

**MEETING NOTICE
MAIZE CITY COUNCIL
SPECIAL MEETING**

TIME: 11:00 A.M.
DATE: MONDAY, OCTOBER 3, 2018
PLACE: MAIZE CITY HALL
10100 W. GRADY AVENUE

**MAIZE CITY COUNCIL AGENDA
MAYOR DONNA CLASEN PRESIDING**

- 1) Call to Order
- 2) Roll Call
- 3) Approval of Agenda
- 4) New Business
 - A. Villas at Hampton Lakes Revised Water Petition
 - B. Villas at Hampton Lakes Water/Sewer Contract
- 5) Adjournment

NOTE: At the conclusion of the Special Council Meeting, the Mayor will conduct the weekly Mayor's Workshop/Informational meeting. Agenda under separate cover.

**MAIZE CITY COUNCIL
REGULAR MEETING
WEDNESDAY October 3, 2018**

AGENDA ITEM #4A

ITEM: Villas at Hampton Lakes Water Distribuiton Petition and Resolution of Advisability

BACKGROUND:

The Council accepted the petition for Villas at Hampton Lakes water distribution improvements at the August 20, 2018 regular meeting. The petition was in the amount of \$52,000 with an engineer's estimate of \$38,334.

Construction bids were submitted on September 18 and came in over the engineer's estimate. The reason for the overage was due to a line item for service taps being omitted from the original engineer's estimate. The developer has submitted a revised petition for \$100,000 with an engineer's estimate of \$73,849.

FINANCIAL CONSIDERATIONS:

Villas at Hampton Lakes will be included in the 2018 project funding.

LEGAL CONSIDERATIONS:

Bond Counsel reviewed the petition and prepared the resolution of advisability and approves them as to form.

RECOMMENDATION/ACTION:

Accept the revised petition for water distribution improvements in Villas at Hampton Lakes and adopt the revised resolution of advisability in the amount of \$100,000.

WATER DISTRIBUTION SYSTEM PETITION

RECEIVED
SEP 26 2018
CITY CLERK'S OFFICE

To the Mayor and City Council
Maize, Kansas

Dear Council Members:

1. We, the undersigned owners of record as below designated, of Lots, Parcels, and Tracts of real property described as follows:

VILLAS AT HAMPTON LAKES ADDITION

Lots 1 through 13, Block 1;

do hereby petition, pursuant to the provisions of K.S.A. 12-6a01 et seq., as amended, as follows:

- (a) That there be constructed a water distribution system, including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the area described above, according to plans and specifications to be furnished by the City Engineer of the City of Maize, Kansas.
- (b) That the estimated and probable cost of the foregoing improvements is **One Hundred Thousand Dollars (\$100,000.00)** exclusive of the cost of interest on borrowed money, with 100% percent payable by the improvement district. Said estimated cost as above set forth may be increased to include temporary interest or finance costs incurred during the course of design and construction of the project, and also may be increased at the pro rata rate of 1 percent per month from and after September 1, 2018.
- (c) That the land or area above described be constituted as an improvement district against which shall be assessed 100 percent of the total actual cost of the improvement for which the improvement district is liable.

If this improvement is abandoned, altered and/or constructed privately in part or whole that precludes building this improvement under the authority of this petition, any costs that the City of Maize incurs shall be assessed to the property described above in accordance with the terms of the petition. In addition, if the improvement is abandoned at any state during the design and/or construction of the improvement or if it is necessary for the City of Maize to redesign, repair or reconstruct the improvement after its initial design and/or construction because the design or construction does not meet the requirements of the City, then such costs associated with the redesign, repair or reconstruction of said improvement shall be assessed to the property described above in accordance with the terms of this petition.

- (d) That the method of assessment of all costs of the improvement for which the

improvement district shall be liable shall be on a fractional basis. The fractional shares provided for herein have been determined on the basis of equal shares being assessed to lots or parcels of substantially comparable size and/or value:

Lots 1 through 13, Block 1; Villas at Hampton Lakes Addition shall each pay 1/13 of the total cost payable by the improvement district.

