

CONTRACT

THIS CONTRACT AND AGREEMENT, made and entered into this 26TH day of MARCH, 2024, by and between the OKLAHOMA CITY WATER UTILITIES TRUST, party of the first part, hereinafter termed “Trust” and **Ellsworth Construction OKC**, party of the second part, hereinafter termed “Contractor”.

WITNESSETH:

WHEREAS, the OKLAHOMA CITY WATER UTILITIES TRUST has caused to be prepared in accordance with law certain specifications, and other bidding documents for the work hereinafter described and has approved and adopted all of said bidding documents, and has caused Solicitation for Bids to be given and advertised as required by law, and has received sealed proposals for the furnishing of all labor and materials for: **Project No. WM-0342, Lake Road Pavement Rehabilitation South (Base Bid), Lake Atoka**, as outlined and set out in the bidding documents and in accordance with the terms and provisions of said contract: and,

WHEREAS, Contractor, in response to said Solicitation for Bids, published in The Journal Record, **February 14th and 21st, 2024**, Submitted to Trust in the manner and at the time specified, a sealed proposal in accordance with the terms of this contract; and,

WHEREAS, the Trust 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 responsible bidder on the above described project, and has duly awarded this contract to said Contractor for the sum named in the proposal, to wit: **Three Million Seven Hundred Fifty-Five Thousand Three Hundred Ninety Eight and 35/100 Dollars (\$3,755,398.35)**.

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, workmanlike 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 plans adopted and approved by the OKLAHOMA CITY WATER UTILITIES TRUST, all of which documents are on file in the Office of the City Clerk of The City of Oklahoma City and are made a part of this contract as fully as if the same were herein set out at length, with the following additions and/or exceptions: (if none, so state) None.

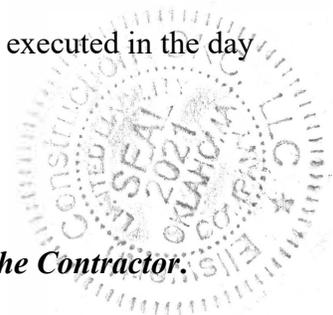
2. The Trust shall make payments to the Contractor in the following manner: On or about the first day of each month, the City Engineer, or other appropriate person, will make accurate estimates of the value, based on contract prices of work done and materials incorporated in the work and of materials

suitably stored at the site thereof during the preceding calendar month. The Contractor shall furnish to the City 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 as required by 74 O.S. § 85.22.

3. On completion of the work, but prior to the acceptance thereof by the Trust, it shall be the duty of the City 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 determination, said official shall make his final certificate to the Trust. 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 and the same shall be in full for all claims of every kind and description said Contractor may have by reason of having entered in to or arising out of this contract.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in the day and year first above written.



Executed this _____ day of _____, 2024, by the *Contractor*.

Ellsworth Construction OKC

If Partnership, give name and address of each.

ATTEST:

Rachel Cox

(Witness-Secretary)

Jim Lunday

President/Partner/Manager/Owner/Agent

REVIEWED and **APPROVED** by the Oklahoma City Water Utilities Trust this 26TH day of MARCH, 2024.

ATTEST:



OKLAHOMA CITY WATER UTILITIES TRUST

Miki Graham

John D. Couch

ASST. SECRETARY

CHAIRMAN

CONCURRED by the Council for The City of Oklahoma City this 9TH day of APRIL, 2024.



THE CITY OF OKLAHOMA CITY

ATTEST:

Amy K. Simpson

David Holt

CITY CLERK

MAYOR

REVIEWED for form and legality.

