

## ACCESS AND LICENSE AGREEMENT

This License Agreement is entered, as the date set forth on the signature page below (the Effective Date”), by and between the Metro Wastewater Reclamation District (“District”) and the City & County of Denver (“City”), for and on behalf of the Department of Parks and Recreation (“DPR”). District and the City together are referred to as the “Parties”.

1. The District owns and operates existing, underground sanitary sewer pipelines (including the 77” Delgany Common Interceptor and the 78” Delgany Interceptor), along with related manholes, equipment and appurtenances for each, located in and adjacent to Arkins Court, in Denver, Colorado (collectively the “Interceptors”). The District has a 1984 revocable permit from Denver for portions of the Delgany Interceptor (a copy of which is attached as **Exhibit A**), but no such permit for the Delgany Common Interceptor. The 1984 revocable permit shall remain in effect and is superseded by this License Agreement only to the extent of conflict and only for those geographical areas covered by this License Agreement.
2. In connection with the change in use of Denver’s property in and along Arkins Court extending from the southwest extent of the River North Park frontage property to 38<sup>th</sup> Avenue in Denver, Colorado, City intends to install improvements, including walkway, pavers, seating, a pavilion structure, elevated pedestrian walkway, trees, bushes and other landscaping and irrigation that are to be located now or in the future (“Project Improvements”). The District needs to continue to access, operate, use, inspect, install, maintain, repair, replace and remove the Interceptors, and the purpose of this Agreement is to address how the District will continue to access, operate, use, inspect, install, maintain, repair, replace and remove the Interceptors in light of the City’s Project Improvements.
3. This Agreement covers an area ten (10) feet on each side of the centerline of each of the Interceptors, extending from the southwestern extent of the River North Park frontage property to the centerline of 38<sup>th</sup> Avenue in Denver, Colorado, and also includes District access to and from adjacent public streets, as depicted in **Exhibit B** (“License Area”). The City shall limit construction, placement or installation of major Project Improvements generally outside of the License Area.
4. This Agreement grants to the District the right to continue to operate, use, inspect, install, maintain, repair, enlarge, replace and remove the Interceptors, along with the right of access to and from the License Area, and the right to conduct maintenance and construction staging activities within the License Area (“License Purposes”). This License Agreement does not authorize the District to enter upon or make any use of any other City property other than the License Area. Further, nothing in this Agreement creates, grants, conveys or recognizes a property interest on the part of the District in or to the License Area, or to any other City property.
5. The rights provided to the District herein are not transferable and are non-exclusive. City retains the right to use, occupy, enjoy, grant or convey other interests, and in all other ways govern, manage, operate and control the License Area and any other City property and

right-of-way so long as such City activity does not substantially impair or unreasonably interfere with the District's rights as provided for herein.

6. The consideration for this License Agreement is the mutual promises and covenants contained herein. No monetary consideration shall be owed or paid.
7. City shall have the right, at its sole, but reasonable discretion, to suspend this Agreement if the District materially breaches the terms hereof and fails to timely cure such breach. Upon the occurrence of an actual or alleged violation or breach, City will give the District a written Notice of Violation ("Notice") in which the City will describe the actual or alleged violation or breach of this Agreement. Upon receipt of such Notice, the District shall have thirty (30) calendar days, or such longer time as specified by City, to cure the violation or breach and to demonstrate that the violation or breach has been cured.
8. This Agreement grants to the District the right of access to and from the License Area:
  - a. District access shall allow for an H-20 vehicle with minimum overhead clearance of thirteen and one half (13.5) feet, minimum width of ten (10) feet. The H-20 vehicle is approximately thirty (30) feet in length and has a gross vehicle weight of approximately 60,000 pounds on three axels.
  - b. District access to and from License Area will be available via 35<sup>th</sup> Avenue, 36<sup>th</sup> Avenue and 38<sup>th</sup> Avenue, and include access on, over and across Arkins Court right-of-way to the License Area.
  - c. District access shall include the right and ability to remove bollards, gates, locks, etc. at 35<sup>th</sup> Avenue, 36<sup>th</sup> Avenue and 38<sup>th</sup> Avenue with shared access key or other device.
9. The District consents to two (2) District manholes (designated as "MH DG 20" and "MH DGC 13") being abandoned and removed per District standards as part of the City's Project Improvements and at City cost.
10. No trees shall be planted or installed by City in the License Area. The District shall not be responsible for any damage to, or loss of trees including root zones and canopies, shrubs or bushes that are planted, installed or otherwise located in the License Area on account of any activities permitted by, and undertaken pursuant to this License Agreement.
11. If reasonably necessary or desirable for License Purposes, City shall be responsible for removal, relocation, storage, repair or replacement of all Project Improvements located within License Area. This includes Project Improvements below the surface, on the surface and above the surface (spanning or cantilevered over) of the License Area.
12. This License Agreement shall extend to the District, its employees and contractors. The District shall be responsible for all work performed by its contractors, subcontractors, consultants, suppliers, laborers and agents who are expressly authorized by the District to perform any work or to undertake any activities on the License Area. Subject to paragraphs