In the event all or part of the lots or parcels in the improvement district are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

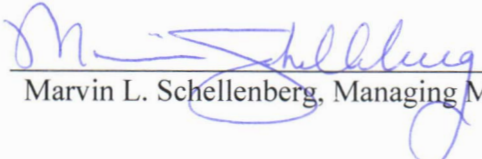
2. It is requested that the improvement hereby petitioned be made without notice and hearing, which, but for this request, would be required by K.S.A. 12-6a04. This petition may be combined with other petitions of similar nature in order to form one public improvement project.

3. That names may not be withdrawn from this petition by the signers thereof after the Governing Body commences consideration of the petition or later than seven (7) days after filing, whichever occurs first.

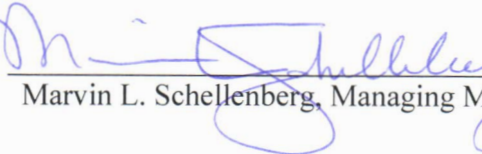
4. That when this petition has been filed with the City Clerk and it has been certified that the signatures thereon are according to the records of the Register of Deeds of Sedgwick County, Kansas, the petition may be found sufficient if signed by either (1) a majority of the resident owners of record of property liable for assessment under the proposal, or (2) the resident owners of record of more than one-half of the area liable for assessment under the proposal, or (3) the owners of record (whether resident or not) of more than one-half of the area liable for assessment under the proposal. The Governing Body is requested to proceed in the manner provided by statute to the end that the petitioned improvements may be expeditiously completed and placed in use.

WITNESS our signatures attached with respect to each of which is indicated the property owned and the date of signing.

LEGAL DESCRIPTION	SIGNATURE	DATE
VILLAS AT HAMPTON LAKES ADDITION Lots 1 through 13, Block 1; Villas at Hampton Lakes Addition, an addition to Maize, Sedgwick County, Kansas	HAMPTON LAKES, LLC, A Kansas Limited Liability Company	

By:  9-21-18
Marvin L. Schellenberg, Managing Member

LEGAL DESCRIPTION	SIGNATURE	DATE
VILLAS AT HAMPTON LAKES ADDITION Lots 1 through 13, Block 1; Villas at Hampton Lakes Addition, an addition to Maize, Sedgwick County, Kansas	HAMPTON LAKES COMMERCIAL OWNERS ASSOCIATION	

By:  9-21-18
Marvin L. Schellenberg, Managing Member

**VILLAS AT HAMPTON LAKES ADDITION
WATER PETITION
COST ESTIMATE**

Description	Quantity	Unit	Std Unit Price	Custom Unit Price	Extension
Pipe, WL 8" PVC	1286	LF	\$ 19.00		\$ 24,434.00
8" x 8" Tapping Sleeve and Valve	1	EA	\$ 3,000.00		\$ 3,000.00
8" DIMJ Valve Assembly	2	EA	\$ 1,000.00		\$ 2,000.00
Fire Hydrant Assembly	2	EA	\$ 3,700.00		\$ 7,400.00
Service Taps	38	EA	\$ 625.00		\$ 23,750.00
Fill Sand (Flushed and Vibrated)	34	LF	\$ 10.00		\$ 340.00
Pipe Testing and Disinfecting	1	LS	\$ 600.00		\$ 600.00
Temporary Seeding	1	LS	\$ 150.00		\$ 150.00
Site Clearing & Restoration	1	LS	\$ 150.00		\$ 150.00
				Contingencies @ 20% +/-	\$ 12,025.00
				Construction Total	\$ 73,849.00
				35% Engineering, Administration, Etc.	\$ 25,847.15
				TOTAL	\$ 99,696.15

For Petition Use \$100,000.00

NOTE: To be recorded with the Register of Deeds of Sedgwick County, Kansas
(Published in the *The Clarion* on October 10, 2018)

RESOLUTION NO. [__]-18

A RESOLUTION DETERMINING THE ADVISABILITY OF THE MAKING OF CERTAIN INTERNAL IMPROVEMENTS IN THE CITY OF MAIZE, KANSAS; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AND AUTHORIZING AND PROVIDING FOR THE MAKING OF THE IMPROVEMENTS IN ACCORDANCE WITH SUCH FINDINGS (WATER DISTRIBUTION SYSTEM IMPROVEMENTS/VILLAS AT HAMPTON LAKES ADDITION).

