

**CITY AND COUNTY OF DENVER
DEPARTMENT OF PARKS AND RECREATION**

CONTRACT NO. 201417551

**On-Call Construction Services Site Development, Landscape, and
Irrigation Construction Services**

CONTRACT

THIS CONTRACT AND AGREEMENT, made between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado, hereinafter referred to as the "City," party of the first part, and **GOODLAND CONSTRUCTION INC., a Colorado corporation**, hereinafter referred to as the "Contractor," party of the second part,

WITNESSETH, Commencing on June 6, 2014, and for at least three (3) days the City advertised a solicitation for qualifications and proposals from qualified general contractors to perform services for furnishing all labor, tools, supplies, equipment, materials, and everything necessary and required for the following:

It is anticipated that the On Call General Contractor's scope of work may entail construction in any area of the city park system (including mountain park system). Program work may include, without limitation, grading, drainage, concrete and asphalt pavements, concrete curbing, landscaping, lawns, and irrigation, and incidental electrical, plumbing (utility), and concrete/aggregate paving materials testing, depending on the scope of the Project.

WHEREAS, proposals pursuant to said advertisement have been reviewed, evaluated and ranked by a selection committee and a recommendation was made to the Manager of Parks & Recreation, who has recommended that a Contract for said work be made and entered into with the above named Contractor, and

WHEREAS, said Contractor is now willing, able and has the present capacity to perform all of said work in accordance with this Construction Contract, said advertisement and the referenced selection documents.

NOW THEREFORE, in consideration of the compensation to be paid the Contractor, the mutual agreements hereinafter contained, and subject to the terms hereinafter stated, it is mutually agreed as follows:

1. CONTRACT DOCUMENTS

It is agreed by the parties hereto that the following list of documents, instruments, technical specifications, plans, drawings and other materials which are attached hereto and bound herewith, incorporated herein by reference or otherwise referenced in these documents constitute and shall be referred to either as the "Contract Documents" or the "Contract," and all of said documents,

instruments, technical specifications, Plans, Drawings and other materials taken together as a whole constitute the Contract between the parties hereto, and they are as fully a part of this agreement as if they were set out verbatim and in full herein:

Notice of Availability of Requests for Proposals
Requests for Proposals
Contractor Proposal
Commitment to M/WBE Participation
Article III, Divisions 1, 2, and 3 of Chapter 28, D.R.M.C.
Addenda (as applicable)
Equal Employment Opportunity Provisions (Appendix A and Appendix F)
Contract Form
General Contract Conditions (incorporated by reference only)
Special Contract Conditions
Notice to Apparent Successful Proposer
ACORD Certificate of Insurance
**Performance and Payment Bond*
**Project Proposal Solicitation*
**Project Bid Form for Solicitation*
**Work Order*
**Work Order Notice to Proceed*
**Work Order Change Orders (as applicable)*
**Work Order Certificate of Substantial Completion*
**Work Order Certificate of Final Acceptance*
**Work Order Certificate of Contract Release*
**Contractor's Work Order Certification of Payment Form*
**Work Order Final/Partial Lien Release Form*
Federal Requirements (as applicable)
Prevailing Wage Rate Schedule(s)
Technical Specifications (as applicable)
Work Order Contract Drawings (as applicable)
Work Order Scope of Work (as applicable)
Work Order Accepted Shop Drawings (as applicable)

*Forms attached to Special Conditions

2. SCOPE OF WORK

This Contract contemplates performance of construction services by the Contractor on a variety of, as yet to be identified, City construction Projects on an "as needed" or "on call" basis. Work on any assigned Project may required completion within short time duration or may be of an emergency or time sensitive nature and prompt turnaround of Projects will be required. As such the Contractor shall have all necessary resources available, on an as-needed basis, to complete each such Project when directed by the City during the Term of the Contract, in accordance with the terms and conditions of this Contract. The Contractor agrees to price all Work described in any Proposal Pricing Request issued hereunder, in accordance with the prices for covered items and terms and conditions contained herein and further agrees to and shall furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to perform and complete all of the Work described in any Work Order issued by the City in accordance with the terms and conditions set forth herein.

3. TERMS OF PERFORMANCE

For any Project Proposal Solicitation submitted to the Contractor by the City for pricing, the Contractor agrees to review and, in good faith, submit comprehensive prices for each such Request within fourteen (14) consecutive calendar days of the issuance of such Request. In the event the City elects, at its sole discretion, to issue a Work Order pursuant to such a Request, the Contractor agrees to undertake the performance of all work described or referenced in the Project Bid Form Solicitation and Work Order and all other work necessary to complete the project in accordance with all plans and specifications within ten (10) consecutive calendar days of the issuance of a Notice to Proceed for the referenced Work Order. The Contractor agrees to satisfactorily perform and complete all Work or effort required to complete the scope of work or project described in each issued Work Order within the period of performance specified in the Work Order and Notice to Proceed, plus such extensions of time as may be granted by the Manager in accordance with the provision of the General Contract Conditions and Special Contract Conditions incorporated herein.

4. TERMS OF PAYMENT

The City agrees to pay the Contractor for the performance of all of the Work required under each authorized Work Order, in accordance with the provisions of the General Contract Conditions and any applicable Special Contract Conditions. In no event, however, shall the total amount of compensation paid to the Contractor by the City exceed the maximum contract amount specified herein.

5. NO DISCRIMINATION IN EMPLOYMENT

In connection with the performance of the Work under this Contract, the Contractor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and the Contractor further agrees to insert the foregoing provision in all subcontracts hereunder.

6. COMPLIANCE WITH M/WBE REQUIREMENT

This Construction Contract is subject to all applicable provisions of Divisions 1 and 3 of Article III, of Chapter 28, Denver Revised Municipal Code (D.R.M.C.), designated as Sections 28-31 – 29-36 and 28-52 – 28-90 D.R.M.C. and referred to in this Contract as the “M/WBE Ordinance”. In accordance with the requirements of the M/WBE Ordinance, the Contractor is committed to, at a minimum, meet the participation goal of **eleven percent (11%)** established for this Project utilizing properly certified M/WBE subcontractors and suppliers. In addition to the applicable provisions of the M/WBE Ordinance, the Contractor agrees, as an express condition of its performance hereunder, to comply with the requirements of any approved Division of Small Business Opportunity Compliance Plan (attached and incorporated herein as Exhibit B). Such plan shall, at a minimum, include a narrative regarding compliance with the goal; a list of committed M/WBE participants along with dollar and percent participation for each evidencing compliance with the overall goal, and fully executed letters of intent for each listed participant, all in a form satisfactory to the City. Without limiting the general applicability of the foregoing, the Contractor acknowledges its continuing duty, pursuant to Sections 28-72, 28-73 and 28-75 DRMC and the M/WBE Program, to meet and maintain throughout the duration of this Construction Contract its participation and compliance commitments and to ensure that all Subcontractors subject to the M/WBE Ordinance or the M/WBE Program also maintain such commitments and compliance. Failure to comply with these requirements may result, at the discretion of the Director of the Division of Small Business Opportunity (“DSBO”), in the imposition of sanctions against the Contractor in accordance with Section 28-77, DRMC. Nothing contained in this Paragraph or in the referenced City ordinance shall negate the City’s

right to prior approval of Subcontractors, or substitutes therefore, under this Construction Contract.

7. WAGE RATE REQUIREMENTS

In performance of all Work hereunder, the Contractor agrees to comply with and be bound by all requirements and conditions of the City's Payment of Prevailing Wages Ordinance, Sections 20-76 through 20-79, D.R.M.C. and any determinations made by the City pursuant thereto.

8. APPLICABILITY OF LAWS

The Agreement between the Contractor and the City shall be deemed to have been made in the City and County of Denver, State of Colorado and shall be subject to, governed by, and interpreted and construed by or in accordance with the laws of the State of Colorado and the Charter, Revised Municipal Code, Rules, Regulations, Executive Orders and fiscal rules of the City. As such, the Contractor shall at all times comply with the provisions of the Charter, Revised Municipal Code, Rules, Regulations, Executive Orders and fiscal rules of the City, and those State of Colorado and Federal Laws, Rules and Regulations, which in any manner limit, control or apply to the actions or operations of the Contractor, any subcontractors, employees, agents or servants of the Contractor engaged in the Work or affecting the materials and equipment used in the performance of the Work, as the same may be, from time to time, promulgated, revised or amended. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference.

9. APPROPRIATION

The amount of money, which has been appropriated and encumbered for the purpose of this contract, to date, is equal to or in excess of the Contract Amount. The Manager, upon reasonable written request, will advise the Contractor in writing of the total amount of appropriated and encumbered funds, which remain available for payment for all Work under the Contract.

The issuance of any change order or other form or order or directive by the City which would cause the aggregate payable under the contract to exceed the amount appropriated for the contract is expressly prohibited. In no event shall the issuance of any change order or other form of order or directive by the City be considered valid or binding if it requires additional compensable work to be performed, which work will cause the aggregate amount available under the Contract to exceed the amount appropriated and encumbered for this Contract, unless and until such time as the Contractor has been advised in writing by the Manager that a lawful appropriation, sufficient to cover the entire cost of such additional work, has been made.

It shall be the responsibility of the Contractor to verify that the amounts already appropriated for this Contract are sufficient to cover the entire cost of such work, and any work undertaken or performed in excess of the amount appropriated is undertaken or performed in violation of the terms of this contract, without the proper authorization for such work, and at the Contractor's own risk.

10. APPROVALS

In the event this Contract calls for the payment by the City of five hundred thousand dollars (\$500,000.00) or more, approval by the City Council of the City and County of Denver, acting by ordinance, in accordance with Section 3.2.6 of the Charter of the City and County of Denver, is and shall be an express condition precedent to the lawful and binding execution and effect and performance of this contract.

11. ASSIGNMENT

The Contractor shall not assign any of its rights, benefits, obligations or duties under this Contract except upon the prior written consent and approval of the Manager to such assignment.

12. DISPUTES RESOLUTION PROCESS

It is the express intention of the parties to this Contract that all disputes of any nature whatsoever regarding the Contract including, but not limited to, any claims for compensation or damages arising out of breach or default under this Contract, shall be resolved by administrative hearing pursuant to the provisions of Section 56-106, D.R.M.C., or, as applicable, Section 28-33 D.R.M.C. for Minority and Woman Business Enterprise disputes. The Contractor expressly agrees that this dispute resolution process is the only dispute resolution mechanism that will be recognized by the parties for any claims put forward by the Contractor, notwithstanding any other claimed theory of entitlement on the part of the Contractor or its subcontractors or suppliers.

13. CONTRACT BINDING

It is agreed that this Contract shall be binding on and inure to the benefit of the parties hereto, their heirs, executors, administrators, assigns and successors.

14. PARAGRAPH HEADINGS

The captions and headings set forth herein are for convenience of reference only and shall not be construed so as to define or limit the terms and provisions hereof.

15. SEVERABILITY

It is understood and agreed by the parties hereto that, if any part, term, or provision of this Contract, except for the provisions of this Contract requiring prior appropriation and limiting the total amount to be paid by the City, is by the courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular part, term or provision held to be invalid.

16. MAXIMUM CONTRACT AMOUNT

Each Project will be assigned and authorized separately by Work Order and the maximum liability of the City for any one Project shall not exceed the sum of **Four Hundred Thousand Dollars (\$400,000.00)**, including all authorized Work Order changes. The maximum amount to be paid by the City to the Contractor for satisfactory completion of all Work Orders authorized by the City and performed by the Contractor under this Contract shall in no event exceed the sum of **TWO MILLION DOLLARS AND NO CENTS (\$2,000,000.00)**, unless this Contract is modified to increase said amount by a duly authorized, written contract amendment mutually agreeable to and executed by the parties hereto.

17. TERM

The term of this agreement shall be from **August 4, 2014**, through **August 4, 2016**. In no event, however, shall the Contractor's performance under this Agreement, including the one (1) possible extension, exceed a three (3) year period ending on month and day of the execution of this Agreement. In addition, nothing contained herein shall obligate the City to extend the Agreement beyond the initial term. If the term of any Work Order extends beyond the Term, this Agreement shall remain in full force and effect but only as to such Work Order, and only through the end of the Work Order's term, as may be extended by Change Order to such Work Order.

18. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS

Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

CITY AND COUNTY OF DENVER
Department of Aviation
Department of Public Works

Standard Specifications For Construction

General Contract Conditions

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**CITY AND COUNTY OF DENVER
DEPARTMENT OF PARKS AND RECREATION**

SPECIAL CONTRACT CONDITIONS

SC-1 CONSTRUCTION SPECIFICATIONS

Except as amended herein or in the attached Technical Specifications, all Work performed under the terms of this Contract shall be governed by the applicable provisions of the following latest editions:

City and County of Denver:

Standard Specifications for Construction, GENERAL CONTRACT CONDITIONS, (The Index for which is bound herein and commonly referred to as the "Yellow Book") 2011 Edition)

Transportation Standards and Details for the Engineering Division

City and County of Denver Traffic Standard Drawings

Public Works Wastewater Capital Projects Management Standard Construction Specifications.

Colorado Department of Transportation:

*Standard Specifications for Road and Bridge Construction
(Sections 200 through 700 of the 2011 Edition)*

Federal Highway Administration:

Manual on Uniform Traffic Control Devices for Streets & Highways (MUTCD)

Building & Fire Codes:

Building Code of the City and County of Denver

The building code for the City and County of Denver is based on the 2011 National Electrical Code, NFPA code 72 (National Fire Protection Association) and the 2009 Series of I-Codes, City and County of Denver Amendments 2009.

The aforementioned City and County of Denver documents are available for review at the Capital Projects Management Office, 201 W. Colfax Ave., Dept. 506, (5th floor), Denver, CO 80202.

The *Standard Specifications for Construction, GENERAL CONTRACT CONDITIONS* is available at:

http://www.denvergov.org/dpw_contract_admin/ContractAdministration/ContractorReferenceDocuments/tabid/440535/Default.aspx.

Transportation Standards and Details for the Engineering Division and the Wastewater Management Division – *Standard Detail Drawings*, are available at <http://www.denvergov.org>.

The “*Colorado Department of Transportation Standard Specifications for Road and Bridge Construction*” is available for review on CDOT’s website at <http://www.coloradodot.info/> and can be purchased from the Colorado Department of Transportation.

The *Manual on Uniform Traffic Control Devices for Streets & Highways* is available for review at the Federal Highway Administration Website at: www.fhwa.dot.gov, The FHWA website also contains purchasing information.

SC-2 CITY DELEGATION OF AUTHORITY

With reference to General Contract Condition 109, DEPUTY MANAGER, General Contract Condition 203 DEPARTMENT OF PUBLIC WORKS, and General Contract Condition 212, CITY'S CONTRACT ADMINISTRATION LINE OF AUTHORITY, the Manager hereby designates the City Engineer as the City official responsible for those certain actions and decisions designated as the responsibility of the Deputy Manager under the General Conditions and delegates to the City Engineer the authority necessary to undertake those responsibilities under this Contract. The City Engineer shall have supervisory responsibility over the Project Manager.

SC-3 LIQUIDATED DAMAGES

Should the Contractor fail to complete any Work Order within the Contract Time allocated in that Work Order, the Contractor shall become liable to the City and County of Denver for liquidated damages, and not as a penalty, **at the liquidated damages rate specified in that Work Order**, for each consecutive calendar day that the Contractor exceeds the period of performance specified in the Work Order, all in accordance with the provisions of General Contract Condition 602.