15.c.iii and 16.c, the District shall be solely responsible for all claims for injuries to persons or damage to or loss of property belonging to persons caused by the work or other actions of the District involving the Interceptors occurring on the License Area. The term “persons” shall include, without limitation, City officials, employees, volunteers, consultants, contractors, tenants and agents.

13. If third-party contractors are used to undertake work within the License Area, such contractors shall have required minimum insurance coverage as provided herein. All such District contractors, subcontractors, consultants, suppliers, laborers and agents performing work in the License Area shall be subject to the terms and conditions of this Agreement. At no time shall the District, its officials, employees, contractors, subcontractors, consultants, suppliers, laborers or agents be regarded as working for the City in any capacity, nor shall they be regarded in any manner as being employees or contractors of the City.
14. Routine Maintenance Work: District routine testing, maintenance and repair work is District work in the License Area that may be undertaken through existing manholes with little or no anticipated surface disturbance, and little or no need to remove, relocate or damage Project Improvements (“Routine Work”). Routine Work includes, but is not limited to manhole inspection, TV scope for pipeline inspection, use of a “jetter truck” to clear blockages, and other routine testing, maintenance and repair. Routine Work does not include Repair or Replacement Work or Emergency Work (defined below). The District’s Routine Work shall proceed as follows:
  - a. Routine Work is limited to five (5) consecutive days at one location within the License Area. District shall notify City of needed extensions of this time, and such extensions may be negotiated by the District and the City.
  - b. For Routine Work, no advanced notice to, coordination with, or permission from the City is required. District may access License Area on its own for Routine Work. A DPR Temporary Construction Access Permit (“TCAP”) is not required for Routine Work if the work is completed by Metro Wastewater Staff. If a contractor is doing the work for Metro Wastewater, they will be required to apply for a TCAP.
  - c. To the extent practical, District will avoid undertaking Routine Work during scheduled events or during periods of peak public use (weekends, evenings, etc.).
15. Repair or Replacement Work: District periodic repairs and replacement work is more significant repair, rehabilitation or other construction work requiring surface disturbance (such as open trenching), the removal or relocation of material Project Improvements, or material damage to Project Improvements (“Repair or Replacement Work”). Repair or Replacement Work does not include Routine Work or Emergency Work (defined below). The District’s Repair or Replacement Work shall proceed as follows:
  - a. Repair or Replacement Work may last up to ninety (90) consecutive days at one location within the License Area. Extensions of this time may be negotiated by the District and the City.

- b. District shall be solely responsible for locating and taking appropriate measures to protect all overhead, above ground and underground utilities, including without limitation gas, electrical, sewer, water, telephone, and cable, during work, operations and any related activities on or about the License Area. District shall arrange for the timely and complete location of all utilities in accordance with law; shall take all necessary precautions to avoid damage to, or injury from, such utilities; and shall be liable for all damages resulting from any contact with or destruction of such utilities. The City will provide, upon request, any drawings or other documents the City may have regarding the existence of such utilities on or about the License Area, but the City expressly disclaims the reliability or accuracy of any such drawings or documents it may provide to the District.
- c. For Repair or Replacement Work, the District shall coordinate all such work with the City as follows:
  - i. The District shall provide advance written notice to DPR and provide copies of the District's construction plans for the License Area ("Repair Notice").
  - ii. Within thirty (30) calendar days of District's Repair Notice, the District and DPR will identify Project Improvements located within the License Area that will be removed, relocated or damaged in connection with the District Repair or Replacement Work.
  - iii. DPR will remove or relocate identified Project Improvements impacted by District Repair or Replacement Work within ninety (90) days of the Repair Notice. Project Improvements not removed or relocated by this time may be removed, relocated or damaged in connection with the District Repair or Replacement Work at no cost or liability to the District.
  - iv. Within thirty (30) days of the completion of the District Repair or Replacement Work, the District shall return the surface of the ground to the approximate elevation and slope as existed before such work, and the District shall remove all vehicles, equipment, construction debris, excess fill and other temporary construction items from the License Area.
  - v. The District shall provide DPR with fifteen (15) days advance notice of anticipated completion of District Repair or Replacement Work. Upon completion of District Repair or Replacement Work, DPR shall be responsible for restoring, relocating, repairing and/or replacing Project Improvements within the License Area.
  - vi. DPR will assist the District in coordinating any other review or approval required from other City agencies or departments if needed. However, the District shall remain fully responsible for obtaining any permits, licenses or approval that may be required from City agencies or departments.