WHEREAS, the City of Maize, Kansas (the “City”) is a municipal corporation, duly created, organized and existing under the Constitution and laws of the State; and

WHEREAS, the City Council of the City (the “Governing Body”) has heretofore by Resolution No. 617-18 of the City (the “Prior Resolution) authorizing certain internal improvements; and

WHEREAS, the estimated cost of the improvements authorized by the Prior Resolution has changed;

WHEREAS, pursuant to the receipt of a new petition (the “Petition”), it is necessary to authorize the improvements requested therein by the adoption of a new resolution of the City and repeal the Prior Resolution; and

WHEREAS, the Petition sets forth: (a) the general nature of the proposed improvements; (b) the estimated or probable cost of the proposed improvements; (c) the extent of the proposed improvement district to be assessed for the cost of the proposed improvements; (d) the proposed method of assessment; (e) the proposed apportionment of the cost between the improvement district and the City at large; and (f) a request that such improvements be made without notice and hearing as required by K.S.A. 12-6a01 *et seq.* (the “Act”); and

WHEREAS, the Governing Body hereby finds and determines that said Petition was signed by the owners of record of more than one-half of the area liable for assessment for the proposed improvements, and is therefore sufficient in accordance with the provisions of the Act.

THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF MAIZE, KANSAS:

Section 1. Repealer. The Prior Resolution is hereby repealed, subject to the provisions of **Section 4** hereof.

Section 2. Findings of Advisability. The Governing Body hereby finds and determines that:

(a) It is advisable to make the following improvements (the “Improvements”):

That there be constructed a water distribution system, including necessary water mains, pipes, valves, hydrants, and appurtenances to serve the area described as the Improvement District, according to plans and specifications to be furnished by the City Engineer of the City of Maize, Kansas.

(b) The estimated or probable cost of the proposed Improvements is: \$100,000, exclusive of interest on financing and administrative and financing costs; said estimated cost to be increased at the pro rata rate of 1 percent per month from and after the date of adoption of this Resolution.

(c) The extent of the improvement district (the “Improvement District”) to be assessed for the cost of the Improvements is:

Lots 1 through 13, Block 1; Villas at Hampton Lakes Addition; to the City of Maize, Sedgwick County, Kansas.

(d) The method of assessment is: equally per lot (13 lots).

In the event all or part of the lots or parcels in the proposed Improvement District are replatted before assessments have been levied, the assessments against the replatted area shall be recalculated on the basis of the method of assessment set forth herein. Where the ownership of a single lot is or may be divided into two or more parcels, the assessment to the lot so divided shall be assessed to each ownership or parcel on a square foot basis.

(e) The apportionment of the cost of the Improvements between the Improvement District and the City-at-large is: 100% to be assessed against the Improvement District and 0% to be paid by the City-at-large.

Section 3. Authorization of Improvements. The abovesaid Improvements are hereby authorized and ordered to be made in accordance with the findings of the governing body of the City as set forth in *Section 2* of this Resolution.

Section 4. Bond Authority; Reimbursement. The Act provides for the costs of the Improvements, interest on interim financing and associated financing costs to be paid by the issuance of general obligation bonds or special obligation bonds of the City (the “Bonds”). The Bonds may be issued to reimburse expenditures made on or after the date which is 60 days before the date of the adoption for the Prior Resolution, pursuant to Treasury Regulation 1.150-2.

Section 5. Effective Date. This Resolution shall be effective upon adoption. This Resolution shall be published one time in the official City newspaper, and shall also be filed of record in the office of the Register of Deeds of Sedgwick County, Kansas.

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

ADOPTED by the governing body of the City on October 3, 2018.

(SEAL)

By: _____

Name: Donna Clasen

Title: Mayor

ATTEST:

By: _____

Name: Jocelyn Reid

Title: Clerk

CERTIFICATE

I hereby certify that the above and foregoing is a true and correct copy of the Resolution of the City adopted by the governing body on October 3, 2018, as the same appears of record in my office.

DATED: October 3, 2018.

By: _____

Name: Jocelyn Reid

Title: Clerk

**MAIZE CITY COUNCIL
REGULAR MEETING
WEDNESDAY, October 3, 2018**

AGENDA ITEM #4B

ITEM: **Villas at Hampton Lakes Sewer and Water Bids and Contract**

BACKGROUND:

On September 18, 2018, bids were received for Villas at Hampton Lakes sewer and water improvements.

