

**EJCDC
STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE**

THIS AGREEMENT is entered into this _____ day of May 2025, between the City of Bel Aire, Kansas, a Kansas municipal corporation, (hereinafter called OWNER) and Dondlinger & Sons Co., Inc., a Kansas corporation, (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

**53rd & Rock Box Replacement
To serve Bel Aire, Kansas**

Article 2. ENGINEER.

The Project has been designed by Garver LLC, who is hereinafter called ENGINEER and who is to act as OWNER'S representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

Article 3. CONTRACT TIME.

3.1. The Work on the 53rd & Rock BOC Replacement Project shall be completed prior to August 8, 2025. The Work shall be scheduled to require a maximum closure duration of no more than two (2) consecutive weeks. Accordingly, all construction activities, including any required closures, must be completed within a two-week period falling between May 8, 2025, and August 8, 2025. Extensions to the schedule may be granted only in the event of weather-related delays, as outlined in paragraph 2.03 and paragraph 14.07 of the General Conditions.

3.2. Liquidated *Damages*. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding, the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay

OWNER Seven Hundred and Fifty DOLLARS (\$750.00) for each day that expires after the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete. After Substantial Completion if CONTRACTOR shall neglect, refuse or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER Seven Hundred and Fifty DOLLARS (\$750.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

- 4.1. OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds as follows:
One Hundred Thirty Thousand Six Hundred Eighty-Nine Dollars (\$130,689.00).

Article 5. PAYMENT PROCEDURES.

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1. *Progress Payments.* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Applications for Payment as recommended by ENGINEER, on or about the LAST day of each month during construction as provided below. All progress payments will be on the basis of the progress of the Work measured by the schedule of values (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 14.02 of the General Conditions.

90 % of Work completed.

90 % of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in paragraph 14.02 of the General Conditions).

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 100% of the Contract Price, less retainage, in accordance with paragraph 14.02 of the General Conditions.

5.2. *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraph 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.07.

Article 6. INTEREST. Article 6 has been deleted.

Article 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

7.1. CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.

7.2. CONTRACTOR has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Supplementary Conditions as provided in paragraph 4.02 of the General Conditions, and accepts the determination set forth in Supplementary Conditions of the extent of the technical data contained in such reports and drawings upon which CONTRACTOR is entitled to rely.

7.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in paragraph 7.2 above) which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.02 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies or similar information or data are or will be required by CONTRACTOR for such purposes.

7.4. CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports, studies or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to perform and furnish the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.04 of the General Conditions.

7.5. CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.

7.6. CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

Article 8. CONTRACT DOCUMENTS.

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

- 8.1. This Agreement (pages ii-2 to ii-7, inclusive).
- 8.2. Exhibits to this Agreement (page ii-8 to ii-8, inclusive).
- 8.3. Performance and other Bonds (pages ii-9 to ii-16, inclusive).
- 8.4. General Conditions (pages 00700-1 to 00700-41, inclusive.)
- 8.5. Supplementary Conditions (pages ii-20 to ii-23, inclusive).
- 8.6. Technical Specifications bearing the title Technical Specifications
- 8.7. Drawings, consisting of one set dated and sealed on April 2025 with title sheets bearing the following general title:

53rd & Rock Box Replacement

- 8.8. OWNER'S Standard Exhibits, (pages ii-24 to ii-29, inclusive).
- 8.9. CONTRACTOR'S Quote marked exhibit A.
- 8.10. Documentation submitted by CONTRACTOR prior to Notice of Award (pages _____ to _____, inclusive).
- 8.11. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.
- 8.12. The documents listed in paragraphs 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

Article 9. MISCELLANEOUS.

9.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

9.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect of all covenants, agreements and obligations contained in the Contract Documents.

9.4. DISPUTE RESOLUTION: Section 16.01A of the General Conditions, regarding Methods and Procedures, shall change to: Either OWNER or CONTRACTOR may request mediation of any Claim submitted to Engineer for a decision under Paragraph 10.05 before such decision becomes final and binding. The mediation will be conducted by a mediator mutually chosen by OWNER and CONTRACTOR.

9.5. STANDARD GENERAL CONDITIONS: OWNER stipulates that if the General Conditions that are made a part of this Contract are EJCDC C-700, Standard General Conditions of the Construction Contract, published by the Engineers Joint Contract Documents Committee, and if OWNER is the party that has furnished said General Conditions, then OWNER has plainly shown all modification to the standard wording of such published document to the CONTRACTOR, through a process such as highlighting or "track changes" (redline/strikeout), in Article 9. MISCELLANEOUS or in the Supplementary Conditions.

CONTRACTOR must plainly show all modifications to the standard wording of the Standard General Conditions to the OWNER, through a process such as highlighting or "track changes" (redline/strikeout), in Article 9. MISCELLANEOUS or in the Supplementary Conditions.

Article 10. OTHER PROVISIONS.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR and ENGINEER. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or by ENGINEER on their behalf.

This Agreement will be effective on _____, 2025.

OWNER City of Bel Aire, Kansas

CONTRACTOR Dondlinger & Sons Construction, LLC

(Print) Jim Benage, Mayor

(Signature)

[CORPORATE SEAL]

[CORPORATE SEAL]

ATTEST:

ATTEST:

Melissa Krehbiel, City Clerk

Address for giving notices:

7651 East Central Park Avenue
Bel Aire, KS 67226

Address for giving notices:

2656 South Sheridan Street
Wichita, KS 67217

License No. _____

APPROVED AS TO FORM:

Maria A. Schrock, City Attorney

(If OWNER is a public body, attach evidence Agent for service of process: _____
authority to sign and resolution or other documents authorizing execution of Agreement.)

(If CONTRACTOR is a corporation, attach evidence of authority to sign.)