16. Emergency work: Emergency Work may include any of the types of work identified as Routine Work or Repair or Replacement Work, but is work requiring immediate access to the License Area to prevent imminent or actual risk to the public's health, safety or welfare or the environment ("Emergency Work"). Emergency Work shall proceed as follows:
- a. The District may immediately access the License Area and commence Emergency Work.
  - b. The District shall provide notice to DPR or other City agency or department requiring such notice concerning the Emergency Work as soon as practical, but no more than 24 hours after the District entry into the License Area to perform Emergency Work. To the extent possible, the District will coordinate any necessary removals with DPR to minimize damage and salvage components for re-use.
  - c. If necessary to perform the Emergency Work, the District may remove, relocate or damage the Project Improvements at no cost or liability to the District. The District shall not be responsible for storage, repair or replacement of Project Improvements within the License Area that are removed, relocated or damaged in connection with Emergency Work.
  - d. The District shall be responsible for timely notifying and cooperating with the appropriate governmental authorities, as required by law, in the event of an emergency requiring Emergency Work.
17. Whether performing Routine Maintenance Work, Repair or Replacement Work, or Emergency Work, the District shall:
- a. Exercise reasonable care and shall minimize adverse impacts to any Project Improvements and public access;
  - b. Be solely responsible for locating and taking appropriate measures to protect all overhead, above ground and underground utilities, including without limitation gas, electrical, sewer, water, telephone, and cable, during its work, operations and any related activities on or about the License Area;
  - c. Take reasonable measures to secure its own equipment, vehicles, temporary structures, road base, excess soil and rocks, chemicals, signs, barriers, materials, supplies, construction debris and waste brought on site or generated by the District on site ("Personal Property") from public access or tampering and for the protection of public health and environment. Personal Property shall not be stored on the License Area except during Routine Maintenance Work, Repair and Replacement Work and Emergency Work, and shall not be stored on other City property unless such permission is otherwise granted. The City assumes no liability for public misconduct, theft or vandalism of the Personal Property. Upon the completion of any work, the District shall promptly remove from the License Area all Personal Property and shall do so in compliance with federal, state and local laws or regulatory requirements, standards, and guidelines, including the revocable permit,

**Exhibit A.** Alternatively, if the District should fail to remove the Personal Property as provided herein, the City may perform such removal and the District shall promptly reimburse the City for all reasonable actual costs incurred in performing such removal.

- d. Prepare a detour plan in the event that the District's activities, work or operations require that any part of the Licensed Area be closed for more than twenty-four (24) continuous hours, which detour plan must be approved by the City prior to the District implementing the detour plan ("Access Control"). All Access Control measures, including barricades, signs, and flagging, are subject to changes required by the City if found to be inadequate.
- e. Subject to paragraph 10, replace each tree destroyed or removed outside of the License Area on account of the District's activities, work or operations with either: i) one four (4) inch Diameter Breast Height tree; ii) one five (5) gallon shrub; or iii) one one (1)-gallon perennial of the same species, planted and warranted per DPR standards. This replacement obligation shall not apply to any tree originally planted or located within the License Area.
- f. Protect all trees, shrubs and perennials, structures and other Project Improvements located outside the License Area that may be damaged by the District's activities, work or operations, and be responsible for normal mitigation of damage to any trees or other plantings outside of the License Area per City ordinance.
- g. The District will take reasonable measures to avoid and protect structures outside of the License Area.