Patrick Mann

ASSISTANT MUNICIPAL COUNSELOR

STATUTORY BOND #5329816**KNOWN ALL MEN BY THESE PRESENTS:**

That We, **Ellsworth Construction OKC, LLC**, as Principal, and **Great American Insurance Company** as Surety, are held and firmly bound unto the OKLAHOMA CITY WATER UTILITIES TRUST, a Public Trust, and City of Oklahoma City, a Municipal Corporation, and City of the first class, of the State of Oklahoma, in the sum of **Three Million Seven Hundred Fifty-Five Thousand Three Hundred Ninety Eight and 35/100** Dollars (**\$3,755,398.35**), such sum being equal to 100% of the contract price for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, and assigns, themselves, and its successors and assigns, jointly and severally, firmly by these presents.

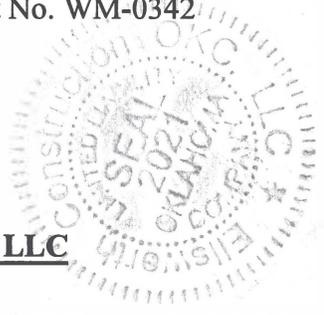
The conditions of this obligation are such that whereas, the above Bonded Principal **Ellsworth Construction OKC, LLC** is the lowest and best bidder for the making of the following Oklahoma City Water Utilities Trust and The City of Oklahoma City work and improvement:

Project No. WM-0342, Lake Road Pavement Rehabilitation South (Base Bid), Lake Atoka and has entered into a certain written contract with the OKLAHOMA CITY WATER UTILITIES TRUST on the 26TH day of MARCH, 2024, for the erection and construction of said work and improvement in exact accordance with the bid of said Principal, and according to certain plans and specifications theretofore made, adopted and placed on file in the Office of the City Clerk of THE CITY OF OKLAHOMA CITY.

NOW, THEREFORE, if said Principal shall fail or neglect to pay all indebtedness incurred by said Principal of subcontractor of said Principal who perform work in the performance of such, for labor and materials furnished by any supplier and consumed in the performance of said contract, and such repairs to and rental of machinery and equipment as may be furnished by a subcontractor to the person or persons contracting with this the Oklahoma City Water Utilities Trust, 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, 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.

IN WITNESS WHEREOF, the Contractor has caused this bond to be executed and the Surety has caused this bond to be executed on the day and year, respectively, written below.



ATTEST:

Ellsworth Construction OKC, LLC

Contractor

Rachel Cox
Secretary-Witness

By: Jim Lunday
President/Partner/Manager/Owner/Agent

ATTEST:

Great American Insurance Company

Surety

[Signature]
Secretary-Witness



By: Dayna Harjo
Attorney-in-Fact Dayna Harjo

REVIEWED and APPROVED by the Oklahoma City Water Utilities Trust this 26TH day of MARCH, 2024.

ATTEST:

OKLAHOMA CITY WATER UTILITIES TRUST

[Signature]
ASST. SECRETARY



[Signature]
CHAIRMAN

CONCURRED by the Council for The City of Oklahoma City this 9TH day of APRIL, 2024.

ATTEST:

THE CITY OF OKLAHOMA CITY

Amy K. Simpson
CITY CLERK



[Signature]
MAYOR

REVIEWED for form and legality.

[Signature]
ASSISTANT MUNICIPAL COUNSELOR

PERFORMANCE BOND #5329816**KNOWN ALL MEN BY THESE PRESENTS:**

That We, Ellsworth Construction OKC, LLC, as Principal, and Great American Insurance Company, as Surety, are held and firmly bound unto the OKLAHOMA CITY WATER UTILITIES TRUST, a Public Trust, and City of Oklahoma City, a Municipal Corporation, and City of the first class, of the State of Oklahoma, in full and just sum of Three Million Seven Hundred Fifty-Five Thousand Three Hundred Ninety Eight and 35/100 Dollars (\$3,755,398.35), such sum being equal to 100% of the contract price for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, and assigns, themselves, and its successors and assigns, jointly and severally, firmly by these presents.