If the Contract fails to commence work within ten (10) consecutive calendar days of the date of issuance of a Notice to Proceed for a referenced Work Order, the Contractor shall become liable to the City and County of Denver for liquidated damages, and not as a penalty, at the liquidated damages rate specified in the fully executed Work Order, for each consecutive calendar day after the expiration of the initial ten (10) day period after issuance of a Notice to Proceed that the contractor fails to commence Work on a fully executed Work Order issued by the City, all in accordance with provisions of General Contract Condition 602.

Representative hourly rates for the City administrative costs described in General Contract Condition 602.2 shall be as follows for this Project:

Project Manager	\$69 per hour
Project Engineer	\$63 per hour
Inspector	\$49 per hour
Surveying, if necessary	\$100 per hour

SC-4 SUBCONTRACTS

In accordance with General Contract Condition 501, SUBCONTRACTS, no limit shall apply to that percentage of the Work which may be sublet providing that the subcontractors receive prior approval in accordance with General Contract Condition 502, SUBCONTRACTOR ACCEPTANCE.

SC-5 BUILDING INSPECTION DIVISION PLAN REVIEW FEES

GC-317 of the General Contract Conditions shall apply to this Contract as supplemental by the following:

In addition to all permit and license fees required by GC-317, the Contractor is required to pay to the Building Inspection Division all plan review fees which may come due as a percentage of the Building Permit Fee in accordance with Chapter 1, Section 138.1 of the Denver Amendments to the Uniform Building Code (2009). For additional plan review fees that may be due as a result of the requirements of Denver Amendments Table 1-C footnote 4, the Contractor shall be entitled to compensation for the actual cost of all such fees paid, without any additional mark up, by execution of a change order in accordance with General Condition 1101.

SC-6 CONTRACT FORMS

In accordance with the terms and conditions of the Contract Documents, the City requires the use of certain form documents in complying with or satisfying various obligations, notifications and conditions in contracting with the City or performing Work hereunder. These form documents are referenced by title throughout the Contract Documents for mandatory use as directed. The following listed and attached forms shall be detached and utilized in accordance with the Contract Documents:

1. Notice to Successful Proposer (for Contract only)
2. Certificate of Insurance (for Contract only)
3. Notice to Proceed
4. Final Receipt

SC-7 WAGE RATE SCHEDULE

General Contract Title 10 shall be amended by adding the following:

All work that has specialized skills or that has safety concerns shall be performed by the appropriate level tradesman including, but not limited to, work on energized, or potentially energized, electrical circuits until the circuit has been positively identified as having been de-energized; work on pressurized piping; work in potable waterlines; shoring and scaffolding; work involving handling refrigerants and hazardous materials; heavy equipment operation and work involving asbestos. Work not involving energized circuits, pressurized piping, etc. may be performed by personnel in demolition laborer classification.

SC-8 CONSTRUCTION INSPECTION BY THE CITY

General Condition 1701, CONSTRUCTION INSPECTION BY THE CITY, is modified as follows:

1702.1 Persons who are employees of the City or who are under contract to the City or the City as lessee will be assigned to inspect and test the Work. These persons may perform any tests and observe the Work to determine whether or not designs, materials used, manufacturing and construction processes and methods applied, and equipment installed satisfy the requirements of the drawings and specifications, accepted Shop Drawings, Product Data and Samples, and the General Contractor's warranties and guarantees. The General Contractor shall permit these inspectors unlimited access to the Work and provide means of safe access to the Work, which cost shall be included as a Cost of the Work without any increase to the Guaranteed Maximum Price. In addition, General Contractor shall provide whatever access and means of access are needed to off-site facilities used to store or manufacture materials and equipment to be incorporated into the Work and shall respond to any other reasonable request to further the inspector's ability to observe or complete any tests. Such inspections shall not relieve the General Contractor of any of its quality control responsibilities or any other obligations under the Contract. All inspections and all tests conducted by the City are for the convenience and benefit of the City. These inspections and tests do not constitute acceptance of the materials or Work tested or inspected, and the City may reject or accept any Work or materials at any time prior to the inspections pursuant to G.C. 2002, whether or not previous inspections or tests were conducted by the inspector or a City representative.

.2 Building Inspections will perform building code compliance inspections for structures designed for human occupancy. It is the General Contractor's responsibility to schedule and obtain these inspections. If a code compliance inspection results in identification of a condition which will be at variance to the Contract Documents, the General Contractor shall immediately notify the Project Manager and confirm such notification with formal correspondence no later than forty-eight (48) hours after the occurrence.

.3 When any unit of government or political subdivision, utility or Railroad Corporation is to pay a portion of the cost of the Work, its respective representatives shall have the right to inspect the Work. This inspection shall not make any unit of government or political subdivision, utility or Railroad Corporation a party to the Contract, and shall not interfere with the rights of either party.

SC-9 DISPOSAL OF NON-HAZARDOUS WASTE AT DADS

In accordance with the Landfill Agreement made between the City and Waste Management of Colorado, Inc., bidders will be required to haul dedicated loads (non-hazardous entire loads of waste) to the Denver-Arapahoe Disposal Site (“DADS”) for disposal. DADS is located at Highway 30 and Hampden Avenue in Arapahoe County, Colorado. The City will pay all fees associated with such disposal but the bidder shall be responsible for the costs of transporting the loads. Non-hazardous waste is defined as those substances and materials not defined or classified as hazardous by the Colorado Hazardous Waste Commission pursuant to C.R.S. §25-15-207, as amended from time to time, and includes construction debris, soil and asbestos. Bidders shall not use Gun Club Road between I-70 and Mississippi Avenue as a means of access to DADS.

SC-10 PROHIBITION ON USE OF CCA-TREATED WOOD PRODUCTS

The use of any wood products pressure-treated with chromated copper arsenate (CCA) is prohibited. Examples of CCA-treated wood products include wood used in play structures, decks, picnic tables, landscaping timbers, fencing, patios, walkways and boardwalks.

SC-11 WAIVER OF: PART 8 OF ARTICLE 20 OF TITLE 13, COLORADO REVISED STATUTES

The Contractor specifically waives all the provisions of Chapter 8 of Article 20 of Title 13, Colorado Revised Statutes regarding defects in the Work under this Construction Contract.

SC-12 PERIOD OF PERFORMANCE

The term or duration of this Agreement shall be two (2) years from the date of execution of this Agreement, unless extended by Contract amendment in accordance with the provisions of these Special Contract Conditions. With respect to any Work that is authorized by a Work Order issued prior to the contract completion date, but not completed by that date, the City shall have the option to terminate the Work in progress and pay only for that portion of the Work satisfactorily completed within the period of performance specified herein or to provide for, in writing, a limited extension of the contract completion date to complete the remaining Work at the prices agreed upon in the previously issued Work Order(s).

For each Proposal Pricing Request submitted to the Contractor for pricing, the Contractor agrees to review and price the Proposal Request within fourteen (14) consecutive calendar days of the date of such Proposal Request. In the event a Work Order is issued pursuant to a priced Proposal Request, the Contractor agrees to undertake the performance of the specified Work within ten (10) consecutive calendar days of the date of issuance of a Notice to Proceed for the referenced Work Order. The Contractor agrees to satisfactorily complete all work referenced in each Work Order within the agreed upon period of performance set forth in such Work Order or Notice to Proceed, plus such extension or extensions granted by the Manager in accordance with the provisions for Work Order Changes. For purposes of this Contract, “Contract Time”, as used in the General Contract Conditions, shall mean the period of performance specified in each issued Work Order and shall run from the date of issuance of a Work Order Notice to Proceed to the date of Work Order Final Completion. Work Order Substantial Completion shall occur prior to Final Completion of any Work Order.

SC-13 PERFORMANCE OF WORK, AS DIRECTED BY THE CITY

Titles 1 and 3 of the General Contract Conditions shall generally apply to this Contract as supplemental by the following:

As described elsewhere in the Contract Documents, this Contract contemplates performance of construction services Work by the Contractor on a variety of, as yet to be identified, City construction Projects on an “as needed” or “on call” basis. Under the terms of this Contract, the City, in its sole discretion, will determine both the extent and nature of each scope of work or project it requires the

Contractor to perform or complete and the specific terms and conditions under which it requires the Contractor to perform or complete this scope or project. Nothing contained herein, however, shall be construed by the Contractor as promise or guarantee of any minimum amount of Work or compensation hereunder.

In the event the City elects to direct the Contractor to perform work hereunder, the process by which both a specific work scope or project and specific performance terms or conditions shall be established prior to commencement of such work shall be as follows:

1. The City will identify a work scope or project for the Contractor to perform or complete and will issue to the Contractor a Project Proposal Solicitation (in the format provided herein) containing, at a minimum, a detailed scope or project description, drawings, plans, specifications, the specific terms and conditions under which such project or scope must be performed and other pertinent materials.
2. In accordance with the terms and conditions of this Contract, the Contractor will review each Project Proposal Solicitation and provide a price (in the Project Bid Form Worksheet format provided herein) and a project schedule responsive to each Project Proposal Solicitation Bid Form. In preparing its price, the Contractor shall include all bid unit prices for any required or specified work that corresponds with any unit price description (covered work). All other scope or project work elements required to complete the project or otherwise fully perform the described scope shall be considered uncovered work and priced using the format and cost categories for labor, material and equipment specified herein.
3. Upon receipt of the completed and fully executed Project Bid Form Worksheet from the Contractor, negotiation of uncovered work prices or sums and agreement on the Total Price (the total of covered and uncovered prices), schedule and any other specific requirements for the requested scope of Work, a Work Order (in the format provided for herein) for the Work will be issued by the City authorizing the Work to proceed under the terms and conditions set forth in the Work Order and attachments. This Order shall also encumber funds for the performance of such Work Order.
4. Upon receipt of the fully executed Work Order and a Work Order Notice to Proceed (in the format provided for herein), the Contractor shall have ten (10) consecutive calendar days to commence the performance.
5. With respect to each issued Work Order, the contractor shall furnish all tools, labor, supplies, equipment, materials and everything necessary to perform and complete the described scope of work or project contained in the Work Order.
6. During the course of performance of the Work authorized by each Work Order, the Contractor shall submit regular pay applications, in accordance with provisions of these Special Contract Conditions. The City shall issue payment for all satisfactorily completed Work authorized by Work Order, in accordance with the terms and conditions of the Contract Documents.
7. If additions, deletions or other modifications to the authorized Work scope or other terms or conditions are required or desired in the sole discretion of the City under a particular Work Order, a Work Order Change will be issued based on pricing prepared in the same manner as a Proposal Pricing Request and under the terms and conditions for issuance of a Change Order under the General Contract Conditions. The Work Order Change will identify any increase or decrease in the cost, change in the period of performance and any other modifications to the performance requirements for that particular Work Order.
8. Upon satisfactory completion, a Certificate of Substantial Completion, Certificate of Final Acceptance, and Certificate of Contract release will be issued. Upon completion of these documents a Final Receipt for that Work Order will be issued, and final payment for the Work Order will be made.
9. Under this Contract, more than one Work Order may be issued and performed by the Contractor at the same time.

Given that under this Contract, the Contractor is committed to make available to the City and, as from time to time directed by the City under the process described, furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to do, perform and complete each Work Order issued in accordance with the terms and conditions set forth

herein, certain provisions, terms and conditions included in the General Contract Conditions either will not apply or will apply on a Work Order by Work Order basis rather than an overall Contract basis.

As such, the term Work, as issued in the Contract Documents shall mean the Contractor's equipment and physical plant, labor, management, administration, supervision, materials and supplies, and all other things needed to assemble, manufacture, complete or perform the various components into finished improvements pursuant to any Work Order issued pursuant to the Contract Documents. Unless otherwise specified or clearly inapplicable from the context of a given provision, each and every General Contract Condition contained or referenced in the Contract Documents shall apply to and control all Work performed hereunder.

SC-14 PERFORMANCE AND PAYMENT BOND

Title 15 of the General Contract Conditions shall generally apply to this Contract as supplemented by the following:

A Performance and Payment Bond, in the form included in these Contract Documents, shall be furnished covering all Work Orders performed hereunder. An initial bond in the amount of Two Million Dollars (\$2,000,000.00) shall be provided at time of Contract Execution. In the event the dollar amount of Work to be performed exceeds this amount on any given Work Order, the Contractor shall provide properly executed bond Change Riders, also in the form included in these Contract Documents, in the amount(s) of any additional Work Orders issued hereunder.

SC-15 PROPOSAL REQUEST PRICING

Title 9 of the General Contract Conditions shall generally apply to this Contract as supplemented by the following:

A. In order to initiate Work hereunder, the City must prepare and issue a Proposal Pricing Request, in the form included in these Contract Documents. For each Proposal Pricing Request submitted to the Contractor for pricing, the Contractor shall price the request and submit a completed Proposal Request Pricing Worksheet, in the form included in these Contract Documents and complying with the terms and conditions set forth on the form, to the Project Manager, with all supporting materials, within fourteen (14) consecutive calendar days of the date of issuance of such Proposal Pricing Request. The Contractor shall price each request and prepare the appropriate documentation in accordance with the requirements stated herein.

B. **Prices** – The City's policy is to award Work Orders by a mini-bid process. If a mini-bid process is used, Contractor may submit lump sum prices. Upon request Contractor will provide detailed pricing information. If the City determines that a mini-bid process is not appropriate, the Contractor may then provide detailed pricing information, reference Proposal Request Pricing Worksheet.

Direct labor costs shall include only the cost associated with the workers who actually perform the Work (including fringe benefits and the Contractor's actual cost for Worker's Compensation, Social Security and Payroll taxes). The costs of supervision, management and field or office overhead costs shall not be included or calculated as direct labor cost. For shop or plant components of the Work, the direct labor cost shall include only those workers who work directly on the item being manufactured or the actual operators of the equipment being used to handle the items being manufactured.

Material costs shall include the direct costs of materials, supplies and equipment incorporated in or consumed by the Work. The costs shall be based on buying the material, supplies and equipment other than small tools, or equipment rental rates without markup or operator, as listed in the appropriate rental rate book currently in use by the Colorado Department of Transportation.

Equipment costs shall be the actual cost to the Contractor of owned and/or rented equipment other than small tools, or equipment rental rates without markup or operator, as listed in the appropriate rental rate book currently in use by the Colorado Department of Transportation.

C. **Markup for Overhead and Profit** – The Contractor shall be entitled to **10%** of markup on the direct cost of the subcontractor’s work, including labor, materials, and equipment. The Contractor shall not apply markup to Special Conditions, markup, or bonds, taxes or insurance. The Contractor, subcontractor or sub-subcontractor who actually performs the Work shall be entitled to a markup of 15% on the actual costs identified in item B, only, above. For terminology and methodology applicable to Work Order pricing, refer to General Contract Conditions (2011 Edition) Titles 9 and 11, Special Conditions 15 through 19, and the Proposal Request Pricing Worksheet forms (attached) of this document. Bonds, insurance and sales tax are to be added **after** markup.

A supervising subcontractor, if any, shall not be entitled to a markup on the actual price charged to the subcontractor by the sub-subcontractor.

The general contractor’s percentage markup on subcontractor work shall be considered to support the full cost of office supervisors and assistants, including all clerical and general office help; review and coordination; estimating; expediting; office equipment and supplies, telephone, fax, conformance to OSHA requirements, safety programs, and all other general contractor company expenses. These percentage markups shall be applied one time only for each Work Order or Work Order Change and shall not pyramid in any way.

D. Bonds, Insurance, Permits and Taxes shall be reimbursed at the actual cost associated with all required bond riders, insurance, permits, licenses, and sales, use or other taxes related to the Work.

E. A Total Price to perform or complete the Work Order, the sum of all covered and uncovered work amount, must be in each Work Order.

F. If it is later determined that the pricing was not correct due to inaccurate or incomplete pricing data by the Contractor or any subcontractor or supplier, the price shall be reduced accordingly and the Work Order cost modified by a Work Order Change.