18. Environmental Requirements.

- a. Hazardous Materials. District shall be solely liable for all costs and expenses associated with any Hazardous Materials, as defined below, that the District brings onto the Permitted Area as a consequence of exercising the Permitted Rights. The District shall comply with all applicable local, state, and federal environmental guidelines, rules, regulations, statutes, laws, and orders applicable to the work (collectively, "Environmental Requirements"), including but not limited to Environmental Requirements regarding the storage, use, transportation, and disposal of Hazardous Materials and regarding releases or threatened releases of Hazardous Materials to the environment. The term "Hazardous Materials" shall mean asbestos, asbestos-contaminated soils, and asbestos-containing materials, special wastes, polychlorinated biphenyls (PCBs), any petroleum products, natural gas, radioactive source material, pesticides, any hazardous waste as defined at 42 U.S.C. § 6903(5) of the Solid Waste Disposal Act, any hazardous substance as defined at 42 U.S.C. § 9601(14) of the Comprehensive Environmental Response, Compensation and Liability Act, and chemical substance as defined at 15 U.S.C. § 2602(2) of the Toxic Substances Control Act, and any guidelines issued and rules or regulations promulgated pursuant

to such statutes, or any other applicable federal or state statute. The obligations set out in this paragraph shall survive the expiration or revocation of this Agreement.

- b. **District's Responsibility and Liability.** District shall (i) assume all liability for proper manifesting and management of all waste and, in particular, Hazardous Materials that District brings onto the Permitted Area as a consequence of exercising the Permitted Rights; (ii) use best efforts to minimize the volume of Hazardous Materials associated with the work or related activities on or about the Permitted Area, and shall properly and lawfully handle, containerize, manage and lawfully dispose of all such Hazardous Materials and other waste; (iii) will not take any action with respect to such Hazardous Materials that may cause any alteration in the chemical, physical or biologic nature or characteristics of the Hazardous Materials while the Hazardous Materials are on or about the Permitted Area; and (iv) remove all Hazardous Materials that the District brings onto the Permitted Area as a consequence of exercising the Permitted Rights from the Permitted Area. The City shall not own or be responsible for and does not take legal title to any of the Hazardous Materials and other waste generated by the District in the course of the work.
- c. **Soils Management.** Soil excavated during any work under this Agreement which contains Hazardous Materials must be removed from the City Property and legally disposed specified above. Excavated soil which does not contain Hazardous Materials or other waste may be reused as backfill or re-grading on the Permitted Area provided there are no field indications of contamination such as odors, staining, or organic vapor meter readings above background. Otherwise, any soil brought on the Permitted Area by the District for fill or grading purposes must be free of Hazardous Materials and other waste. Determinations as to the existence of Hazardous Materials and other waste shall be made by the City using criteria established by the Colorado Department of Public Health and Environment and the City's Department of Public Health and Environment.

19. Insurance:

- a. **General Conditions:** The District shall secure, on or before the Effective Date, the following insurance covering all work and related activities under this Agreement. The District shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof. The required insurance shall be underwritten by an insurer Permitted 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 stating "Should any of the above-described policies be canceled or non-renewed before the expiration date thereof, the issuing company shall send written notice to Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202. Such written notice shall be sent (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." Additionally, the District shall provide written notice of cancellation, non-renewal and any reduction in coverage to the address above

by certified mail, return receipt requested. If any policy is in excess of a deductible or self-insured retention, the City must be notified by the District. The District shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the District. The District 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 Agreement.

- b. **Proof of Insurance:** The District shall provide a copy of this Agreement to its insurance agent or broker. Except as authorized by a permit previously issued to the District, the District may not commence work under this Agreement prior to placement of coverage. The District has delivered a certificate of insurance, in the form as set forth in **Exhibit C** to this Agreement (an ACORD certificate), and hereby certifies that said certificate complies with all insurance requirements of this Agreement. 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 Agreement shall not act as a waiver of any of the City's rights under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to police and endorsements.
- c. **Additional Insureds:** For Commercial General Liability, Business Auto Liability, and Contractors Pollution Liability, the District's insurer(s), and any subcontractors' insurer(s), shall include the City and County of Denver, its elected and appointed officials, employees and volunteers as additional insured.
- d. **Waiver of Subrogation.** For all coverages, the District's insurer shall waive subrogation rights against City.
- e. **Subcontractors and Subconsultants:** All subcontractors and subconsultants (including independent contractors, suppliers or other entities performing work under this Agreement) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of the District. The District shall ensure that all subcontractors and subconsultants maintain the required coverages. The District shall provide proof of insurance for all subcontractors and subconsultants upon request by the City.
- f. **Workers' Compensation/Employer's Liability Insurance:** The District shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of at least \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. The District expressly represents to the City, as a material representation upon which the City is relying upon in issuing this Agreement, 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



Agreement, and that any such rejections previously effected, have been revoked as of the date the District signs this Agreement.