Dondlinger Construction submitted the low total bid of \$113,807 - \$51,983 for sewer and \$61,824 for water.

The City Engineer has confirmed the bids.

A bid tabulation sheet is attached.

FINANCIAL CONSIDERATIONS:

Villas at Hampton Lakes will be included in the 2018 project funding plan.

LEGAL CONSIDERATIONS:

The City Attorney is reviewing the contract as to form.

RECOMMENDATION:

Accept the low bid and approve the construction agreement with Dondlinger Construction in a total amount not to exceed \$113,807 and authorize the Mayor to sign subject to approval by the City Attorney.

EXTENDED BID TABULATION
SANITARY SEWER AND WATER DISTRIBUTION SYSTEM IMPROVEMENTS
VILLAS AT HAMPTON LAKES ADDITION
MAIZE, KANSAS
Bids Received: Tuesday, September 18, 2018, 10:00am

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	ENGINEERS ESTIMATE		DONDLINGER CONSTRUCTION		DULING CONSTRUCTION		MCCULLOUGH EXCAVATION		MIES CONSTRUCTION		NOWAK CONSTRUCTION	
				UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION	UNIT PRICE	EXTENSION
SANITARY SEWER ITEMS															
1	Sanitary Sewer Pipe 8" PVC	806	LF	24.00	\$ 19,344.00	\$ 25.00	\$ 20,150.00	42.00	\$ 33,852.00	21.00	\$ 16,926.00	24.00	\$ 19,344.00	29.65	\$ 23,897.90
2	4' Dia. Doghouse Manhole	1	EA	3,500.00	\$ 3,500.00	\$ 4,000.00	\$ 4,000.00	8,000.00	\$ 8,000.00	4,000.00	\$ 4,000.00	7,000.00	\$ 7,000.00	4,740.00	\$ 4,740.00
3	4' Dia. Standard Manhole	5	EA	3,000.00	\$ 15,000.00	\$ 3,300.00	\$ 16,500.00	3,400.00	\$ 17,000.00	3,300.00	\$ 16,500.00	3,250.00	\$ 16,250.00	3,185.00	\$ 15,925.00
4	Fill Sand (Flushed and Vibrated)	34	LF	15.00	\$ 510.00	\$ 12.00	\$ 408.00	20.00	\$ 680.00	35.00	\$ 1,190.00	28.00	\$ 952.00	26.70	\$ 907.80
5	Service Taps	11	EA	1,250.00	\$ 13,750.00	\$ 775.00	\$ 8,525.00	1,400.00	\$ 15,400.00	760.00	\$ 8,360.00	750.00	\$ 8,250.00	705.00	\$ 7,755.00
6	Testing	1	LS	500.00	\$ 500.00	\$ 1,300.00	\$ 1,300.00	1,500.00	\$ 1,500.00	1,600.00	\$ 1,600.00	967.00	\$ 967.00	1,310.00	\$ 1,310.00
7	Temporary Seeding	1	LS	500.00	\$ 500.00	\$ 250.00	\$ 250.00	1,000.00	\$ 1,000.00	100.00	\$ 100.00	420.00	\$ 420.00	250.00	\$ 250.00
8	Construction Entrance	1	LS	400.00	\$ 400.00	\$ 350.00	\$ 350.00	500.00	\$ 500.00	920.00	\$ 920.00	601.00	\$ 601.00	505.00	\$ 505.00
9	Site Clearing & Restoration	1	LS	496.00	\$ 496.00	\$ 500.00	\$ 500.00	500.00	\$ 500.00	700.00	\$ 700.00	150.00	\$ 150.00	1,010.00	\$ 1,010.00
SUBTOTAL SANITARY SEWER					\$ 54,000.00		\$ 51,983.00		\$ 78,432.00		\$ 50,296.00		\$ 53,934.00		\$ 56,300.70
WATER DISTRIBUTION SYSTEM															
1	Pipe, WL 8" PVC	1286	LF	16.00	\$ 20,576.00	\$ 19.00	\$ 24,434.00	24.00	\$ 30,864.00	24.00	\$ 30,864.00	19.50	\$ 25,077.00	21.10	\$ 27,134.60
2	8" x 8" Tapping Sleeve and Valve	1	EA	1,200.00	\$ 1,200.00	\$ 3,000.00	\$ 3,000.00	4,000.00	\$ 4,000.00	3,000.00	\$ 3,000.00	2,700.00	\$ 2,700.00	2,825.00	\$ 2,825.00
3	8" DIMJ Valve Assembly	2	EA	500.00	\$ 1,000.00	\$ 1,000.00	\$ 2,000.00	1,200.00	\$ 2,400.00	1,300.00	\$ 2,600.00	970.00	\$ 1,940.00	1,110.00	\$ 2,220.00
4	Fire Hydrant Assembly	2	EA	2,000.00	\$ 4,000.00	\$ 3,700.00	\$ 7,400.00	4,200.00	\$ 8,400.00	4,000.00	\$ 8,000.00	3,700.00	\$ 7,400.00	3,530.00	\$ 7,060.00
5	Service Taps	38	EA	250.00	\$ 9,500.00	\$ 625.00	\$ 23,750.00	650.00	\$ 24,700.00	830.00	\$ 31,540.00	775.00	\$ 29,450.00	810.00	\$ 30,780.00
6	Fill Sand (Flushed and Vibrated)	34	LF	15.00	\$ 510.00	\$ 10.00	\$ 340.00	10.00	\$ 340.00	12.00	\$ 408.00	6.50	\$ 221.00	11.85	\$ 402.90
7	Pipe Testing and Disinfecting	1	LS	500.00	\$ 500.00	\$ 600.00	\$ 600.00	1,000.00	\$ 1,000.00	800.00	\$ 800.00	465.00	\$ 465.00	1,410.00	\$ 1,410.00
8	Temporary Seeding	1	LS	548.00	\$ 548.00	\$ 150.00	\$ 150.00	100.00	\$ 100.00	100.00	\$ 100.00	550.00	\$ 550.00	200.00	\$ 200.00
9	Site Clearing & Restoration	1	LS	500.00	\$ 500.00	\$ 150.00	\$ 150.00	2,000.00	\$ 2,000.00	1300.00	\$ 1,300.00	25.00	\$ 25.00	1,210.00	\$ 1,210.00
SUBTOTAL WATER DISTRIBUTION SYSTEM					\$ 38,334.00		\$ 61,824.00		\$ 73,804.00		\$ 78,612.00		\$ 67,828.00		\$ 73,242.50
BID TOTAL					\$ 92,334.00		\$ 113,807.00		\$ 152,236.00		\$ 128,908.00		\$ 121,762.00		\$ 129,543.20
1	BID BOND						Yes		Yes		Yes		Yes		Yes
2	ADDENDUM NO 1 ACKNOWLEDGEMENT						Yes		Yes		Yes		Yes		Yes