SC-16 WORK ORDERS

With respect to Each Work Order Issued hereunder, the General Contract Conditions shall generally apply to this Contract as supplemented by the following:

Upon review of any Proposal Request Pricing Worksheet completed by the Contractor pursuant to a Proposal Request, the City may, at its sole discretion, reject the pricing submittal, enter into further negotiations regarding uncovered work prices or may direct that the Work described in the Proposal Request and priced by the Contractor be completed by issuance of a Work Order, in the form included in these Contract Documents to the Contractor. The City reserves the right to issue such a Work Order, at the price and under the terms of the Contractor’s pricing submittal, at any time before the expiration of 120 consecutive calendar days from the date the pricing submittal was received by the City. If no Work Order is issued and the pricing submittal is not rejected within this period, the Contractor’s pricing submittal shall be deemed rejected by the City.

A Work Order shall not issue and no Work for a priced Request shall commence until such time as: The Work Order is executed by the Contractor and all designated City officials; the Contractor has submitted a Payment and Performance bond or Bond Change Rider for the Work satisfactory to the City Attorney; for the Work described in the Proposal Request; and all administrative requirements are met. Until all Work Order issuance requirements are met, the City shall have no obligation to compensate the Contractor for Work performed.

Upon issuance of a Work Order, the Contractor agrees to satisfactorily perform and complete all Work necessary or required to fully perform or otherwise complete the scope of work as described in each issued Work Order or any subsequently issued Work Order Change within the period of performance specified in the Work Order plus such extensions of time as may be granted by the Manager in accordance with the provisions of this Contract.

SC-17 WORK ORDER NOTICE TO PROCEED

GC-302 of the General Contract Conditions shall generally apply to this Contract as supplemented by the following:

Following the issuance of any fully executed Work Order hereunder, a Work Order Notice to Proceed, in the form included in these Contract Documents for that particular Work Order will be issued by the Director. The Contractor agrees to commence the Work in accordance with that particular Work Order within ten (10) consecutive calendar days of the date of the Work Order Notice to Proceed. No Work Order Notice to Proceed will issue and no Work will commence until such time as the Contractor has complied with all administrative requirements for that particular Work Order under SC-15 PERFORMANCE AND PAYMENT BOND. Thereafter, the Contractor shall prosecute the Work to be accomplished under the Work Order at such time and place as the Work Order directs and shall fully complete in every detail all specified Work in accordance with the terms and conditions of the Work Order and the provisions of these General Contract Conditions and Special Contract Conditions.

SC-18 PROGRESS PAYMENTS FOR WORK ORDERS

In accordance with General Contract Condition 902, PAYMENT PROCEDURE, the party(ies) responsible for review of all Pay Applications shall be the Project Manager assigned to each Work Order:

In accordance with General Contract Condition 906, APPLICATIONS FOR PAYMENT, each Application submitted shall include the following:

1. The estimate of Work completed shall be based on the approved schedule of values or unit prices, as applicable, and the percent of the Work complete.
2. Each Application for Payment shall include each and every independent subcontractor's payroll information including pay dates and pay amounts.
3. The Contractor shall also submit to the Auditor and other appropriate officials of the City in a timely fashion, information required by General Contract Condition 1004, REPORTING WAGES PAID.

In accordance with General Contract condition 907, RELEASES AND CONTRACTORS CERTIFICATION OF PAYMENT, Applications for Payment must be accompanied by completed Partial or Final Claim Release Form, as appropriate, from EACH subcontractor and supplier, **AND/OR** the Contractors' Certification of Payment Form. The forms, Final/Partial Release and Certificate of Payment (Subcontractor/Supplier) and the Contractor's Certification of Payment, both of which must be used are as follows:

SC-19 WORK ORDER CHANGES

Title 11 of the General Contract Conditions shall apply to this Contract, on a Work Order by Work Order basis, as supplemented by the following:

In accordance with all terms and conditions provided for standard change orders under Title 11 of the General Contract Conditions, the City may issue Work Order Changes providing for deletions, additions and modifications to the Work under a duly issued Work Order. Work Order Changes must be issued on the Work Order Change Form, in the form included in these Contract Documents.

Mark up for overhead and profit for Work Order Changes shall require completion of the Proposal Request Pricing Worksheet for Contractor and applicable Sub-Contractors.

SC-20 WORK ORDER CLOSE-OUT

Titles 19 and 20 of the General Contract Conditions shall apply to this Contract, on a Work Order by Work Order basis, as supplemented by the following:

Upon Substantial Completion of all Work performed under each Work Order in accordance with the Contract Documents, final close-out for that Work Order shall be made in accordance with the terms and conditions of Title 20 of the General Contract Conditions.

SC-21 CONTRACT CLOSE-OUT

Upon written notification from the City to the Contractor that no further Work Orders shall be issued hereunder and the completion of final close-out for any previously issued Work Orders in accordance with SC-20 WORK ORDER CLOSE-OUT, the Contract shall proceed to final close-out. The Contractor agrees to comply with all applicable Contract close-out procedures and requirements set forth in General Contract Condition 2002. In addition, the Contractor agrees to execute and deliver to the City a Final Receipt in the forms previously referenced and to provide to the City consent of surety covering all Work performed hereunder. Until such time as all Contract close-out procedures are completed and each contract close-out requirement is satisfied, the City shall retain from amounts due the Contractor, in addition to any other withholdings provided for hereunder, a sum not greater than one percent (1%) of the maximum contract amount specified herein.

SC-22 ATTORNEY'S FEES

Colorado Revised Statute 38-26-107 requires that in the event any person or company files a verified statement of amounts due and unpaid in connection with a claim for labor and materials supplied on this project, the City shall withhold from payments to the Contractor sufficient funds to insure the payment of any such claims. Should the City and County of Denver be made a party to any lawsuit to enforce such unpaid claims or any lawsuit arising out of or relating to such withheld funds, the Contractor agrees to pay to the City its costs and a reasonable attorney's fee which cost shall be included as a Cost of the work.

Because the City Attorney Staff does not bill the City for legal services on an hourly basis, the Contractor agrees a reasonable fee shall be computed at the rate of one hundred dollars per hour of City Attorney time.

SC 23 INSURANCE:

General Condition 1601 is hereby deleted in its entirety and replaced with the following:

1. General Conditions. Contactor agrees to secure, at or before the time of execution of this Contract, the following insurance covering all operations, goods, or services provided pursuant to this Contract. Contractor shall keep the required insurance coverage in force at all times during the term of the Contract or any extension thereof and during any warranty period, and for eight (8) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as "A" VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the above described policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Contract and shall reference the City contract number listed on the signature page of this Contract. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) Days prior. If such written notice is unavailable from the insurer, contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested, within three (3)

business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the Contractor. The insurance coverages specified in this contract are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Contract.

2. Proof of Insurance. Contractor shall provide a copy of this Contract to its insurance agent or broker. Contractor may not commence services or work relating to the Contract prior to placement of coverage. Contractor certifies that the certificate of insurance attached as **Exhibit C**, preferable an ACORD certificate, complies with all insurance requirements of this Contract. The City requests that the City's contract number be referenced on the Certificate. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Contract shall not act as a waiver of Contractor's breach of this Contract or of any of the City's rights or remedies under the Contract. The City's Risk Management Office may require additional proof of insurance including but not limited to policies and endorsements.
3. Additional Insureds. For Commercial General Liability, Auto Liability, and Contractors Pollution Liability, Contractor and subcontractor's insurer(s) shall name the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
4. Waiver of Subrogation. For all coverages, Contractor's insurer shall waive subrogation rights against the City.
5. Subcontractors. All subcontractors (including independent contractors, suppliers or other entities providing goods or services required by this Contract) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the Contractor. Contractor shall include all such subcontractors as additional insured under its policies (with the exception of Workers' Compensation) or shall ensure that all such subcontractors maintain the required coverages. Contractor agrees to provide proof of insurance for all such subcontractors upon request by the City.
6. Workers' Compensation/Employer's Liability Insurance. Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000.00 for each bodily injury occurrence claim, \$100,000.00 for each bodily injury caused by disease claim, and \$500,000.00 aggregate for all bodily injuries caused by disease claims. Contractor expressly represents to the City, as a material representation upon which the City is relying in entering into this contract, that none of the Contractor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Contract, and that any such rejections previously effected, have been revoked as of the date Contractor executes this contract.
7. Commercial General Liability: Contractor shall maintain a Commercial General Liability insurance policy with limits of \$1,000,000.00 for each occurrence claim, \$1,000,000.00 for each personal and advertising injury claim, and \$2,000,000.00 products and completed operations aggregate, and \$2,000,000 policy aggregate.
8. Business Automobile Liability. Contractor shall maintain Business Automobile Liability with limits of \$1,000,000.00 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Contract.. If transporting hazardous material or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy. Transportation coverage under a Contractors Pollution Liability policy shall be an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.
9. Builder's Risk or Installation Floater: Contractor shall maintain limits equal to the completed value of the project. Coverage shall be written on an all risk, replacement cost basis including coverage for soft costs, flood and earth movement, if in a flood or quake zone, and, if applicable, equipment breakdown including testing. Contractor is responsible for payment of all policy

deductibles. The City and County of Denver, Contractor, and sub-contractors shall be named insureds under the policy. Policy shall remain in force until acceptance of the project by the City.

10. Additional Requirements. For Commercial General Liability, the policy must provide the following:

1. Liability assumed under an Insured Contract;
2. A severability of interests (separation of insured/cross liability) provision;
3. A provision that coverage is primary;
4. A provision that coverage is non-contributory with other coverage or self-insurance maintained by the City;
5. For claims-made coverages:
 - (i) The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the City, whichever is earlier.
6. Contractor shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such occurrence limits and furnish a new certificate of insurance showing such coverage is in force.



City and County of Denver Contractor Certificate of Insurance

Contractors, Please provide this sample certificate to your insurance agent or broker.
Certificates must mirror this sample.

Note the additional insured special instructions below.

Contractor's Legal Name →

Types of Insurance required in contract →

If other Insurance (Builders' Risk, Professional Liability, for example) is required, please list it here →

Only project/contract info and additional insured in this box →

Verify correct address & contact information →

ACORD. CERTIFICATE OF LIABILITY INSURANCE		Class	Rate	City and County of Denver	
INSURER Contractor's Insurance Broker Name Insurance Broker's Address Insurance Broker's Phone Number		THE CITY AND COUNTY OF DENVER ONLY AND COVERED BY POLICY NUMBER FOR THE POLICY NUMBER POLICY. THE CERTIFICATE DOES NOT DEFINE, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY BELOW.			
INSURED Contractor's Legal Name Contractor's Address		INSURANCE AFFORDING COVERAGE Coverage: General Liability Coverage: Auto Liability Coverage: Workers Compensation Coverage: Professional Liability			
COVERAGE THE POLICY OF INSURANCE COVERED BY THIS CERTIFICATE IS SUBJECT TO THE POLICY TERMS AND CONDITIONS. THE POLICY NUMBER AND CLASSIFICATION ARE LISTED IN THE TABLE BELOW.					
CLASSIFICATION	DESCRIPTION	POLICY NUMBER	POLICY START DATE	POLICY END DATE	AMOUNT
A	General Liability	123456789	1/1/2024	12/31/2024	1,000,000
B	Auto Liability	987654321	1/1/2024	12/31/2024	1,000,000
C	Workers' Comp	456789012	1/1/2024	12/31/2024	100,000
D	Professional Liability	321098765	1/1/2024	12/31/2024	1,000,000
DESCRIPTION OF WORK The City and County of Denver, its elected and appointed officials, employees and volunteers are named as additional insured with regards to the commercial general liability policy and the business auto liability policy.					
CITY AND COUNTY OF DENVER City and County of Denver Department of Public Works 201 West Colfax, Dept. 611 Denver, Colorado 80202		COUNTERPARTY Signature: _____ Title: _____			

*The 'description' box must only contain project/contract detail such as the contract name and number and "The City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured" with regards to the appropriate policies ONLY.

QUALIFYING LANGUAGE SUCH AS "SUBJECT TO THE TERMS AND CONDITIONS OF THE POLICY" CAN NOT BE ADDED.

DO NOT ATTACH ADDITIONAL INSURED ENDORSEMENTS

If any additional language is added to this section, the certificate will be rejected. If the requirements can not be complied with, we reserve the option to move on to another contractor

SIGNATURE PAGE TO FOLLOW

REMAINDER OF PAGE INTENTIONALLY BLANK

Attached Contracts

1. General Contract Conditions (Incorporated by reference only)
2. Project Proposal Solicitation Form
3. Project Bid Form & Sample
4. Work Order Form
5. Work Order Notice to Proceed
6. Work Order Change Form
7. Work Order Certificate Of Substantial Completion
8. Work Order Certificate of Final Acceptance
9. Work Order Certificate of Contract Release
10. Performance and Payment Bond
11. Final/Partial Lien Release Form
12. Certification of Payment Form and Instruction Form
13. Certificate of Insurance Form

EXHIBIT

A

**GENERAL
CONTRACT
CONDITIONS**

**(INCORPORATED BY REFERENCE
ONLY)**

PROJECT PROPOSAL SOLICITATION
SOLICITATION NO. ____

On Call Landscape Improvements and Irrigation Construction Services Program

DEPARTMENT OF PARKS AND RECREATION

Project Number: _____ Contract Control Number OC _____

CONTRACTOR:

PROJECT NAME:

VENDOR ID:

PROJECT ID:

PROJECT MANAGER/PHONE :

FUND / ORG:

DATE:

SOLICITATION:

As provided for in Section 1.3.1 of the Contract, the Contractor is directed to submit an itemized proposal, stated as a lump sum price on the Project Bid Form provided. to satisfactorily complete and timely perform the Scope of Work described in:

- (1) this Project Proposal Solicitation No. ____;
- (2) any Project Specific Drawings;
- (3) any Project Specific Technical Specifications; and
- (4) any other pertinent materials,

The "Proposal Documents" are attached hereto and incorporated herein by this reference.

In addition, the proposal shall comply with all terms and conditions of the Contract Documents; shall include all labor, tools, supplies, equipment, materials, effort and everything necessary for and required to do, satisfactorily perform and timely complete all of the Project Work described, drawn, set forth, shown and included in this Solicitation; and shall include and identify all of the M/WBE participation (as a percentage of work).

PROPOSAL SCHEDULE:

Project Bid Forms will be Received by mail or hand delivery at:

Wellington E. Webb Municipal Office Building
201 West Colfax, Department #613
Denver, Colorado 80202
Attn: Parks and Recreation Planning Division

Or

By e-mail to:

[Insert email address] (Project Manager) and
nikki.vanravenswaay@denvergov.org

Or

By fax to:

(720) 913-0783

No Later Than:

[_____] P.M., Local Time

[_____], 20__].

Prior to submitting a proposal, the Contractor shall consult with the Project Contact identified below.

PROJECT DESCRIPTION AND ATTACHMENTS:

[Project Manager to provide narrative and list of attachments]

PROJECT CONTACT:

[Project Manager to provide contact information]

PROJECT REQUIREMENTS:

Contract Time: _[PM to Fill in #]_Days (Time to Substantially Complete from Notice to Proceed).

Liquidated Damages Amount: _[PM to Fill in #]_ Days.

Pre-proposal Meeting/Site Visit: _[PM to Fill in]_ (if any).

Other Requirements: [Project Manager to provide all other Project Specific requirements].

MISCELLANEOUS:

As its best interest may appear, the City and County of Denver reserves the right to reject any or all proposals and to waive informalities in proposals.