- g. **Commercial General Liability:** The District shall maintain a Commercial General Liability insurance policy with limits of at least \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate.
  - h. **Business Automobile Liability:** The District shall maintain Business Automobile Liability with limits of at least \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing the work under this Agreement. 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 the Contractors Pollution Liability policy shall be an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.
  - i. For claims-made coverage, the retroactive date must be on or before the Effective Date.
  - j. The District shall advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At the District's own expense, were such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the District shall procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.
20. Liability. The District and the City are each responsible for its own negligence and that of their officials, officers, employees, and agents, to the extent provided in the Governmental Immunity Act, C.R.S. §24-10-101, *et seq.* No official, officer, employee, or agent of either party shall be charged personally, or held contractually, liable to the other party or its officials, officers, employees, or agents, under any term or condition of this Agreement or for any breach, default, or violation under this Agreement.
21. Remedies and venue. In addition to the remedies and rights to relief set forth in this Agreement, the Parties shall have all remedies available at law or in equity against the District. Venue for any action under this Agreement shall be in the District Court for the City and County of Denver.
22. Approvals and charges. The District shall obtain and maintain, at its sole cost, and comply with all permits or licenses (federal, state, or local) required when exercising its rights pursuant to this Agreement. The District shall pay promptly all applicable taxes, excises, license fees, and permit fees and charges of whatever nature when exercising its right pursuant to this Agreement and shall not permit any of said taxes, excises or license or

permit fees to become delinquent or to fail to pay any penalties or fines assessed with respect to the work. The City shall not be liable for the payment of fees, charges, taxes, late charges, penalties or fines of any nature related to the work.

23. Liens. The District shall notify its contractors and subcontractors that mechanic's or materialman's liens or any other liens shall not be imposed upon City Property for amounts due any worker for labor performed or materials or equipment furnished either pursuant to C.R.S. § 38-26-107 or by any other authority, or due to any other claim with respect to the work. The District shall promptly pay when due all bills, debts and obligations incurred in connection with the work performed under this Agreement and shall not permit the same to become delinquent. If any lien, judgment, execution or adjudication of bankruptcy results which may impair the rights of the City to the City Property, The District shall notify the City of such, and the District shall reasonably assist the City in resolving the encumbrance.
24. Other encumbrances. The District shall promptly pay when due all bills, debts and obligations incurred in connection with exercising its right pursuant and shall not permit the same to become delinquent.
25. Governmental immunity. Nothing in any other provision of this Agreement shall be construed as a waiver of the notice requirements, defenses, immunities and limitations the City or The District may have under the Colorado Governmental Immunity Act (§24-10-101, C.R.S., et. seq.) or to any other defenses, immunities, or limitations of liability available to the City or the District against third parties by law.
26. No discrimination in employment. In connection with exercising its rights pursuant to this Agreement, the District 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, gender expression or gender identity, age, military status, sexual orientation, material status, or physical or mental disability; and the District further agrees to insert the foregoing provision in all approved contracts and subcontracts hereunder.
27. Notices. All notices required to be given to the City or the District hereunder shall be in writing and provided by personal delivery or sent by certified mail, return receipt requested, to:

The City:     Executive Director  
                  Department of Parks and Recreation  
                  201 West Colfax Ave., Dept. 601  
                  Denver, Colorado 80202

Executive Director  
Department of Public Works

201 West Colfax Ave., Dept. 608  
Denver, Colorado 80202

with copies to City representatives.

The District: as noted in the first paragraph of this Agreement above, with a copy to the representative appointed by the District.

Either party hereto may designate in writing from time to time the address of substitute or supplementary persons within the State of Colorado to receive such notices. The effective date of service of any such notice shall be the date such notice is mailed or delivered to the District or the City. Daily communications and coordination between the City representative and the representative of the District and its contractor may be telephone or email, if so allowed under this Agreement and as agreed by these representatives.