CONSTRUCTION AGREEMENT

THIS AGREEMENT (the "Agreement") made and entered into this 3RD day of OCTOBER, 2018, by and between THE CITY OF MAIZE, KANSAS, a municipal corporation (hereinafter the "City"), and Dondlinger Construction whose principal office is at 2656 S. Sheridan, Wichita, KS 67217 (hereinafter the "Contractor").

NOW, THEREFORE, for the consideration, covenants and mutual promises hereafter stated, the parties hereto agree as follows:

SECTION 1. Contract Documents. The "Contract Documents" consist of the Agreement and the documents listed in Section 12 of the Agreement (the "Contract Documents"). The documents listed in Section 12 are hereby incorporated by reference herein and are made a part of the Agreement as though they are fully set forth herein.

SECTION 2. Work. The Contractor shall furnish all work as specified or indicated in the Contract Documents. The work to be furnished is generally described as follows:

Material and labor necessary to construct sanitary sewer and water distribution system improvements to serve Villas at Hampton Lakes Addition, an addition to the City.

SECTION 3. The Work. The Work shall be done in accordance with the Contract Documents and under the direct supervision of the Engineer, and the Engineer's decision as to the material used in the Work and the method of the Work shall be final and conclusive. In addition, the Contractor shall execute the Work described in the Contract Documents as necessary to produce the results intended by the Contract Documents or reasonably inferable by the Contract to produce the results intended by the Contract Documents.