PROJECT BID FORM

FOR SOLICITATION NO. _____

On Call Landscape Improvements and Irrigation Construction Services Program

DEPARTMENT OF PARKS AND RECREATION

Project Number: _____ / Contract Control Number _____

CONTRACTOR:	PROJECT NAME:
VENDOR ID:	PROJECT ID:
PROJECT MANAGER/PHONE :	FUND / ORG:
DATE:	CONTRACT CONTROL NUMBER:

TO: The Manager of Public Works/Manager of Parks and Recreation
 City and County of Denver
 c/o Parks and Recreation Planning Office
 201 East Colfax Avenue, Department 613
 Denver, Colorado 80202
 ATTN: Contract Administration

The Undersigned Contractor: having thoroughly examined the referenced Project Proposal Solicitation and attached Project specific plans, specifications, and other pertinent materials for the Project, as designated and enumerated in the Project Proposal Solicitation, and any and all addenda thereto; having investigated the location of and conditions affecting the proposed Work; and being acquainted with and fully understanding the extent and character of the Work covered by this Solicitation, and all factors and conditions affecting or which may be affected by the Work, **HEREBY SUBMITS ITS PROPOSAL**, pursuant to the Project Proposal Solicitation, a copy of which is attached, to furnish all labor, tools, supplies, equipment, materials, effort and everything necessary for and required to do, satisfactorily perform and timely complete all of the Project Work described, drawn, set forth, shown and included in the attached Solicitation in full accordance with and conformity to the Contract and all referenced Contract Documents for the lump sum price(s) set forth on this Proposal.

All solicitation materials, plans, specifications, other documents and general Contract Documents, which taken as a whole constitute the Contract Documents for this Project, and which are incorporated herein, by reference, were made available to the Contractor, were received by the Contractor, were examined by the Contractor and form the basis for this Proposal.

Total Proposal Amount of _____ Dollars and _____ Cents (\$_____).

(NOTE: Fill in Proposal Amount in words and figures)

If after receipt and examination of this Proposal, the Manager mails a written Notice of Apparent Low Proposer, addressed to the Contractor, the Undersigned Contractor shall be ready to, and shall, within ____ (__) days after the date of the notice execute the attached form of Work Order for the Project in conformity with this Proposal.

Signed and Submitted by: _____ Title: _____ Date: _____
 on behalf of the above referenced Contractor.

SAMPLE BID FORM

Item No.	Description and Price	Estimated Quantity	Estimated Cost
<u>BID SCHEDULE A</u>			
01010-1A	MOBILIZATION at the unit price of _____ Dollars and _____ Cents (\$ _____) per Lump Sum.	# LS	\$ _____
01500-1A	POT HOLE FOR UTILITY VERIFICATION at the unit price of _____ Dollars and _____ Cents (\$ _____) per Each.	# EA	\$ _____
01500-2A	TRAFFIC CONTROL at the unit price of _____ Dollars and _____ Cents (\$ _____) per Lump Sum.	# LS	\$ _____
02150-1A	TREE PROTECTION FENCE at the unit price of _____ Dollars and _____ Cents (\$ _____) per Linear Foot.	# LF	\$ _____
02200-1A	ADJUST GRADE (CUT DISPOSED OF OFF SITE) at the unit price of _____ Dollars and _____ Cents (\$ _____) per Cubic Yard.	# CY	\$ _____
02232-1A	AGGREGATE BASE COURSE at the unit price of _____ Dollars and _____ Cents (\$ _____) per Cubic Yard.	# CY	\$ _____

WORK/TASK ORDER

PROJECT NAME: XXXXXX

Administered by: PARKS PLANNING, DESIGN AND CONSTRUCTION DEPARTMENT OF PARKS AND RECREATION, 201 W. COLFAX AVE., Dept 613, DENVER, CO 80202, (720) 913-0638, FAX (720) 913-0783

CONTRACTOR/CONSULTANT: XXXX

WORK or TASK / VENDOR ORDER NUMBER: XX /XXXX

OC CONTRACT NO: XXXX

PEOPLESFT CHARTFIELD STRING:

CONTRACT NAME:

(F) (O) (P)

On-Call Landscape Improvements and Irrigation
Construction Services

CONTRACT (PO) NUMBER: TBD

It is hereby mutually agreed that when this WORK/TASK ORDER has been signed by the contracting parties, the following described scope of work shall be executed by the contractor/consultant in accordance with all contract documents and as herein stipulated and agreed:

All work described in the narrative below, summarized on scope table on next page and in Bid/Proposal, dated XXXX^b, 201X and attached as Exhibit A.

The sum, as indicated herein below, constitutes full and complete consideration, payment and satisfaction to the Contractor for the above described scope of work, and the Contractor hereby agrees to make no further claims, demands, or requests of any kind whatsoever for further monies, extensions of time, or other consideration for the above described scope of work to the contract.

THE CONTRACTOR AGREES to furnish all services, material and labor and perform all work/tasks required to complete the above described changes in accordance with requirements for similar work covered by the Work/Task Order, except as otherwise stipulated herein, for the following considerations:

The lump sum of: XXXXXXXX \$ XXXXXX

Work/Task Order Duration: Calendar days XXX days from NTP (or) Completion Date of XXXX

Contractor/Consultant: XXXXXX

Accepted for Contractor/Consultant by: _____ Title _ Date _____

USING AGENCY

I hereby certify that funds are available that will be reserved to pay the Contractor in full for the work to be performed under this WORK/TASK ORDER.

By Using Agency - Administrative or Budget Office Date

APPROVALS

Approved by the Division of Small Business Opportunities Date

Approved by Director of Planning Date

Approved by Project Manager (Parks Dept) Date

Approved by Manager of Parks and Recreation Date

Approved by City Attorney (if Bond rider) Date

COST SUMMARY FOR CONTRACT NO.

Previous Work/Task Orders	\$ Previous
Work/Task Order Change Additions/Deductions	\$ 0.00
Net Prior to this Work/Task Order	\$
This Work/Task Order - <input type="checkbox"/> Add <input type="checkbox"/> Deduct	\$
Revised Contract Amount	\$
Maximum Contract Amount	\$
Amount Available	\$

NOTE: No persons shall authorize or perform any of the above until the Work/Task Order has all signatures and has been distributed.

DISTRIBUTION: Auditor, Contract Administration, Parks and Recreation, City Engineering (PMO), DSBO, and Contractor.

**WORK ORDER
NOTICE TO PROCEED
(SAMPLE)**

Current Date

Name

Company

Street

City/State/Zip

PROJECT NAME: **On-Call Landscape Improvements and Irrigation Construction
Services Program**

PROJECT NUMBER:

CONTRACT NUMBER:

WORK ORDER NUMBER:

You are hereby authorized and directed to proceed on _____, ____, 20__ with the work required to construct the Work Order noted above in accordance with the terms and conditions of your Construction Services Contract with the City and County of Denver. Please submit your construction schedule and other requested administrative documents to the Parks and Recreation Planning Division.

The contractually established Contract Time for this Work Order is _____ () consecutive calendar days, therefore, all work must be complete on or before _____, ____, 20__.

Sincerely,

Gordon Robertson
Director of Planning

cc: Auditor
 Mark Tabor, Parks & Recreation
 Project Manager
 Contract Administration
 DSBO

WORK/TASK ORDER CHANGE

NAME OF PROJECT:

Administered by: PARKS PLANNING, DESIGN AND CONSTRUCTION
 DEPARTMENT OF PARKS AND RECREATION, 201 W. COLFAX AVE., DEPT. 613, DENVER, CO 80202, (720)-913-0638, FAX (720) 913-0783

CONTRACTOR/CONSULTANT: XXXXXXXX
 OC CONTRACT NO.: OCXXXXXXXXXX
 CONTRACT NAME: On-Call Landscape and Irrigation
 Construction Services

WORK OR TASK ORDER / VENDOR ID: XX/XXXXXX
 PEOPLESFT CHARTFIELD STRING:
 (F):XXXXXX (O):7011102 (P) XXXXXXXX
 CONTRACT (PO) NUMBER: XXXXXXXXXXXX

It is hereby mutually agreed that when this WORK/TASK ORDER CHANGE has been signed by the contracting parties, the following described changes shall be executed by the Contractor/Consultant without changing the terms of the Contract except as herein stipulated and agreed:

Modifications to the Work/Task Order as described in the narrative below and summarized in the scope table on next page and as bid/proposal, dated ____ attached as Exhibit A.

The additional sum, as indicated hereinbelow, constitutes full and complete consideration, payment and satisfaction to the Contractor/Consultant for the above described changes to the work order, and the Contractor/Consultant hereby agrees to make no further claims, demands, or requests of any kind whatsoever for further monies, extensions of time, other consideration for the above described changes to the work order.

THE CONTRACTOR/CONSULTANT AGREES to furnish all services, material and labor and perform all work/tasks required to complete the above described changes in accordance with requirements for similar work/tasks covered by the Work/Task Order, except as otherwise stipulated herein, for the following considerations:

Add to the Work/Task Order the sum of: _____ dollars (\$00.00).

(Increase / Decrease) the Work/Task Order Completion Time _____, Calendar days (or)..... Revised Completion Date:

Contractor/Consultant _____

Accepted for Contractor/Consultant by: _____ Title _____ Date _____

WORK/TASK ORDER NO. 23-01 COST SUMMARY

Original Work/Task Order Amount	\$	
Previous Change Order Additions (Deductions)	\$	0.00
SUB-TOTAL	\$	
This Work/Task Order Change - Add <Deduct>	\$	_____
REVISED TOTAL WORK/ TASK ORDER AMOUNT	\$	

COST SUMMARY FOR CONTRACT NO.

Total of All Work/Task Orders Issued	\$	
Previous Work/Task Order Change Additions/Deductions	\$	
Net Prior to this Change	\$	
This Change -- Add <Deduct>	\$	_____
Revised Contract Amount	\$	

USING AGENCY

I hereby certify that funds are available that will be reserved to pay the Contractor in full for the work to be performed under this WORK/TASK ORDER CHANGE .

By Using Agency - Administrative or Budget Office _____ Date _____

APPROVALS

Approved by Division of Small Business Opportunity _____ Date _____

Approved by Project Manager (Parks Dept.) _____ Date _____

Approved by Director of Planning _____ Date _____

Approved by Manager of Parks and Recreation _____ Date _____

Approved by City Attorney (if Bond rider) _____ Date _____

CERTIFICATE OF SUBSTANTIAL COMPLETION
ON-CALL CONSTRUCTION WORK ORDER

Date: XXXXX
Master Contract No. XXXXX
Master Contract Name: XXXXX
Contract No.: XXXXX

Work Order No.: XX
Project Name: XXXXX

Contractor: XXXXX
Address: XXXXX

Your Notification of Substantial Completion for the above referenced project was received on (DATE HERE). The project had been inspected, by the Project Manager, City Consultant and Operations Staff on (DATE HERE) and was determined to be substantially complete in accordance with General Contract Condition 1902 of the Standard Specifications for Construction, General Contract Conditions, 2011 edition.

Per General Contract Condition 1903, attached is the punch list of items to be repaired or replaced and assignment of responsibilities for security, maintenance, property insurance premiums, and damage to the work until Final Acceptance is issued by the City.

We are issuing this Certificate and establishing the Date of Substantial Completion as of (DATE HERE).

The project was completed within the contract time therefore no liquidated damages are due.

Contractor

City Project Manager

Director
Parks – Planning, Design and Construction

cc. Auditor
J. Barwick, Public Works
Division of Small Business Opportunities
Project Manager/File

PROJECT PUNCHLIST
(Project Name Here)

To be prepared by Project Manager.

CERTIFICATE OF FINAL ACCEPTANCE

Contract Number: CE **xxxxx**; OC **xxxxx** – Work Order No. x

Project Name: **xxxxx**

Contractor: **xxxxx**

Address: **xxxxx**

Date: **xxxxx**

Your notification for final inspection of the above referenced project was received on (DATE HERE). The project was inspected by the Project Manager, City Consultant and Operations Staff on (DATE HERE) and the Work was determined to be completed in accordance with the Contract. Therefore, in accordance with General Contract Condition 2002, Final Completion and Acceptance of the Work, of the Standard Specifications for Construction, General Contract Conditions, 2011 Edition, this Certificate of Final Acceptance is being issued, effective as of this date.

Before final settlement can proceed, all items listed in General Contract Condition 2003.2 must be submitted to the Project Manager. If you have not already done so, please submit them as soon as possible.

Contractor

City Project Manager

Director
Parks – Planning, Design and Construction

cc. Auditor
J. Barwick, Public Works
Division of Small Business Opportunities
Project Manager/File

Date, 2014

Contractor:

Address:

RE: CERTIFICATE OF CONTRACT RELEASE
CONTRACT NO.: CEXXXXXXXXXX, Work Order No. XX
PROJECT NAME: XXXXXXXXXXXX (PROJECT ID XXXXX_XXX)

Certificate of Contract Release

Received this date of the City and County of Denver, as full and final payment of the cost of the improvements provided for in the foregoing contract, \$XXXX, in cash, being the remainder of the full amount accruing to the undersigned by virtue of said contract; said cash also covering and including full payment for the cost of all extra work and materials furnished by the undersigned in the construction of said improvements and all incidentals thereto, and the undersigned hereby releases said City and County of Denver of any and all claims or demands whatsoever, regardless of how denominated, growing out of said contract.

And these presents are to certify that all persons performing work upon or furnishing materials for said improvements under the foregoing contract have been paid in full and this payment to be made is the last or final payment.

Contractor's Signature

Date Signed

If there are any questions, please contact me by telephone at (720) 913-0616. Please return this document via facsimile at (720) 913-0783 and mail the original to the above address.

Sincerely,

Nikki VanRavenswaay
Planning, Design, and Construction

cc: [Project Manager Name], Parks and Recreation
PW Contract Administration
Parks Contract Administration
Auditor – Contracts
Auditor – Prevailing Wage
Division of Small Business Opportunity
File

CITY AND COUNTY OF DENVER

PERFORMANCE AND PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____,
_____,
a corporation organized and existing under and by virtue of the laws of the State of _____,
hereafter referred to as the "Contractor", and _____,
_____,
a corporation organized and existing under and by virtue of the laws of the State of _____,
and authorized to transact business in the State of Colorado, as Surety, are held and firmly bound unto the
CITY AND COUNTY OF DENVER, a municipal corporation of the State of Colorado, hereinafter
referred to as the "City", in the penal sum of _____
_____ Dollars (\$ _____),
lawful money of the United States of America, for the payment of which sum, well and truly to be made,
we bind ourselves and our heirs, executors, administrators, successors and assigns, jointly and severally,
firmly by these presents;

THE CONDITION OF THE FOREGOING OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden Contractor has entered into a written contract with the aforesaid City for
furnishing all labor and tools, supplies, equipment, superintendence, materials and everything necessary
for and required to do, perform and complete the construction of **CONTRACT NO.**
«CONTRACT_NO» «PROJECT_NAME», Denver, Colorado, and has bound itself to complete the
project within the time or times specified or pay liquidated damages, all as designated, defined and
described in the said Contract and Conditions thereof, and in accordance with the Plans and Technical
Specifications therefore, a copy of said Contract being made a part hereof;

NOW, THEREFORE, if the said Contractor shall and will, in all particulars well and truly and faithfully
observe, perform and abide by each and every Covenant, Condition and part of said Contract, and the
Conditions, Technical Specifications, Plans, and other Contract Documents thereto attached, or by
reference made a part thereof and any alterations in and additions thereto, according to the true intent and
meaning in such case, then this obligation shall be and become null and void; otherwise, it shall remain in
full force and effect;

PROVIDED FURTHER, that if the said Contractor shall satisfy all claims and demands incurred by the
Contractor in the performance of said Contract, and shall fully indemnify and save harmless the City from
all damages, claims, demands, expense and charge of every kind (including claims of patent
infringement) arising from any act, omission, or neglect of said Contractor, its agents, or employees with
relation to said work; and shall fully reimburse and repay to the City all costs, damages, and expenses
which it may incur in making good any default based upon the failure of the Contractor to fulfill its
obligation to furnish maintenance, repairs or replacements for the full guarantee period provided in the
Contract Documents, then this obligation shall be null and void; otherwise it shall remain in full force and
effect;

PROVIDED FURTHER, that if said Contractor shall at all times promptly make payments of all amounts
lawfully due to all persons supplying or furnishing it or its subcontractors with labor and materials, rental
machinery, tools or equipment used or performed in the prosecution of work provided for in the above
Contract and that if the Contractor will indemnify and save harmless the City for the extent of any and all
payments in connection with the carrying out of such Contract, then this obligation shall be null and void;
otherwise it shall remain in full force and effect;

PROVIDED FURTHER, that if the said Contractor fails to duly pay for any labor, materials, team hire,
sustenance, provisions, provender, gasoline, lubricating oils, fuel oils, grease, coal, or any other supplies
or materials used or consumed by said Contractor or its subcontractors in performance of the work
contracted to be done, or fails to pay any person who supplies rental machinery, tools or equipment, all

amounts due as the result of the use of such machinery, tools or equipment in the prosecution of the work, the Surety will pay the same in any amount not exceeding the amount of this obligation, together with interest as provided by law;

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract, or to contracts with others in connection with this project, or the work to be performed thereunder, or the Technical Specifications and Plans accompanying the same, shall in any way affect its obligation on this bond and it does hereby waive notice of any change, extension of time, alteration or addition to the terms of the Contract, or contracts, or to the work, or to the Technical Specifications and Plans.

