021-108) with the AUTHORITY, dated _____ to perform and complete said PROJECT, that CONTRACT being incorporated herein by reference as if fully set forth.

WHEREAS, under the ordinances of the AUTHORITY, the PRINCIPAL is required to furnish to the AUTHORITY a maintenance bond covering said construction of this PROJECT, the bond to include the terms and provisions hereinafter set forth, as a condition precedent to final acceptance of the PROJECT.

NOW THEREFORE, if the PRINCIPAL shall keep and maintain, subject to normal wear and tear, the construction, except for defects not occasioned by improper workmanship, materials, or failure to protect new work until it is accepted, and if the PRINCIPAL shall promptly repair, without notice from the AUTHORITY or expense to the AUTHORITY any and all defects arising from improper workmanship, materials, or failure to protect new work until it is accepted; all for a period of two (2) years from the date of the written final acceptance by the AUTHORITY, then this obligation shall be null and void. Otherwise, this obligation shall remain in full force and effect at all times.

Provided further, however, that upon neglect, failure or refusal of the PRINCIPAL to maintain or make any needed repairs upon the construction on the PROJECT, as set out in the preceding paragraph, within ten (10) days after the mailing of notice to the PRINCIPAL by letter deposited in the United States Post Office at Norman, Oklahoma, addressed to the PRINCIPAL at the address set forth below, then the PRINCIPAL and SURETY shall jointly and severally be liable to the AUTHORITY for the cost and expense for making such repair, or otherwise maintaining the said construction.

If is further expressly agreed and understood by the parties hereto that no changes or alterations in said 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.

IN WITNESS WHEREOF, the said PRINCIPAL has caused these presents to be executed in its name and its corporate seal (where applicable) to be hereunto affixed by its duly authorized representative(s), on the _____ day of _____, 20____, 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 _____, 20____.

(Corporate Seal) (where applicable)
ATTEST

Matthews Trenching Co., Inc.
PRINCIPAL

Signed:

Corporate Secretary (where applicable)

Authorized Representative

Gary L. Matthews, President
Name and Title

Address: PO Box 15479
Oklahoma City, OK 73155

Telephone: (405) 677-4525

(Corporate Seal)
ATTEST

Fidelity and Deposit Company of Maryland
SURETY

Signed:

Corporate Secretary

Authorized Representative

Carey L. Kennemer, Attorney-in-fact
Name and Title

Address: 9401 Cedar Lake Avenue
Oklahoma City, OK 73114

Telephone: (405) 463-7512

CORPORATE ACKNOWLEDGEMENT

STATE OF _____)
COUNTY OF _____)§

The foregoing instrument was acknowledged before me this ____ day of _____,

20 ____, by Gary L. Matthews, President of Matthews Trenching Co., Inc.,
Name and Title

an Oklahoma corporation, on behalf of the corporation.

WITNESS my hand and seal this ____ day of _____ 20 ____.

Notary Public

My Commission Expires: _____

INDIVIDUAL ACKNOWLEDGEMENT

STATE OF _____)
COUNTY OF _____)§

The foregoing instrument was acknowledged before me this ____ day of _____,

20 ____, by _____ an individual.
Name and Title

WITNESS my hand and seal this ____ day of _____ 20 ____.

Notary Public

My Commission Expires: _____

PARTNERSHIP ACKNOWLEDGEMENT

STATE OF _____)

)§

COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,

20 _____, by _____ partner (or agent) on behalf of

Name and Title

_____, a partnership.

WITNESS my hand and seal this ____ day of _____ 20 _____.

Notary Public

My Commission Expires: _____

NORMAN UTILITIES AUTHORITY

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

AUTHORITY Attorney

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

NORMAN UTILITIES AUTHORITY

ATTEST

By:

Title:

Chairman

Secretary