SECTION 4. Contract Time. (a) The Work under this Agreement shall be substantially completed to the satisfaction of the Engineer within twenty five (25) work days after the Notice to Proceed is issued.

(b) **Liquidated Damages.** Liquidated Damages for failure to substantially complete the Work in the time period set in this section will be assessed at the amount and in accordance with the City of Wichita Standard Specifications for the Construction of City Projects document ("Standard Specifications").

SECTION 5. Contract Sum. (a) The City shall pay to the Contractor for completion of the Work per unit for quantity in not-to-exceed amounts as set forth in the following chart:

Item No.	Description	Quantity	Unit	Unit Price	Extension
SANITARY SEWER ITEMS					
1	Sanitary Sewer Pipe 8" PVC	806	LF	25.00	\$ 20,150.00
2	4' Dia. Doghouse Manhole	1	EA	4,000.00	\$ 4,000.00
3	4' Dia. Standard Manhole	5	EA	3,300.00	\$ 16,500.00
4	Fill Sand (Flushed and Vibrated)	34	LF	12.00	\$ 408.00
5	Service Taps	11	EA	775.00	\$ 8,525.00
6	Testing	1	LS	1,300.00	\$ 1,300.00
7	Temporary Seeding	1	LS	250.00	\$ 250.00
8	Construction Entrance	1	LS	350.00	\$ 350.00
9	Site Clearing & Restoration	1	LS	500.00	\$ 500.00
SUBTOTAL SANITARY SEWER					\$ 51,983.00
WATER DISTRIBUTION SYSTEM ITEMS					
1	Pipe, WL 8" PVC	1286	LF	19.00	\$ 24,434.00
2	8" x 8" Tapping Sleeve and Valve	1	EA	3,000.00	\$ 3,000.00
3	8" DIMJ Valve Assembly	2	EA	1,000.00	\$ 2,000.00
4	Fire Hydrant Assembly	2	EA	3,700.00	\$ 7,400.00
5	Service Taps	38	EA	625.00	\$ 23,750.00
6	Fill Sand (Flushed and Vibrated)	34	LF	10.00	\$ 340.00
7	Pipe Testing and Disinfecting	1	LS	600.00	\$ 600.00
8	Temporary Seeding	1	LS	150.00	\$ 150.00
9	Site Clearing & Restoration	1	LS	150.00	\$ 150.00
SUBTOTAL WATER DISTRIBUTION SYSTEM					\$ 61,824.00
TOTAL					\$ 113,807.00

(b) Payment. The Contractor shall be entitled to payments of ninety-five percent (95%) of its progress estimated every thirty (30) days during the prosecution of the Work, subject to the Engineer's approval and certification by the City as to said progress and completion of the Work. Five percent (5%) of the total of the Work shall be retained by the City. The City shall release the retainage it holds on any undisputed payment due on the Work within thirty (30) days of substantial completion of Work as part of the regular payment cycle, however, if the contractor or subcontractor is still performing work on the Work, the City shall be entitled to withhold part of the retainage attributable to such until thirty (30) days after such work is completed.

SECTION 6. Maintenance of Improvements. The Contractor shall maintain the completed Work for a period of two (2) years from the date of final completion as determined by the Engineer without cost or expense to the City. Such maintenance of the Work shall be done in compliance with the plans and specifications. [Engineer needs to make sure maintenance is addressed in plans and specifications]

SECTION 7. Bond. Before commencement of the Work, the Contractor shall furnish the following bonds:

(a) A Performance and Maintenance Bond that guarantees the completion of the Work and guarantees maintenance of the Work following Final Completion for a two (2) year period in the amount of One Hundred Thirteen Thousand Eight Hundred Seven Dollars (\$113,807.00), conditioned upon the satisfactory completion of the Work and completion of guaranteed maintenance of the Work.

(b) A Statutory Bond of the State of Kansas in the amount of One Hundred Thirteen Thousand Eight Hundred Seven Dollars (\$113,807.00), conditioned upon the payment of all material and labor bills incurred in the making of the Work.

(c) The Performance and Maintenance Bond and the Statutory Bond shall comply with requirements set forth in the Standard Specifications.