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this _____ day of _____, 20__.

Attest:

Secretary

Contractor

By: _____
President

Surety

By: _____
Attorney-In-Fact

(Accompany this bond with Attorney-in-Fact's authority from the Surety to execute bond, certified to include the date of the bond).

APPROVED AS TO FORM:
Attorney for the City and County of
Denver

By: _____
Assistant City Attorney

APPROVED FOR THE CITY AND COUNTY
OF DENVER

By: _____
MAYOR

By: _____
MANAGER OF PARKS & RECREATION

**PERFORMANCE AND PAYMENT BOND
SURETY AUTHORIZATION
(SAMPLE)**

FAX NUMBER:
TELEPHONE NUMBER:

Assistant City Attorney
201 W. Colfax Ave. Dept 1207
Denver, Colorado 80202

RE: (Company name)

Contract No: «Contract_No»
Project Name: «Project_Name»
Contract Amount:
Performance and Payment Bond No.:

Dear Assistant City Attorney,

The Performance and Payment Bonds covering the above captioned project were executed by this agency, through

_____ insurance
company, on _____, 20__.

We hereby authorize the City and County of Denver to date all bonds and powers of attorney to coincide with the date of the contract.

If you should have any additional questions or concerns, please don't hesitate to give me a call at _____.

Thank you.

Sincerely

**PARKS AND RECREATION PLANNING DIVISION
FINAL/PARTIAL RELEASE AND CERTIFICATE OF PAYMENT
(SUBCONTRACTOR/SUPPLIER)**

On-Call Landscape Improvements & Irrigation Construction Services Date: _____, 20__.
Program

(CITY PROJECT NAME)

Subcontract #: _____

Project ID _____ / _____
(CITY PROJECT NUMBER)

(NAME OF CONTRACTOR)

Subcontract Value: \$ _____.

Last Progress Payment: \$ _____.

Date: _____.

(NAME OF SUBCONTRACTOR/SUPPLIER)

Total Paid to Date: \$ _____.

Check Applicable Box:

Date of Last Work: _____.

MBE WBE

The Undersigned hereby certifies that all costs, charges or expenses incurred by the undersigned or on behalf of the undersigned for any work, labor or services performed and for any materials, supplies or equipment provided on the above referenced Project or used in connection with the above referenced Subcontract (the "Work Effort") have been duly paid in full.

The Undersigned further certifies that each of the undersigned's subcontractors and suppliers that incurred or caused to be incurred, on their behalf, costs, charges or expenses in connection with the undersigned's Work Effort on the above referenced Project have been duly paid in full.

In consideration of \$ _____ representing the Last Progress Payment referenced above and in further consideration of the Total Paid to Date, also referenced above, and other good and valuable consideration received and accepted by the undersigned this _____ day of _____, 20__, the Undersigned hereby releases and discharges the City and County of Denver (the "City"), the above referenced City Project, the City's premises and property and the above referenced Contractor from all claims, liens, rights, liabilities, demands and obligations, whether known or unknown, of every nature arising out of or in connection with the performance of the work effort.

As additional consideration for the payments referenced above, the undersigned agrees to defend, indemnify and save and hold harmless the City, its officers, employees, agents and assigns and the above-referenced Contractor from and against all costs, losses, damages, causes of action, judgments under the subcontract and expenses arising out of or in connection with any claim or claims against the City or the Contractor which arise out of the Undersigned's performance of the Work Effort and which may be asserted by the Undersigned or any of its suppliers or subcontractors of any tier or any of their representatives, officers, agents, or employees.

It is acknowledged that this release is for the benefit of and may be relied upon by the City and the referenced Contractor.

The foregoing shall not relieve the undersigned of any obligation under the provisions of the Undersigned's subcontract, as the subcontract may have been amended, which by their nature survive completion of the Undersigned's work effort including, without limitation, warranties, guarantees, insurance requirements and indemnities.

STATE OF COLORADO) ss.
CITY OF _____)

(Name of Subcontractor)

Signed and sworn before me this
day of _____, 20- ____.

By: _____

Notary Public/Commissioner of Oaths
My Commission Expires

Title: _____



City and County of Denver

Contractor's Certification of Payment (CCP)

Office of Economic Development

Compliance Unit

201 W. Colfax Ave., Dept. 907

Denver, CO 80202

Phone: 720.913.1999

Fax: 720.913.1803

Pay Application #:		Pay Period:			Amount Requested: \$					
Project #:		Project Name:								
Current Completion Date:		Percent Complete:			Prepared By:					
Contractor:			Phone:		Project Manager:					
(I) - Original Contract Amount: \$					(II) - Current Contract Amount: \$					
		A	B	C	D	E	F	G	H	
Prime/Subcontractor/Supplier Name		MBE WBE	Original Contract Amount	% Bid (A/I)	Current Contract Amount including Amendments	% Revised (C/I)	Requested Amount this Pay Application	Amount Paid Previous Pay Application #	Net Paid To Date	Paid % Achieved (G/II)
Contractor										
Total										
<p>The undersigned certifies that the information contained in this document is true, accurate and that the payments shown have been made to all subcontractors and suppliers used on this project and listed herein.</p>										
Prepared By (Signature):						Date:				
Page of										



Office of Economic Development
Division of Small Business Opportunity Compliance Unit
201 West Colfax Avenue, Dept. 907

Instructions for Completing the Contractor/Consultant Certification of Payment Form

Denver, CO 80202
Phone: 720-913-1999
Fax: 720.913-1803

Note: The attached Contractor/Consultant Certification of Payment form must be completed by the Contractor/Subconsultant and all subcontractors/subconsultant or suppliers used on the project at **any tier** and submitted with each pay application. The Contractor/Consultant is responsible for the accuracy of all information provided and is required to have each subcontractor/subconsultant or supplier fill out the appropriate forms. Please be sure to complete all information requested at the top of the form, including the name of the person who prepared this form.

If you reproduce this form, you must continue to list each of the originally listed firms, as well as any additional firms used during the performance period of the contract.

If you have any questions, please call the Compliance Unit of DSBO at 720.913.1999.

Instructions for Completing the Contractor/Consultant Certification of Payment Form, per Column

Contractor/Subcontractor or Subconsultant/Supplier Name: In the space provided, list all subcontractors/subconsultants and suppliers used on the project. For all MBE/WBEs use the exact name listed in the DSBO Directory.

MBE/WBE/NON: For each name listed, indicate whether the entity is a certified MBE/WBE.

Column A: Provide the contract amount, as listed at bid time, for the Contractor/Consultant and each subcontractor/subconsultant or supplier.

Column B: Provide the percentage portion of each listed subcontractor/subconsultant or supplier contract amount (Column A) compared to the total original contract amount in (I).

Column C: Provide the original contract amount (Column A) for each subcontractor/subconsultant or supplier plus any awarded alternate and/or change order amounts applicable. If an alternate/change order does not apply to the listed firm, re-enter the original contract amount (Column A).

Column D: Provide the percent portion of each listed subcontractor/subconsultant or supplier contract amount (Column C) compare to the current total contract amount in (II).

Column E: Provide the amount requested for work performed or materials supplied by each listed subcontractor/subconsultant or supplier for this pay application. The sum of the items in this column should equal the estimated amount requested for this pay application.

Column F: Provide the amount paid to each subcontractor/subconsultant or supplier on the previous pay application. Enter the previous pay application number in the column heading. The sum of the items listed in this column should equal the warrant amount paid to the Contractor/Consultant on the previous pay application. The amounts paid to the subcontractor/subcontractor or suppliers should be the actual amount of each check issued.

Column G: Provide the net paid to date for the Contractor/Subconsultant and each listed subcontractor/subconsultant or supplier.

Column H: Provide the percent portion of the net paid to date (Column G) for the Contractor/Subconsultant and each listed subcontractor/subconsultant or supplier of the current total contract amount in (II).

Exhibit B

**CITY AND COUNTY OF DENVER
DIVISION OF SMALL BUSINESS OPPORTUNITY
CONSTRUCTION CONTRACT COMPLIANCE PLAN
FOR M/WBE PARTICIPATION**

Goodland Construction
On-Call Landscape Improvements and Irrigation Construction Services
OC# 201417551

SECTION 1:	INTRODUCTION	1
SECTION 2:	KEY PERSONNEL	2
SECTION 3:	STRUCTURING BID PACKAGES FOR M/WBE PARTICIPATION	2
SECTION 4:	COMMUNITY OUTREACH EFFORTS AND ADVERTISING TO M/WBE CERTIFIED FIRMS:	4
SECTION 5:	M/WBE PARTICIPATION; MAINTAINING COMMITMENTS	5
SECTION 6:	COMPLIANCE DOCUMENTS AND REPORTING.....	6
SECTION 7:	PLAN ADMINISTRATION; MONITORING; CLOSEOUT.....	7
SECTION 8:	NON-COMPLIANCE; SANCTIONS; REMEDIATION PLAN.....	8
SECTION 9:	MEDIATION	9

**CITY AND COUNTY OF DENVER
DIVISION OF SMALL BUSINESS OPPORTUNITY
CONSTRUCTION CONTRACT COMPLIANCE PLAN
FOR M/WBE PARTICIPATION**

Goodland Construction
On-Call Landscape Improvements and Irrigation Construction Services
OC# 201417551

SECTION 1: INTRODUCTION

- A. Goodland Construction (the “Contractor”) submits this Compliance Plan to the Director of the Division of Small Business Opportunity (“Director”), as required by the Manager of Parks and Recreation, in accordance with §§ 28-51 to 28-83, D.R.M.C., and the implementing rules adopted by the Director (“Rules”).
- B. Under the City’s Ordinance No. 85, Series of 2014 (the “M/WBE Ordinance”), codified at §§ 28-51 to 28-83, D.R.M.C., the M/WBE participation goal for this contract is 11%. The good faith solicitation level is 100%
- C. The Contractor is committed to compliance with the M/WBE Ordinance in its performance of the Contract. The Contractor will continually pursue a level of M/WBE participation that equals or exceeds 11% of the total construction price under the Contract.
- D. Because of the delivery method used for this Project, the work was not ready for subcontracting at the time when the Contractor was awarded the Contract. Therefore this Compliance Plan provides for the M/WBE solicitation and subcontracting to be performed after contract formation. The process by which the Contractor will solicit, obtain, count and maintain participation by MBE and WBE firms for this Project under this Compliance Plan, will be same as the M/WBE Ordinance requires for “design-bid-build” construction contracts.
- E. This Compliance Plan describes how the Contractor will address the project goal at the point where the project work is sufficiently defined that the process of obtaining subcontractors and suppliers can begin, by committing to utilize MBE/WBEs for the Project work, using the good faith efforts as defined by the M/WBE Ordinance.
- F. The delivery method for this project under the Contract is On-Call Construction Services.
- G. The Contractor will deliver the construction work in phases. [If the work will be delivered in phases, Section 3 below describes the Contractor’s plan to meet the project goal as it relates to such phases.]

SECTION 2: KEY PERSONNEL

Louis Worland, 3030-278-8100, lw@goodlandconstruction.com, has been assigned as the Project Manager for this Contract. The Project Manager is responsible for the overall management of the Contractor's performance of the Project.

[Identify the other key staff who will be responsible for carrying out the Compliance Plan, and for contract administration for subcontractors and suppliers, etc. The following are examples, to be tailored to the Contractor's situation:

Jim Pokorny, 303-278-8100, glc@goodlandconstruction.com, is the Estimator, who reports to the Project Manager and is responsible for compliance with this Compliance Plan, outreach and coordination activities, and maintaining appropriate records to ensure that goals are met.

Sarah Shipman, 303-278-8100, sarah@goodlandconstruction.com, is the Contract Administrator, who will administer subcontracts and ensure that all documentation required by DSBO is prepared and maintained. Sarah will coordinate the collection of DSBO documentation and monthly payroll reports from all subcontractors and suppliers, including but not limited to M/WBEs.

SECTION 3: STRUCTURING BID PACKAGES FOR M/WBE PARTICIPATION

- A. The Contractor has identified preliminarily the following separate packages of work to be subcontracted:

[Display the information in chart form. Examples are provided below for your use.

Customize the form so that it provides the information specific to your project.

The total at bottom needs to be the contract total.

Showing subtotals along the way for completely different types of work is acceptable.

Force accounts and contingency fees may be deducted from the total goals are met upon.

The overall committed contract goal is the percentage stated on page 1.]

GOALS SCHEDULE CHART

		Total Contract Scope Value		Estimated Potential MWBE Participation	
Workscope	Tier	Total Contract \$	Total Contract %	\$ of Listed Scope	% of Constr Services
Aggregates/Embankment	1	\$600,000	10%	100,000	16%
Rebar – Furnish & Install	1				
Fencing	1				
Waterproof Membrane	1				
Concrete Flatwork	1				
Health & Safety Management	1				
Perm Signage – Roadway	1				
Perm Signage – Structures	1				
Metal Guardrail	1				
Asphalt Pavement	2				
Concrete Pavement	2				
Total – Potential MWBE Construction Services					

GOALS SCHEDULE CHART

AVAILABLE SUB-TRADE	APPROXIMATE DOLLAR AMOUNT	PERCENT-AGE OF TOTAL PROJECT	ASSIGNED MWBE GOAL PER SECTION	ANTICIPATED RESULTING MWBE PARTICIPATION
Earthwork/Site Demo				
Utilities				
Paving				
Landscape & Irrigation				
Concrete				
Masonry				
Metals				
Carpentry				
Thermal & Moisture				
Doors & Windows				
Finishes				
Specialties				
Mechanical				
Electrical				
SUBTOTAL				
Design				
Self-Performance				
TOTAL				

B. These packages will be reviewed and refined as the work for the Contract is further defined and ready for the process of subcontracting. Specifically, prior to advertising any package of work for bids or proposals, the Contractor will review the work in detail, to determine the types of work that can be performed by M/WBE firms, with reference to the DSBO's database and directory of certified M/WBE firms, and will adjust its subcontracting packages to maximize opportunities for M/WBE participation in such subcontracting, within economically feasible packages.