The conditions of this obligation are such that whereas, said Principal was the lowest and best bidder for the making of the following Oklahoma City Water Utilities Trust and The City of Oklahoma City work and improvement: Project No. WM-0342, Lake Road Pavement Rehabilitation South (Base Bid), Lake Atoka and has entered into a certain written contract with the Oklahoma City Water Utilities Trust on the day of MARCH 26, 2024, for the erection and construction of said work and improvement all in compliance with the plans and specifications therefore, made a part of said contract and on file in the Office of the City Clerk, and said contract is hereby made a part and parcel of this bond as if literally written herein.

NOW, THEREFORE, if said Principal shall fully and faithfully execute the work and perform said contract according to its terms, conditions, and covenants, and in exact accordance with the bid of said Principal, and according to certain plans and specifications heretofore made, adopted, and placed on file in the Office of the City Clerk of THE CITY OF OKLAHOMA CITY, as set out in the specifications herein, and shall promptly pay or cause to be paid, all labor, material and/or repairs and all bids for labor performed on said work, whether by subcontract or otherwise, and shall protect and save harmless the Oklahoma City Water Utilities Trust and The City of Oklahoma City and all interested property owners against all claims, demands, causes of action, losses or damage, and expense to life property suffered or sustained by any person, firm, or corporation by reason of negligence of the Contractor or of his or its agents, servants, or employees in the construction of said work, or by or in consequence of any improper execution of the work or act of omission or use of inferior materials by said Contractor, or his or its agents, servants, or employees and shall protect and save the Oklahoma City Water Utilities Trust and The City of Oklahoma City harmless from all suits and claims of infringement or alleged infringement of patent rights or processes, then this obligation shall be void; otherwise, this obligation shall remain in full force and effect.

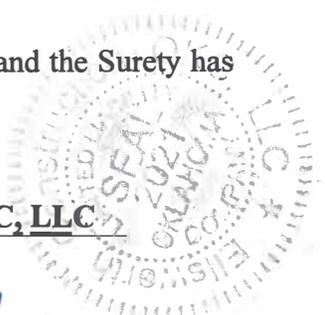
It is further expressly agreed and understood by the parties hereto that no changes or alterations in said contract and no deviations from the plan or mode of procedure herein fixed shall have the effect of releasing

the sureties, or any of them, from the obligation of this bond.

IN WITNESS WHEREOF, the Contractor has caused this bond to be executed and the Surety has caused this bond to be executed on the day and year, respectively, written below.

ATTEST:

Ellsworth Construction OKC, LLC
Contractor



Rachel Cox
Secretary-Witness

By: Jim Lunday
President/Partner/Manager/Owner/Agent

ATTEST:

Great American Insurance Company
Surety

[Signature]
Secretary-Witness



By: Dayna Harjo
Attorney-in-Fact Dayna Harjo

REVIEWED and APPROVED by the Oklahoma City Water Utilities Trust this 26TH day of MARCH, 2024.

ATTEST:

OKLAHOMA CITY WATER UTILITIES TRUST

[Signature]
ASST. SECRETARY



[Signature]
CHAIRMAN

CONCURRED by the Council for The City of Oklahoma City this 9TH day of APRIL, 2024.

ATTEST:

THE CITY OF OKLAHOMA CITY

[Signature]
CITY CLERK



[Signature]
MAYOR

REVIEWED for form and legality.

[Signature]
ASSISTANT MUNICIPAL COUNSELOR

MAINTENANCE BOND #5329816**KNOWN ALL MEN BY THESE PRESENTS:**

That We, **Ellsworth Construction OKC, LLC** , as Contractor, and **Great American Insurance Company**, as Surety, are held and firmly bound unto the Oklahoma City Water Utilities Trust in the full and just sum of **Three Million Seven Hundred Fifty-Five Thousand Three Hundred Ninety Eight and 35/100** Dollars (**\$3,755,398.35**), such sum being equal to the contract price for a period of two (2) years for the payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, executors, and assigns, themselves, and its successors and assigns, joint and severally, firmly by these presents.