SECTION 8. Arbitration. Notwithstanding anything to the contrary in the Contract Documents, the City shall not be subject to arbitration and any clause relating to arbitration contained in the Contract Documents herein between the parties shall be null and void and either party shall have the right to litigate any dispute in a court of law.

SECTION 9. Assignment. The Contractor, acting herein by and through its authorized agent, hereby conveys, sells, assigns, and transfers to the City all right, title and interest in and to all causes of action it may now or hereafter acquire under the anti-trust laws of the United States and the State of Kansas, relating to the particular product, products or services purchased or acquired by the City pursuant to this Agreement.

SECTION 10. Deferment or Cancellation of Agreement. The Agreement may be deferred or canceled by the City in accordance with the Standard Specifications.

SECTION 11. Contractor Representations. (a) The Contractor has familiarized himself with the nature and extent of the Contract Documents, the Work, the site, locality, and all local conditions and laws and regulations that in any manner may affect cost, progress, performance, or furnishing of the Work.

(b) The Contractor has studied carefully all physical conditions which are identified on the Plans.

(c) The Contractor has the responsibility to satisfy himself as to any explorations, subsurface tests, reports, or investigations of the subsurface or physical conditions at or contiguous to the site as otherwise may affect the cost, progress, performance or furnishing of the Work as the 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.

(d) The Contractor has given the Engineer written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by the Engineer is acceptable to the Contractor.

SECTION 12. Contract Documents. The Contract Documents which comprise the entire Agreement between the City and the Contractor concerning the Work consist of the following:

- (a) this Agreement;
- (b) Construction Plans;
- (c) Proposal Form;
- (d) Performance Bond and Maintenance Bond;
- (e) Statutory Bond.
- (f) The City of Wichita Standard Specifications for Construction of City Projects, 1998 Edition (the "Standard Specifications"), a copy of which is on file with the City Clerk's office of the City; provided that, for purposes of this Agreement, references to "Wichita" in the Standard Specifications shall be replaced with "Maize" and references to addresses in the Standard Specifications that refer to a City of Wichita address shall be replaced with "10100 Grady Avenue, Maize, Kansas, 67101."

SECTION 13. Governing Law. The Contract and Contract Documents shall be governed by the laws of the State of Kansas and jurisdiction and venue for any court case brought under this Contract shall be in a court of law located in Sedgwick County, Kansas.

SECTION 14. Miscellaneous Provisions. (a) If there is a conflict, the terms and conditions in the Standard Specifications shall prevail over terms and conditions of the Agreement; provided, however, "Maize" shall be substituted for "Wichita" wherever "Wichita" appears in the Standard Specifications and "10100 Grady Avenue, Maize, Kansas 67101" shall be substituted for the address set forth in the Standard Specifications that refers to a City of Wichita address.

(b) 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, monies that may become due and monies 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.

(c) The City and the Contractor each bind itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives with respect to all covenants, agreements and obligations contained in the Contract Documents.

(d) Where reference is made in this Agreement to a provision of the General Conditions or another contract document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

(e) The City's representative is:

Richard LaMunyon, City Administrator
City of Maize, Kansas
10100 Grady Avenue
Maize, Kansas 67101

(f) The Contractor's representative is:

Martin Dondlinger, Jr.
Dondlinger Construction
2656 S. Sheridan
Wichita, KS 67217

(g) Neither the City's nor the Contractor's representative shall be changed without ten (10) days written notice to the other party.

IN WITNESS WHEREOF, THIS AGREEMENT is entered into as of the day and year first written above and is executed in at least three (3) original copies, of which one (1) is to be delivered to the Contractor, one (1) to the Engineer for use in the administration of this Agreement, and one (1) to the City.

ATTEST:

CITY OF MAIZE, KANSAS

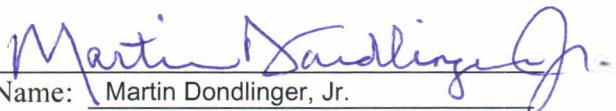
JOCELYN REID, City Clerk

DONNA CLASEN, Mayor

ATTEST:

DONDLINGER CONSTRUCTION

Name: _____
Title: _____


Name: Martin Dondlinger, Jr.
Title: Vice President