C. The Contractor has the following preliminary schedule for issuance of each bid package:

For each bid package, Contractor shall review all bid conditions, meet on-site with the acting Project Representative if applicable, submit a bid proposal per the required bid documents including declaring the M/WBE participation, and then submit a bid proposal

D. All specific or potential issues will be addressed as projects are contracted.

E. In regards to prequalification, GoodLand will first use its core group of subcontractor's that we have previously prequalified and that we have worked with for many years and are very familiar with Denver's rules, regulations and certified payroll process. GoodLand will then reach out using the following criteria:

1. Financially Stable
2. Years of Experience
3. Ownership of the Necessary Equipment
4. Previous Legal and Safety Violations
5. Previous work in Denver
6. Flexibility in Scheduling

F. The Contractor may pursue different percentage goals for M/WBE participation in each separate package of work put out for bids, based on the types of work and availability of certified M/WBE firms. However, the Contractor is committed to the overall goal of 11% M/WBE participation in the total construction work amount.

G. The Contractor may consider, in order to maximize M/WBE participation, subcontracting the following types of work which it might ordinarily self-perform: landscape and irrigation.

SECTION 4: COMMUNITY OUTREACH EFFORTS AND ADVERTISING TO M/WBE CERTIFIED FIRMS:

The Contractor will conduct the following outreach efforts:

A. Contractor will use the City's M/WBE directory and encourage all non-M/WBE subcontractors to use the directory when soliciting any of their own subcontractors or suppliers for the project.

- B. If during outreach efforts, Contractor locates a firm which appears to be eligible for City M/WBE certification but is not so certified, Contractor will direct the firm to DSBO and encourage the firm to pursue certification if eligible.
- C. When it has work packages ready for subcontracting, the Contractor will solicit through all reasonable means. Acceptable contact modes for solicitation shall be letters, facsimile transmissions, telephone communication and e-mail. Solicitation must be made at least 10 calendar days before bid date or proposal submission.
- D. Requirement to demonstrate appropriate steps to follow up initial solicitation: Appropriate steps may be demonstrated by second contact attempts by letter, facsimile transmission, telephone communication or e-mail, if bidder/proposer failed to make contact on its first attempt.
- E. Solicitation of subcontracting will take place the following ways:
 - 1. An email will be sent out to all subcontractor who GoodLand has an existing relationship with and has done business with inviting them to bid.
 - 2. Using isqft, a bid management software system, GoodLand will choose subcontractors based upon our criteria in Section 3 – E.
- F. Bid/proposals will be emailed out to all subcontractors with a request for bid, a bid date and the scope, spec's and plans attached.

SECTION 5: M/WBE PARTICIPATION; MAINTAINING COMMITMENTS

- A. When issuing each work package for bid under the Contract, the Contractor will make a good faith effort to meet or exceed the goal percentage of M/WBE participation which it has identified for that package. The minimum level of these efforts is specified in § 28-62(b), D.R.M.C. and Rule VII(B). They may include, but will not be limited to, the outreach activities identified in Section 4 above.
- B. When requested by DSBO, the Contractor will submit bid packages to DSBO for review and comment. When requested by DSBO, the Contractor will submit bid tabulation sheets to DSBO for review.
- C. The Contractor will report to DSBO the total M/WBE participation obtained for each bid package. No later than 5 days after issuing Notice to Proceed for such work, the Contractor will submit to DSBO, for each M/WBE subcontractor or supplier with whom it contracts, a Letter of Intent and other documentation, in accordance with Section _ below.
- D. The Contractor will document its efforts to obtain M/WBE participation for each work package, and submit such documentation to DSBO upon request by DSBO at any time. The Contractor acknowledges that it may meet or exceed a percentage goal for M/WBE

participation on one or more work packages, but fall short of meeting the participation goal for the total construction contract amount. Therefore the Contractor must be able to demonstrate its good faith effort, consistent with § 28-62(b), D.R.M.C., to obtain M/WBE participation for each bid package under the contract, except for bid packages which are subject to a “modified good faith effort” under § 28-75(c), D.R.M.C., in which case the Contractor must be able to demonstrate its compliance with the requirements of § 28-75(c), D.R.M.C. Sections 28-62(b) and 28-75(c), D.R.M.C., are attached to this Compliance Plan as Attachment 1, for convenient reference.

- E. The M/WBE participation percentage will be calculated by dividing the total value of the M/WBE participation by the total contract amount for the project, including all change orders. The Contractor will count M/WBE participation according to the M/WBE Ordinance, including § 28-63, D.R.M.C., and Rule VII(C).
- F. As required by D.R.M.C. § 28-73, the Contractor shall immediately inform the DSBO in writing of any agreed-upon increase or decrease in the scope of work of the Contract, regardless of whether it has been reduced to writing at the time of notification. Any increase in the scope of work which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an MBE or WBE under any subcontract, shall be contemporaneously submitted to the DSBO. Those changes to the scope of work that cannot be performed by existing project participants (the Contractor, subcontractors, suppliers, etc.) shall be subject to a goal for MBEs and WBEs equal to the original committed goal. The Contractor shall satisfy the goal for the changed scope of work by soliciting new MBEs or WBEs in accordance with § 28-60, D.R.M.C, and it must show each element of modified good faith that is stated in § 28-75(c), D.R.M.C. The Contractor shall provide to the Director the documentation described in § 28-75(c) with respect to the increased dollar value of the contract..
- G. The Contractor will comply with the provisions of § 28-75 as to the replacement of a WBE or MBE on the Project.
- H. The Contractor acknowledges that it has a continuing duty, under D.R.M.C. §§ 28-72, 28-73, and 28-75, to maintain, throughout the duration of the contract, compliance with the level of MBE and WBE participation committed to under any approved compliance plan, and that such commitment is a material condition of the Contract.

SECTION 6: COMPLIANCE DOCUMENTS AND REPORTING

- A. The Contractor will submit the following documentation, properly completed and submitted monthly or when otherwise required by DSBO.
 - 1. Prime contractor background information form*
 - 2. DSBO Schedule of Work form*
 - 3. Subcontractor background information form for all subcontractors*
 - 4. M/WBE Letters of Intent

5. Monthly contractor's certification of payment forms (participation report)
6. DSBO change order forms
7. M/WBE final lien release forms
8. B2G online payment verification

(*due at NTP + 5 days; revisions as required)

- B. The Contractor will document its progress in seeking and obtaining M/WBE participation as required by DSBO. Records of the Contractor's efforts to solicit M/WBE subcontractor and supplier participation, will be maintained and reported monthly to DSBO, or as otherwise required, including:
1. Dates of solicitation
 2. Names, addresses and telephone numbers of all M/WBE firms contacted.
 3. Description of efforts make to contact M/WBE firms.
 4. Description of information provided to M/WBE firms.
 5. Description of the process and outcome.
 6. Advertisements soliciting bids from M/WBE firms in local community publications or construction industry related publications.
 7. Schedules of prebid meetings to inform M/WBE and non-M/WBE subcontractors and suppliers of opportunities to participate.
 8. Evidence that the Contractor provided M/WBE subcontractors and suppliers necessary access to and adequate time to review all project documents.
 9. All other documentation required to establish the Contractor's compliance with the good faith efforts required by City ordinance, specifically the items enumerated in subsections 28-62(b)(2) through 28-62(b)(10). D.R.M.C.

SECTION 7: PLAN ADMINISTRATION; MONITORING; CLOSEOUT

- A. DSBO shall have prompt, full and complete access to all Contractor and subcontractor personnel, books and records required to monitor and assure performance of this Compliance Plan.
- B. The Contractor's personnel identified in Section 2 above, will be responsible for administering and monitoring the Contractor's performance of this Compliance Plan.
- C. Actual M/WBE participation will be calculated in accordance with the M/WBE Ordinance, including § 28-63, D.R.M.C., and applicable Rules. The Contractor will submit to DSBO a monthly tracking report demonstrating the M/WBE participation that has been achieved. .
- D. The following milestones for review and reconciliation of M/WBE participation will be observed during the contract: Proposal Submission, Notice of Award, and Application for final Payment.

- E. The Contractor acknowledges that the City may impose monetary penalties and/or withhold payment in the event of Contractor's non-compliance with the M/WBE Ordinance and this Compliance Plan.
- F. The Contractor will use the following methodology for final reconciliation of M/WBE participation performance achieved during the Contract term, measured against the established project goal. The Contractor will present copies of all signed DSBO Final Lien Release forms for MWBE firms utilized for participation on the Contract. DSBO will compare the Final Monthly Participation Report submitted by the Contractor to determine if the Final Lien Release dollar figures match what is contained within the Final Monthly Participation Report. Final Compliance shall be achieved when the Contractor establishes to the Director's satisfaction, that it has remitted payments to M/WBE firms utilized on the Project; that it utilized M/WBE firms in accordance with each such firm's Letter of Intent; and that the amount of payments to M/WBE firms equals or exceeds the assigned M/WBE goal for the total amount of the Contract. Failure to achieve final compliance may subject the Contractor to sanctions, in accordance with D.R.M.C, Section 28-77. As provided in such ordinance, sanctions may include, but are not limited to, assessment by the Director of a monetary penalty against the Contractor in an amount not more than 150% of the contract amount for each MBE or WBE involved. Any such monetary penalty leveled by the Director shall be withheld from the final payment due to the Contractor, and any amount that remains due and owing to the City may be collected pursuant to D.R.M.C., Section 28-77. The Contractor may seek review of any such determination by the Director to levy sanctions through the dispute resolution process set forth in the Construction Contract.

SECTION 8: NON-COMPLIANCE; SANCTIONS; REMEDIATION PLAN

- A. At all times, DSBO shall monitor the Contractor's compliance with this Plan and the M/WBE Ordinance and Rules. The Contractor shall fully cooperate with DSBO's compliance monitoring and auditing efforts, including DSBO's investigation of any alleged or suspected non-compliance by the Contractor.
- B. If the Director has reason to believe that the Contractor is not in compliance with this Plan or with the M/WBE Ordinance, the Director shall give the Contractor written notice of non-compliance, citing the reasons why the Contractor is not in compliance, and giving the Contractor thirty (30) days in which to submit a remediation plan for the Director's review and acceptance. The remediation plan shall demonstrate how the Contractor will cure such non-compliance, and if such non-compliance consists of failure to obtain or maintain M/WBE participation at the committed level, that the Contractor's M/WBE participation level will again achieve the committed level, and that the Contractor will ultimately achieve the committed participation goal for the contract..
- C. The Contractor shall, within such thirty (30) day period, deliver to the Director a written remediation plan the Director's review and approval.

- D. The Director may issue a written determination of non-compliance and the sanction which the Director has elected to impose as a consequence:
- (1) If the Contractor does not respond within the time allowed; or
 - (2) If the Contractor fails to submit a satisfactory remediation plan; or
 - (3) If a Contractor submits an acceptable remediation plan but thereafter fails to comply with the plan.
- E. The Contractor may contest a determination issued under Section 8(D), by requesting a hearing within 30 days after the date of such determination, as provided in § 28-33, D.R.M.C.

SECTION 9: MEDIATION

The Contractor will provide a process to resolve disputes that occur between a MBE or WBE and any non-M/WBE subcontractors or suppliers under the Contract. The Contractor will document such disputes and inform DSBO of the steps the Contractor plans to take to resolve the dispute. The Contractor may ask DSBO to assist in the resolution process it has developed. The Contractor will document and notify DSBO if those disputes have been resolved and inform DSBO of any disputes it was unable to resolve. DSBO will notify the Contractor of any complaints received by DSBO from M/WBE firms regarding a dispute they are experiencing with either a subcontractor or the Contractor.

IN WITNESS WHEREOF, Contractor has executed and agrees to abide by the terms of this Compliance Plan as of the 3 day of September, 2014.

Contractor

By:



ATTACHMENT 1

EXCERPTS FROM DENVER REVISED MUNICIPAL CODE

Sections 28-62(b) and 28-75(c), D.R.M.C

Sec. 28-62. Same--Good faith efforts.

(b) The statement of good faith efforts shall include a specific response and verification with respect to each of the following good faith effort categories, which may be further defined by rule or regulation. A bidder or proposer may include any additional information it believes may be relevant. Failure of a bidder or proposer to show good faith efforts as to any one (1) of the following categories shall render its overall good faith effort showing insufficient and its bid or proposal non-responsive:

- (1) If prebid or preselection meetings are scheduled by the city at which MBEs and WBEs may be informed of subcontracting or joint venture opportunities under a proposed contract to be bid, or procured pursuant to the competitive selection process, attendance at such prebid or preselection meetings is not mandatory; however, bidders and proposers are responsible for the information provided at these meetings.
- (2) The bidder or proposer must solicit through all reasonable and available means, the interest of all MBEs and WBEs certified in the scopes of work of the contract. The bidder or proposer must solicit the interest of such MBEs and WBEs within sufficient time, prior to the bid opening or date of final project-specific proposal in the case of a competitive selection process, to allow such MBEs and WBEs to respond to the solicitation. The bidder or proposer must determine with certainty if the MBEs and WBEs are interested by demonstrating appropriate steps to follow up initial solicitations.
- (3) The bidder or proposer must select portions of the work of the contract to be performed by MBEs and WBEs in order to increase the likelihood that the project goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE and WBE participation as subcontractors or joint venturers, and for bidder or proposer self-performed work, as suppliers, manufacturers, manufacturer's representatives and brokers, all reasonably consistent with industry practice, even when the bidder or proposer would otherwise prefer to perform these work items with its own forces. The bidder or proposer must identify what portions of the contract will be self-performed and what portions of the contract will be opened to solicitation of bids, proposals and quotes from MBE and WBEs. All portions of the contract not self-performed must be solicited for MBE and WBE participation. The ability or desire of a bidder or proposer to perform the work of a contract with its own forces does not relieve the bidder or proposer of the responsibility to meet the project goal or demonstrate good faith efforts to do so.
- (4) The bidder or proposer, consistent with industry practice, must provide MBEs and WBEs at a clearly stated location with timely, adequate access to and information about the plans, specifications, and requirements of the contract, including bonding and insurance requirements, if any, to assist them in responding to a solicitation.

- (5) The bidder or proposer must negotiate in good faith with interested MBEs and WBEs and provide written documentation of such negotiation with each such MBE or WBE.
- (6) For each MBE or WBE which contacted the bidder or proposer or which the bidder or proposer contacted or attempted to subcontract or joint venture with, consistent with industry practice, the bidder or proposer must supply a statement giving the reasons why the bidder or proposer and the MBE or WBE did not succeed in negotiating a subcontracting, supplier, manufacturer, manufacturer's representative, broker or joint venture agreement, as applicable.
- (7) The bidder or proposer must provide verification that it rejected each non-utilized MBE and WBE because the MBE or WBE did not submit the lowest bid or it was not qualified. Such verification shall include a verified statement of the amounts of all bids received from potential or utilized subcontractors, suppliers, manufacturers, manufacturer's representatives, brokers or joint venturers on the contract, whether or not they are MBEs or WBEs. In making such a determination of not being qualified, the bidder or proposer shall be guided by the definition of qualified in section 28-54(42), but evidence of lack of qualification must be based on factors other than solely the amount of the MBE's or WBE's bid. For each MBE or WBE found not to be qualified by the bidder or proposer, the verification shall include a statement giving the bidder's or proposer's reasons for its conclusion. A bidder's or proposer's industry standing or group memberships may not be the cause of rejection of an MBE or WBE. A bidder or proposer may not reject an MBE or WBE as being unqualified without sound reasons based on a reasonably thorough investigation and assessment of the MBE's or WBE's capabilities and expertise.
- (8) If requested by a solicited MBE or WBE, the bidder or proposer must make reasonable efforts to assist interested MBEs and WBEs in obtaining bonding, lines of credit, or insurance as required by the city or by the bidder or proposer, provided that the bidder or proposer need not provide financial assistance toward this effort.
- (9) If requested by a solicited MBE or WBE, the bidder or proposer must make reasonable efforts to assist interested MBEs and WBEs in obtaining necessary and competitively priced equipment, supplies, materials, or related assistance or services for performance under the contract, provided that the bidder or proposer need not provide financial assistance toward this effort.
- (10) The bidder or proposer must use the DSBO MBE/WBE directories to identify, recruit, and place MBEs and WBEs.