The conditions of this obligation are such that said Contractor has entered into a contract with the OKLAHOMA CITY WATER UTILITIES TRUST, dated this 26TH day of MARCH, 2024, and has agreed to construct: **Project No. WM-0342, Lake Road Pavement Rehabilitation South (Base Bid), Lake Atoka**, all in compliance with the plans and specifications therefore, made a part of said contract and on file in the Office of the City Clerk of THE CITY OF OKLAHOMA CITY as the Secretary of the OKLAHOMA CITY WATER UTILITIES TRUST; and to maintain the said improvement in the amounts set forth above against any failure due to workmanship or material for a period of two (2) years from the date of final formal acceptance of the Project by the OKLAHOMA CITY WATER UTILITIES TRUST.

NOW, THEREFORE, if said Contractor shall pay or cause to be paid to the Trust, all damage, loss, and expense which may result by reason of defective materials and/or workmanship in connection with said work occurring within a period of two (2) years from and after final formal acceptance of said Project by the OKLAHOMA CITY WATER UTILITIES TRUST, then this obligation shall be null and void, otherwise to be and remain in full force and effect.

It is further agreed that if the said Contractor or Surety herein shall fail to maintain said improvements against any failure due to defective material and/or workmanship for a period of two (2) years and at any time repairs shall be necessary that the cost of making said repairs shall be determined by the OKLAHOMA CITY WATER UTILITIES TRUST, or some person or persons designated by it to ascertain the same, and if, upon thirty (30) days notice, the amount ascertained shall not be paid by the Contractor or Surety herein, or if the necessary repairs are not made, said amount shall become due upon the expiration of thirty (30) days and suit may be maintained to recover the amount so determined in any court of competent jurisdiction. And that the amount so determined shall be conclusive upon the parties as to the amount due on this bond from time to time during the life of this bond as the condition of the improvements may require.

and no deviations from or alteration or changes to the plans or specifications for the project shall have the effect of releasing the sureties, or any of them, from the obligations of this bond.

IN WITNESS WHEREOF, the Contractor has caused this bond to be executed and the Surety has caused this bond to be executed on the day and year, respectively, written below.

Executed this _____ day of _____, 2024, by the Contractor.



ATTEST:

Rachel Cox
Secretary / Witness

Ellsworth Construction OKC, LLC
(Contractor)

Jim Lunday
President/Partner/Manager/Owner/
Agent

ATTEST:

CreditSM
Secretary / Witness



Great American Insurance Company
(Surety)

Dayna Harjo
Attorney-in-Fact/Agent
Dayna Harjo

REVIEWED and **APPROVED** by the Oklahoma City Water Utilities Trust this 26TH day of MARCH, 2024.

ATTEST:

OKLAHOMA CITY WATER UTILITIES TRUST

Thiti Graham
ASST. SECRETARY



John D. Couch
CHAIRMAN

CONCURRED by the Council for The City of Oklahoma City this 9TH day of APRIL, 2024.

ATTEST:

THE CITY OF OKLAHOMA CITY

Amy K. Simpson
CITY CLERK



David Holt
MAYOR

REVIEWED for form and legality.

Patricia Mann
ASSISTANT MUNICIPAL COUNSELOR

GREAT AMERICAN INSURANCE COMPANY®

Administrative Office: 301 E 4TH STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740

The number of persons authorized by this power of attorney is not more than **FOUR**

No. 0 21862

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below, each individually if more than one is named, its true and lawful attorney-in-fact, for it and in its name, place and stead to execute on behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

Name	Address	Limit of Power
Sandra L. Crain	All of	All
Dayna Harjo	Tulsa, Oklahoma	\$100,000,000
Cindi L. Smith		
William C. Taylor		

This Power of Attorney revokes all previous powers issued on behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this 14th day of July, 2021.