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**Sec. 28-75. Potential violations during contract performance.**

(c) The following modified good faith requirements shall apply to sections 28-72 and 28-73. In the event that a contractor or consultant must add or replace an MBE or WBE subcontractor, subconsultant, joint venturer, supplier, manufacturer, manufacturer's representative or broker or in the event that a new scope of work is added to the ongoing contract, and the contractor or consultant in such event is in non-compliance with maintenance of the original project goal upon which the contract was awarded, due to failure to utilize additional MBEs or WBEs, the following modified good faith efforts must be completed. Failure of a contractor or consultant to show

good faith efforts as to any one (1) of the following categories shall render its overall good faith efforts showing insufficient; and its contract performance in non-compliance with this division 3.

- (1) Verification in writing to the DSBO of the contractor's or consultant's intention to terminate or replace an MBE or WBE originally identified for participation in the bid, proposal or competitive selection process proposal upon which the contract was awarded. The reason for the termination or replacement must be stated and the type of work or services must be identified.
- (2) Verification that the contractor or consultant used the most current MBE and WBE directory from the DSBO in order to contact MBEs and WBEs that are certified in the applicable area of work or supply at the time of the modified good faith effort.
- (3) Verification of efforts to contact appropriate MBEs and WBEs within the same identified subcontractor, subconsultant, joint venturer, supplier, manufacturer, manufacturer's representative or broker area must be documented. Facsimile transmission, e-mail and telephone communication will be acceptable. The director may verify such contacts as he deems appropriate.
- (4) Documentation of the modified good faith efforts must be submitted to the DSBO prior to the payment to the contractor or consultant of the next progress or other partial payment or fund release under the contract.

# Exhibit C



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **CONTRACTORS' COMMERCIAL GENERAL LIABILITY BROADENED ENDORSEMENT**

This endorsement modifies insurance provided under the following:

### **COMMERCIAL GENERAL LIABILITY COVERAGE PART**

#### **A. Endorsement - Table of Contents:**

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#### **B. Limits of Insurance:**

The Commercial General Liability Limits of Insurance apply to the insurance provided by this endorsement, except as provided below:

##### **1. Employee Benefit Liability Coverage**

Each Employee Limit: \$ 1,000,000  
Aggregate Limit: \$ 3,000,000  
Deductible: \$ 1,000

##### **3. Damage to Premises Rented to You**

The lesser of:

- a. The Each Occurrence Limit shown in the Declarations; or
- b. \$500,000 unless otherwise stated \$ \_\_\_\_\_

##### **4. Supplementary Payments**

a. Bail bonds: \$ 1,000  
b. Loss of earnings: \$ 350

##### **5. Medical Payments**

Medical Expense Limit: \$ 10,000

**6. Voluntary Property Damage (Coverage a.) and Care, Custody or Control Liability Coverage (Coverage b.)**

Limits of Insurance (Each Occurrence)

Coverage **a.** \$1,000

Coverage **b.** \$5,000 unless otherwise stated \$ \_\_\_\_\_

Deductibles (Each Occurrence)

Coverage **a.** \$250

Coverage **b.** \$250 unless otherwise stated \$ \_\_\_\_\_

| COVERAGE                           | PREMIUM BASIS<br>(a) Area<br>(b) Payroll<br>(c) Gross Sales<br>(d) Units<br>(e) Other | RATE<br><br>(For Limits in Excess of \$5,000) | ADVANCE PREMIUM<br><br>(For Limits in Excess of \$5,000) |
|------------------------------------|---------------------------------------------------------------------------------------|-----------------------------------------------|----------------------------------------------------------|
| <b>b.</b> Care, Custody or Control |                                                                                       |                                               | \$                                                       |
| <b>TOTAL ANNUAL PREMIUM</b>        |                                                                                       |                                               | \$                                                       |

**11. Property Damage to Borrowed Equipment**

Each Occurrence Limit: \$ 10,000

Deductible: \$ 250

**C. Coverages:**

**1. Employee Benefit Liability Coverage**

**a.** The following is added to **SECTION I - COVERAGES: Employee Benefit Liability Coverage.**

**(1) Insuring Agreement**

**(a)** We will pay those sums that the insured becomes legally obligated to pay as damages caused by any act, error or omission of the insured, or of any other person for whose acts the insured is legally liable, to which this insurance applies. We will have the right and duty to defend the insured against any "suit" seeking those damages. However, we will have no duty to defend against any "suit" seeking damages to which this insurance does not apply. We may, at our discretion, investigate any report of an act, error or omission and settle any claim or "suit" that may result. But:

- 1)** The amount we will pay for damages is limited as described in **SECTION III - LIMITS OF INSURANCE**; and
- 2)** Our right and duty to defend ends when we

have used up the applicable limit of insurance in the payment of judgments or settlements.

No other obligation or liability to pay sums or perform acts or services is covered unless explicitly provided for under Supplementary Payments.

**(b)** This insurance applies to damages only if the act, error or omission, is negligently committed in the "administration" of your "employee benefit program"; and

- 1)** Occurs during the policy period; or
- 2)** Occurred prior to the effective date of this endorsement provided:
  - a)** You did not have knowledge of a claim or "suit" on or before the effective date of this endorsement.

You will be deemed to have knowledge of a claim or "suit" when any "authorized representative";

- i) Reports all, or any part, of the act, error or omission to us or any other insurer;
  - ii) Receives a written or verbal demand or claim for damages because of the act, error or omission; and
- b) There is no other applicable insurance.

**(2) Exclusions**

This insurance does not apply to:

**(a) Bodily Injury, Property Damage or Personal and Advertising Injury**

"Bodily injury", "property damage" or "personal and advertising injury".

**(b) Dishonest, Fraudulent, Criminal or Malicious Act**

Damages arising out of any intentional, dishonest, fraudulent, criminal or malicious act, error or omission, committed by any insured, including the willful or reckless violation of any statute.

**(c) Failure to Perform a Contract**

Damages arising out of failure of performance of contract by any insurer.

**(d) Insufficiency of Funds**

Damages arising out of an insufficiency of funds to meet any obligations under any plan included in the "employee benefit program".

**(e) Inadequacy of Performance of Investment / Advice Given With Respect to Participation**

Any claim based upon:

- 1) Failure of any investment to perform;
- 2) Errors in providing information on past per-

formance of investment vehicles; or

- 3) Advice given to any person with respect to that person's decision to participate or not to participate in any plan included in the "employee benefit program".

**(f) Workers' Compensation and Similar Laws**

Any claim arising out of your failure to comply with the mandatory provisions of any workers' compensation, unemployment compensation insurance, social security or disability benefits law or any similar law.

**(g) ERISA**

Damages for which any insured is liable because of liability imposed on a fiduciary by the Employee Retirement Income Security Act of 1974, as now or hereafter amended, or by any similar federal, state or local laws.

**(h) Available Benefits**

Any claim for benefits to the extent that such benefits are available, with reasonable effort and cooperation of the insured, from the applicable funds accrued or other collectible insurance.

**(i) Taxes, Fines or Penalties**

Taxes, fines or penalties, including those imposed under the Internal Revenue Code or any similar state or local law.

**(j) Employment-Related Practices**

Any liability arising out of any:

- (1) Refusal to employ;
- (2) Termination of employment;
- (3) Coercion, demotion, evaluation, reassignment, discipline, defamation, harassment, humiliation, discrimination or other employ-

ment-related practices, acts or omissions; or

- (4) Consequential liability as a result of (1), (2) or (3) above.

This exclusion applies whether the insured may be held liable as an employer or in any other capacity and to any obligation to share damages with or repay someone else who must pay damages because of the injury.

### (3) Supplementary Payments

**SECTION I - COVERAGES, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** also apply to this Coverage.

#### b. Who is an Insured

As respects Employee Benefit Liability Coverage, **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced by the following:

- (1) If you are designated in the Declarations as:
  - (a) An individual, you and your spouse are insureds, but only with respect to the conduct of a business of which you are the sole owner.
  - (b) A partnership or joint venture, you are an insured. Your members, your partners, and their spouses are also insureds but only with respect to the conduct of your business.
  - (c) A limited liability company, you are an insured. Your members are also insureds, but only with respect to the conduct of your business. Your managers are insureds, but only with respect to their duties as your managers.
  - (d) An organization other than a partnership, joint venture or limited liability company, you are an insured. Your "executive officers" and directors are insureds, but only with respect to their duties as your officers or directors. Your stockholders are also insureds, but only with respect to their liability as stockholders.

- (e) A trust, you are an insured. Your trustees are also insureds, but only with respect to their duties as trustees.

- (2) Each of the following is also an insured:

- (a) Each of your "employees" who is or was authorized to administer your "employee benefit program".
- (b) Any persons, organizations or "employees" having proper temporary authorization to administer your "employee benefit program" if you die, but only until your legal representative is appointed.
- (c) Your legal representative if you die, but only with respect to duties as such. That representative will have all your rights and duties under this Coverage Part.

- (3) Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if no other similar insurance applies to that organization. However, coverage under this provision:

- (a) Is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier; and
- (b) Does not apply to any act, error or omission that was committed before you acquired or formed the organization.

#### c. Limits of Insurance

As respects Employee Benefit Liability Coverage, **SECTION III - LIMITS OF INSURANCE** is deleted in its entirety and replaced by the following:

- (1) The Limits of Insurance shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** and the rules below fix the most we will pay regardless of the number of:

- (a) Insureds;

- (b) Claims made or "suits" brought;
- (c) Persons or organizations making claims or bringing "suits";
- (d) Acts, errors or omissions; or
- (e) Benefits included in your "employee benefit program".

(2) The Aggregate Limit shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement is the most we will pay for all damages because of acts, errors or omissions negligently committed in the "administration" of your "employee benefit program".

(3) Subject to the limit described in (2) above, the Each Employee Limit shown in Section **B. Limits of Insurance, 1. Employee Benefit Liability Coverage** of this endorsement is the most we will pay for all damages sustained by any one "employee", including damages sustained by such "employee's" dependents and beneficiaries, as a result of:

- (a) An act, error or omission; or
- (b) A series of related acts, errors or omissions, regardless of the amount of time that lapses between such acts, errors or omissions,

negligently committed in the "administration" of your "employee benefit program".

However, the amount paid under this endorsement shall not exceed, and will be subject to the limits and restrictions that apply to the payment of benefits in any plan included in the "employee benefit program".

**(4) Deductible Amount**

- (a) Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of the deductible amount stated in the Declarations as applicable to Each Employee. The limits of insurance shall not be reduced by the amount of this deductible.

- (b) The deductible amount stated in the Declarations applies to all damages sustained by any one "employee", including such "employee's" dependents and beneficiaries, because of all acts, errors or omissions to which this insurance applies.

(c) The terms of this insurance, including those with respect to:

- 1) Our right and duty to defend the insured against any "suits" seeking those damages; and
- 2) Your duties, and the duties of any other involved insured, in the event of an act, error or omission, or claim,

apply irrespective of the application of the deductible amount.

- (d) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as we have paid.

**d. Additional Conditions**

As respects **Employee Benefit Liability Coverage, SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

- (1) Item **2. Duties in the Event of Occurrence, Offense, Claim or Suit** is deleted in its entirety and replaced by the following:

**2. Duties in the Event of an Act, Error or Omission, or Claim or Suit**

- a. You must see to it that we are notified as soon as practicable of an act, error or omission which may result in a claim. To the extent possible, notice should include:
  - (1) What the act, error or omission was and when it occurred; and
  - (2) The names and addresses of anyone who may suffer damages as a result of the act, error or omission.

b. If a claim is made or "suit" is brought against any insured, you must:

- (1) Immediately record the specifics of the claim or "suit" and the date received; and
- (2) Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable.

c. You and any other involved insured must:

- (1) Immediately send us copies of any demands, notices, summonses or legal papers received in connection with the claim or "suit";
- (2) Authorize us to obtain records and other information;
- (3) Cooperate with us in the investigation or settlement of the claim or defense against the "suit"; and
- (4) Assist us, upon our request, in the enforcement of any right against any person or organization which may be liable to the insured because of an act, error or omission to which this insurance may also apply.

d. No insured will, except at that insured's own cost, voluntarily make a payment, assume any obligation, or incur any expense without our consent.

- (2) Item **5. Other Insurance** is deleted in its entirety and replaced by the following:

#### **5. Other Insurance**

If other valid and collectible insurance is available to the insured for a loss we cover under this Coverage Part, our obligations are limited as follows:

##### **a. Primary Insurance**

This insurance is primary except when **c.** below applies. If this insurance is primary, our obligations are not affected unless any of the other insurance is also primary. Then, we will share with all that other insurance by the method described in **b.** below.

#### **b. Method of Sharing**

If all of the other insurance permits contribution by equal shares, we will follow this method also. Under this approach each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.

If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

#### **c. No Coverage**

This insurance shall not cover any loss for which the insured is entitled to recovery under any other insurance in force previous to the effective date of this Coverage Part.

#### **e. Additional Definitions**

As respects **Employee Benefit Liability Coverage, SECTION V - DEFINITIONS** is amended as follows:

- (1) The following definitions are added:

1. "Administration" means:
  - a. Providing information to "employees", including their dependents and beneficiaries, with respect to eligibility for or scope of "employee benefit programs";
  - b. Interpreting the "employee benefit programs";
  - c. Handling records in connection with the "employee benefit programs"; or
  - d. Effecting, continuing or terminating any "employee's" participation

in any benefit included in the "employee benefit program".

However, "administration" does not include:

- a. Handling payroll deductions; or
  - b. The failure to effect or maintain any insurance or adequate limits of coverage of insurance, including but not limited to unemployment insurance, social security benefits, workers' compensation and disability benefits.
2. "Cafeteria plans" means plan authorized by applicable law to allow "employees" to elect to pay for certain benefits with pre-tax dollars.
3. "Employee benefit programs" means a program providing some or all of the following benefits to "employees", whether provided through a "cafeteria plan" or otherwise:
- a. Group life insurance; group accident or health insurance; dental, vision and hearing plans; and flexible spending accounts; provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to those "employees" who satisfy the plan's eligibility requirements;
  - b. Profit sharing plans, employee savings plans, employee stock ownership plans, pension plans and stock subscription plans, provided that no one other than an "employee" may subscribe to such benefits and such benefits are made generally available to all "employees" who are eligible under the plan for such benefits;
  - c. Unemployment insurance, social security

benefits, workers' compensation and disability benefits; and

- d. Vacation plans, including buy and sell programs; leave of absence programs, including military, maternity, family, and civil leave; tuition assistance plans; transportation and health club subsidies.

(2) The following definitions are deleted in their entirety and replaced by the following:

21. "Suit" means a civil proceeding in which money damages because of an act, error or omission to which this insurance applies are alleged. "Suit" includes:
  - a. An arbitration proceeding in which such damages are claimed and to which the insured must submit or does submit with our consent;
  - b. Any other alternative dispute resolution proceeding in which such damages are claimed and to which the insured submits with our consent; or
  - c. An appeal of a civil proceeding.
8. "Employee" means a person actively employed, formerly employed, on leave of absence or disabled, or retired. "Employee" includes a "leased worker". "Employee" does not include a "temporary worker".

## 2. Unintentional Failure to Disclose Hazards

**SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 7. Representations** is hereby amended by the addition of the following:

Based on our dependence upon your representations as to existing hazards, if unintentionally you should fail to disclose all such hazards at the inception date of your policy, we will not reject coverage under this Coverage Part based solely on such failure.

### 3. Damage to Premises Rented to You

- a. The last Subparagraph of Paragraph 2. **SECTION I - COVERAGES, COVERAGE A. - BODILY INJURY AND PROPERTY DAMAGE, 2. LIABILITY Exclusions** is hereby deleted and replaced by the following:

Exclusions **c.** through **q.** do not apply to damage by fire, explosion, lightning, smoke or soot to premises while rented to you or temporarily occupied by you with permission of the owner.

- b. The insurance provided under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY** applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

- (1) As respects Water Damage Legal Liability, as provided in Paragraph 3.b. above:

The exclusions under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**, other than **i. War** and the **Nuclear Energy Liability Exclusion**, are deleted and the following are added:

This insurance does not apply to:

- (a) "Property damage":
- 1) Assumed in any contract; or
  - 2) Loss caused by or resulting from any of the following:
    - a) Wear and tear;
    - b) Rust, corrosion, fungus, decay, deterioration, hidden or latent defect or any quality in property that causes it to damage or destroy itself;
    - c) Smog;
    - d) Mechanical breakdown including rupture or bursting caused by centrifugal force;
    - e) Settling, cracking, shrinking or expansion; or

- f) Nesting or infestation, or discharge or release of waste products or secretions, by insects, birds, rodents or other animals.

- (b) Loss caused directly or indirectly by any of the following:

- 1) Earthquake, volcanic eruption, landslide or any other earth movement;
- 2) Water that backs up or overflows from a sewer, drain or sump;
- 3) Water under the ground surface pressing on, or flowing or seeping through:
  - a) Foundations, walls, floors or paved surfaces;
  - b) Basements, whether paved or not; or
  - c) Doors, windows or other openings.

- (c) Loss caused by or resulting from water that leaks or flows from plumbing, heating, air conditioning, or fire protection systems caused by or resulting from freezing, unless:

- 1) You did your best to maintain heat in the building or structure; or
- 2) You drained the equipment and shut off the water supply if the heat was not maintained.

- (d) Loss to or damage to:

- 1) Plumbing, heating, air conditioning, fire protection systems, or other equipment or appliances; or
- 2) The interior of any building or structure, or to personal property in the building or structure caused by or resulting from rain, snow, sleet or ice, whether driven by wind or not.

**c. Limit of Insurance**

The Damage to Premises Rented to You Limit as shown in the Declarations is amended as follows:

(2) Paragraph 6. of **SECTION III - LIMITS OF INSURANCE** is hereby deleted and replaced by the following:

6. Subject to 5. above, the Damage to Premises Rented to You Limit is the most we will pay under **COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, for damages because of "property damage" to premises while rented to you or temporarily occupied by you with permission of the owner, arising out of any one "occurrence" to which this insurance applies.

(3) The amount we will pay is limited as described in Section **B. Limits of Insurance, 3. Damage to Premises Rented to You** of this endorsement.

**4. Supplementary Payments**

Under **SECTION I - COVERAGE, SUPPLEMENTARY PAYMENTS - COVERAGES A AND B**:

a. Paragraph 2. is replaced by the following:

Up to the limit shown in Section **B. Limits of Insurance, 4.a.** Bail Bonds of this endorsement for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

b. Paragraph 4. is replaced by the following:

All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to the limit shown in Section **B. Limits of Insurance, 4.b.** Loss of Earnings of this endorsement per day because of time off from work.

**5. Medical Payments**

The Medical Expense Limit of Any One Person as stated in the Declarations is amended to the limit shown in Section **B.**

**Limits of Insurance, 5. Medical Payments** of this endorsement.

**6. Voluntary Property Damage and Care, Custody or Control Liability Coverage**

a. **Voluntary Property Damage Coverage**

We will pay for "property damage" to property of others arising out of operations incidental to the insured's business when:

- (1) Damage is caused by the insured; or
- (2) Damage occurs while in the insured's possession.

With your consent, we will make these payments regardless of fault.

b. **Care, Custody or Control Liability Coverage**

**SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, j. Damage to Property**, Subparagraphs (3), (4) and (5) do not apply to "property damage" to the property of others described therein.

With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

a. The Limits of Insurance shown in the Declarations are replaced by the limits designated in Section **B. Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section **B. Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (1) Insureds;
- (2) Claims made or "suits" brought; or
- (3) Persons or organizations making claims or bringing "suits".

b. **Deductible Clause**

- (1) Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in ex-

cess of the deductible amount stated in Section **B. Limits of Insurance, 6. Voluntary Property Damage and Care, Custody or Control Liability Coverage** of this endorsement. The limits of insurance will not be reduced by the application of such deductible amount.

(2) Condition **2. Duties in the Event of Occurrence, Offense, Claim or Suit**, applies to each claim or "suit" irrespective of the amount.

(3) We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

## 7. 180 Day Coverage for Newly Formed or Acquired Organizations

**SECTION II - WHO IS AN INSURED** is amended as follows:

Subparagraph **a.** of Paragraph **4.** is hereby deleted and replaced by the following:

**a.** Insurance under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;

## 8. Waiver of Subrogation

**SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 9. Transfer of Rights of Recovery Against Others to Us** is hereby amended by the addition of the following:

We waive any right of recovery we may have because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a written contract requiring such waiver with that person or organization and included in the "products-completed operations hazard". However, our rights may only be waived prior to the "occurrence" giving rise to the injury or damage for which we make payment under this Coverage Part. The insured must do nothing after a loss to impair our rights. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce those rights.

## 9. Automatic Additional Insured - Specified Relationships

**a.** The following is hereby added to **SECTION II - WHO IS AN INSURED:**

(1) Any person or organization described in Paragraph **9.a.(2)** below (hereinafter referred to as additional insured) whom you are required to add as an additional insured under this Coverage Part by reason of:

(a) A written contract or agreement; or

(b) An oral agreement or contract where a certificate of insurance showing that person or organization as an additional insured has been issued,

is an insured, provided:

(a) The written or oral contract or agreement is:

1) Currently in effect or becomes effective during the policy period; and

2) Executed prior to an "occurrence" or offense to which this insurance would apply; and

(b) They are not specifically named as an additional insured under any other provision of, or endorsement added to, this Coverage Part.

(2) Only the following persons or organizations are additional insureds under this endorsement, and insurance coverage provided to such additional insureds is limited as provided herein:

(a) The manager or lessor of a premises leased to you with whom you have agreed per Paragraph **9.a.(1)** above to provide insurance, but only with respect to liability arising out of the ownership, maintenance or use of that part of a premises leased to you, subject to the following additional exclusions:

This insurance does not apply to:

1) Any "occurrence" which takes place after you cease to be a tenant in that premises.

2) Structural alterations, new construction or demolition operations performed by or on be-

half of such additional insured.

(b) Any person or organization from which you lease equipment with whom you have agreed per Paragraph **9.a.(1)** above to provide insurance. Such person(s) or organization(s) are insureds solely with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person(s) or organizations(s). However, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

(c) Any person or organization (referred to below as vendor) with whom you have agreed per Paragraph **9.a.(1)** above to provide insurance, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

- 1) The insurance afforded the vendor does not apply to:
  - a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
  - b) Any express warranty unauthorized by you;
  - c) Any physical or chemical change in the product made intentionally by the vendor;
  - d) Repackaging, unless unpacked

solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

- e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
  - f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
  - g) Products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.
- 2) This insurance does not apply to any insured person or organization:
- a) From whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products; or
  - b) When liability included within the "products-completed operations hazard" has

been excluded under this Coverage Part with respect to such products.

- (d) Any state or political subdivision with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, subject to the following additional provision:

This insurance applies only with respect to the following hazards for which the state or political subdivision has issued a permit in connection with premises you own, rent or control and to which this insurance applies:

- 1) The existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners, or decorations and similar exposures; or
- 2) The construction, erection, or removal of elevators; or
- 3) The ownership, maintenance, or use of any elevators covered by this insurance.

- (e) Any state or political subdivision with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, subject to the following provisions:

- 1) This insurance applies only with respect to operations performed by you or on your behalf for which the state or political subdivision has issued a permit.
- 2) This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or political subdivision.

- (f) Any person or organization with which you have agreed per Paragraph **9.a.(1)** above to provide insurance, but only with respect to liability arising out of "your work" performed for that additional insured by you or on your behalf. A person or organization's status as an insured under this provision of this endorsement continues for only the period of time required by the written contract or agreement, but in no event beyond the expiration date of this Coverage Part. If there is no written contract or agreement, or if no period of time is required by the written contract or agreement, a person or organization's status as an insured under this endorsement ends when your operations for that insured are completed.

- (3) Any insurance provided to an additional insured designated under Paragraph **9.a.(2)**:

- (a) Subparagraphs (e) and (f) does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard";

- (b) Subparagraphs (a), (b), (d), (e) and (f) does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the sole negligence or willful misconduct of the additional insured or their agents, "employees" or any other representative of the additional insured; or

- (c) Subparagraph (f) does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of:

- 1) Defects in design furnished by or on behalf of the additional insured; or
- 2) The rendering of, or failure to render, any professional architectural, engineering or surveying services, including:

- a) The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
  - b) Supervisory, inspection, architectural or engineering activities.
- 3) "Your work" for which a consolidated (wrap-up) insurance program has been provided by the primecontractor-project manager or owner of the construction project in which you are involved.
- b. Only with regard to insurance provided to an additional insured designated under Paragraph **9.a.(2)** Subparagraph **(f)** above, **SECTION III - LIMITS OF INSURANCE** is amended to include:

The limits applicable to the additional insured are those specified in the written contract or agreement or in the Declarations of this Coverage Part, whichever are less. If no limits are specified in the written contract or agreement, or if there is no written contract or agreement, the limits applicable to the additional insured are those specified in the Declarations of this Coverage Part. The limits of insurance are inclusive of and not in addition to the limits of insurance shown in the Declarations.

- c. **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS** is hereby amended as follows:
- (1) Condition **5. Other Insurance** is amended to include:
- (a) Where required by a written contract or agreement, this insurance is primary and / or noncontributory as respects any other insurance policy issued to the additional insured, and such other insurance policy shall be excess and / or noncontributing, whichever applies, with this insurance.
  - (b) Any insurance provided by this endorsement shall be

primary to other insurance available to the additional insured except:

- 1) As otherwise provided in **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 5. Other Insurance, b. Excess Insurance**; or
- 2) For any other valid and collectible insurance available to the additional insured as an additional insured by attachment of an endorsement to another insurance policy that is written on an excess basis. In such case, the coverage provided under this endorsement shall also be excess.

- (2) Condition **11. Conformance to Specific Written Contract or Agreement** is hereby added:

**11. Conformance to Specific Written Contract or Agreement**

With respect to additional insureds described in Paragraph **9.a.(2)(f)** above only:

If a written contract or agreement between you and the additional insured specifies that coverage for the additional insured:

- a. Be provided by the Insurance Services Office additional insured form number **CG 20 10** or **CG 20 37** (where edition specified); or
- b. Include coverage for completed operations; or
- c. Include coverage for "your work";

and where the limits or coverage provided to the additional insured is more restrictive than was specifically required in that written contract or agreement, the terms of Paragraphs **9.a.(3)(a)**, **9.a.(3)(b)** or **9.b.** above, or any combination thereof, shall be interpreted as providing the limits or coverage required by the terms of the written contract

or agreement, but only to the extent that such limits or coverage is included within the terms of the Coverage Part to which this endorsement is attached. If, however, the written contract or agreement specifies the Insurance Services Office additional insured form number **CG 20 10** but does not specify which edition, or specifies an edition that does not exist, Paragraphs **9.a.(3)(a)** and **9.a.(3)(b)** of this endorsement shall not apply and Paragraph **9.b.** of this endorsement shall apply.

#### 10. Broadened Contractual Liability - Work Within 50' of Railroad Property

It is hereby agreed that Paragraph **f.(1)** of Definition **12.** "Insured contract" (**SECTION V - DEFINITIONS**) is deleted.

#### 11. Property Damage to Borrowed Equipment

- a. The following is hereby added to Exclusion **j. Damage to Property** of Paragraph **2., Exclusions** of **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY:**

Paragraphs **(3)** and **(4)** of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.

- b. With respect to the insurance provided by this section of the endorsement, the following additional provisions apply:

**(1)** The Limits of insurance shown in the Declarations are replaced by the limits designated in Section **B. Limits of Insurance, 11.** of this endorsement with respect to coverage provided by this endorsement. These limits are inclusive of and not in addition to the limits being replaced. The Limits of Insurance shown in Section **B. Limits of Insurance, 11.** of this endorsement fix the most we will pay in any one "occurrence" regardless of the number of:

- (a)** Insureds;  
**(b)** Claims made or "suits" brought; or

- (c)** Persons or organizations making claims or bring "suits".

#### (2) Deductible Clause

- (a)** Our obligation to pay damages on your behalf applies only to the amount of damages for each "occurrence" which are in excess of the Deductible amount stated in Section **B. Limits of Insurance, 11.** of this endorsement. The limits of insurance will not be reduced by the application of such Deductible amount.

- (b)** Condition **2. Duties in the Event of Occurrence, Offense, Claim or Suit,** applies to each claim or "suit" irrespective of the amount.

- (c)** We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and, upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

#### 12. Employees as Insureds - Specified Health Care Services

It is hereby agreed that Paragraph **2.a.(1)(d)** of **SECTION II - WHO IS AN INSURED,** does not apply to your "employees" who provide professional health care services on your behalf as duly licensed:

- a.** Nurses;  
**b.** Emergency Medical Technicians; or  
**c.** Paramedics,

in the jurisdiction where an "occurrence" or offense to which this insurance applies takes place.

#### 13. Broadened Notice of Occurrence

Paragraph **a.** of Condition **2. Duties in the Event of Occurrence, Offense, Claim or Suit (SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS)** is hereby deleted and replaced by the following:

- a.** You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. To the extent possible, notice should include:

- (1)** How, when and where the "occurrence" or offense took place;

- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence" or offense.

This requirement applies only when the "occurrence" or offense is known to an "authorized representative".

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED BY CONTRACT**

This endorsement modifies insurance provided under the following:

**BUSINESS AUTO COVERAGE FORM  
GARAGE COVERAGE FORM**

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

|                                            |                           |
|--------------------------------------------|---------------------------|
| Endorsement Effective: 07/01/2014          | Policy Number: EPP0261033 |
| Named Insured: Goodland Construction, Inc. |                           |
| Countersigned by:                          |                           |

(Authorized Representative)

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

**SECTION II - LIABILITY COVERAGE, A. Coverage, I. Who is an Insured** is amended to include as an insured any person or organization with which you have agreed in a valid written contract to provide insurance as is afforded by this policy.

This provision is limited to the scope of the valid written contract.

This provision does not apply unless the valid written contract has been executed prior to the "bodily injury" or "property damage".

**Contract Control Number:**

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

**CITY AND COUNTY OF DENVER**

ATTEST:

By \_\_\_\_\_

\_\_\_\_\_

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By \_\_\_\_\_

By \_\_\_\_\_

By \_\_\_\_\_



Contract Control Number: PARKS-201417551-00

Contractor Name: GOODLAND CONSTRUCTION INC

By: LOUIS WORLAND

Name: *Tom Worland*  
(please print)

Title: PRESIDENT  
(please print)

ATTEST: [if required]

By: Jim Pokorny

Name: *[Signature]*  
(please print)

Title: Sec. PRES.  
(please print)