GREAT AMERICAN INSURANCE COMPANY



W.C. B.

Assistant Secretary

Mark V. Vicario

Divisional Senior Vice President

MARK VICARIO (877-377-2405)

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this 14th day of July, 2021, before me personally appeared MARK VICARIO, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is a Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



SUSAN A KOHORST
Notary Public
State of Ohio
My Comm. Expires
May 18, 2025

Susan A. Kohorst

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated June 9, 2008.

RESOLVED: That the Divisional President, the several Divisional Senior Vice Presidents, Divisional Vice Presidents and Divisional Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract of suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, STEPHEN C. BERAHA, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of June 9, 2008 have not been revoked and are now in full force and effect.

Signed and sealed this

8th day of March, 2024



W.C. B.

Assistant Secretary

CERTIFICATE OF NONDISCRIMINATION

In connection with the performance under the Contract, the Contractor agrees as follows:

- A. The Contractor agrees not to discriminate against any employee or applicant for employment because of race, creed, sex, color, national origin, ancestry, age or disability, as defined by the Americans with Disabilities Act of 1990, Sec. 3(2). Contractor shall take affirmative action to ensure that employees are treated without regard to their race, creed, sex, color, national origin, ancestry, age or disability, as defined by the Americans with Disabilities Act of 1990, Sec. 3(2). Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruiting or recruitment, advertising, layoff or termination, rate of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor and Subcontractors shall agree to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the City Clerk of The City of Oklahoma City setting forth the provisions of this Section.
- B. In the event of the Contractor’s noncompliance with this Nondiscrimination Certificate, the Contract may be canceled, terminated or suspended by the Contracting Public Entity. The Contractor may be declared by the Contracting Public Entity ineligible for further contracts until satisfactory proof of intent to comply shall be made by the Contractor and/or Subcontractors.
- C. The Contractor agrees to include the requirements of this Nondiscrimination Certificate in any subcontracts connected with the performance of this Contract.

I have read the above and agree to abide by these requirements.

***This form must be fully completed and signed
by the Contractor or Contractor’s Authorized Agent.***

Ellsworth Construction OKC

Name of Individual, Partnership, Limited Liability Company,
Or Corporation, herein called “Contractor”



Signature of Contractor or Contractor’s Authorized Agent

Type or Print name and title of person who signed above

This Certificate is required by Oklahoma City Municipal Code,
Chapter 25, Article III, § 25-41, as incorporated by reference in
The City of Oklahoma City’s Standard Specifications for
Construction of Public Improvements or otherwise in the Bidding Documents.

USE ADDITIONAL PAGES AS NEEDED

4. Name of Subcontractor Business _____
- a. Name of contact person _____
 - b. Email _____
 - c. Phone number _____
 - d. Type of work performed _____
 - e. Estimated dollar amount for contracted work _____
 - f. LBU status (check if known) Registered Not Registered

5. Name of Subcontractor Business _____
- a. Name of contact person _____
 - b. Email _____
 - c. Phone number _____
 - d. Type of work performed _____
 - e. Estimated dollar amount for contracted work _____
 - f. LBU status (check if known) Registered Not Registered

6. Name of Subcontractor Business _____
- a. Name of contact person _____
 - b. Email _____
 - c. Phone number _____
 - d. Type of work performed _____
 - e. Estimated dollar amount for contracted work _____
 - f. LBU status (check if known) Registered Not Registered

7. Name of Subcontractor Business _____
- a. Name of contact person _____
 - b. Email _____
 - c. Phone number _____
 - d. Type of work performed _____
 - e. Estimated dollar amount for contracted work _____
 - f. LBU status (check if known) Registered Not Registered

8. Name of Subcontractor Business _____
- a. Name of contact person _____
 - b. Email _____
 - c. Phone number _____
 - d. Type of work performed _____
 - e. Estimated dollar amount for contracted work _____
 - f. LBU status (check if known) Registered Not Registered