28. Entire agreement. This Agreement, including the exhibits which are hereby incorporated into this Agreement by reference, constitutes the entire agreement of the parties. The parties agree there have been no representations, oral or written, other than those contained herein and that the various promises and covenants contained herein are mutually agreed upon and are in consideration for one another.
29. Severability. If any term or provision of this Agreement is held by a court of law (following all legal rights of appeal or the expiration of time therefore) to be illegal or unenforceable or in conflict with any law of the State of Colorado or City Charter or City ordinance, 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 Agreement did not contain the particular term or provision held to be invalid; provided, however, if the invalidated term or provision was a critical or material consideration of either Party in entering this Agreement, the Parties shall work together, in good faith, to come up with an amendment to this Agreement that substantially satisfies the previously intended consideration while being in compliance with applicable law and the judgment of the court.
30. Amendment. Except as otherwise expressly provided in this Agreement, this Agreement may be amended, modified, or changed, in whole or in part, only by written agreement executed by the parties in the same manner as this Agreement.
31. No assignment. Neither the City nor the District shall not assign its rights or delegate its duties hereunder with the exception of contracting and subcontracting as provided in this Agreement, without the prior written consent of the other party.
32. Authority to execute. The person signing for the District warrants that he or she has the complete authority to sign on behalf of and bind the District.
33. Electronic signature and electronic records. The District 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 is in an electronic record or electronic signature or that is not in its original form or is not an original.

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SIGNATURE BLOCKS BEGIN ON NEXT PAGE.]

**Contract Control Number:** PARKS-201952883-00  
**Contractor Name:** METRO WASTEWATER RECLAMATION DISTRICT

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:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

\_\_\_\_\_

By:

\_\_\_\_\_

**Contract Control Number:**  
**Contractor Name:**

PARKS-201952883-00  
METRO WASTEWATER RECLAMATION DISTRICT

DocuSigned by:  
By: William Conway  
5C831147FDD14E8...

Name: william Conway  
(please print)

Title: District Manager  
(please print)

ATTEST: [if required]

By: \_\_\_\_\_

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**EXHIBIT A****METRO WASTEWATER RECLAMATION DISTRICT****Land Holding Table of Contents Checklist**

LAND 05 LAND ACQUISITION-INTSW 010393  
 DELGANY  
 PARCEL #DG-013

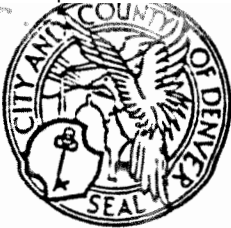
010393 PARCEL #DG-013  
 DELGANY  
 LAND ACQUISITION-INTSW LAND 05



Below is a listing of documents that may be included in the Central Records Land Holding folder.

Tab #	Document	In File	Comments
1	Ownership & Encumbrance Report (Memo of Ownership)	na	
2	Initial Contact with Property Owner(s)	na	
3	Legal Descriptions / Plats / Maps	na	
4	Title Information	na	
5	Appraisal	na	
6	Formal Offer and Negotiations	na	
7	Payment	na	
8	Closing (Third party holding funds or brokering the transaction; usually only when buying a fee parcel of land)	na	
9	Recorded Document / Legal Documents (May include easement, deed, permit, rule & order, license agreement or agreement)	✓	
10	Supplemental Information (May include releases and condemnations)	✓	

\* N/A = Not Applicable



FEDERICO PEÑA  
Mayor

# CITY AND COUNTY OF DENVER

DEPARTMENT OF PUBLIC WORKS

OFFICE OF THE MANAGER  
CITY AND COUNTY BLDG.  
DENVER, COLORADO 80202

BOND NO. \_\_\_\_\_

POLICY NO. MXP 461 62 12

FILE NO. \_\_\_\_\_

LOCATION \_\_\_\_\_

Revocable permit to Metropolitan Denver Sewage Disposal District No. 1 to encroach with the Delgany Interceptor, Phase I, in parts of 46th Avenue, 39th Street, Arkins Court, East Arkins Court, 38th Street and 31st Street, described in the attached legal descriptions.

The construction shall be by a contractor duly authorized under the Building Code of this municipality.

All work in connection with the above must be done in compliance with Rules and Regulations Governing Standard Construction Specifications and Drawings (Amended) issued in accordance with Authority of Article II of the Charter of the City and County of Denver, the Specifications of the Building Code and under the General Supervision of the Department of Public Works.

A Building Permit will be necessary before commencing the work. This permit may be obtained at the Building Department, 3840 York Street, Unit "H".

When your contractor applies for a Building Permit, he must deposit with this office a bond issued by a surety company and executed by you, or an insurance policy, whichever you prefer. If a bond is used, it shall be in the sum of \$50,000 and in form will be your agreement to save harmless and defend the City and County of Denver from all suits, claims, demands or actions at law or in equity arising as the result of injury to persons or damage to property occasioned by use and occupancy of public property. If an insurance policy is used, this municipality must be a named insured with minimum limits of coverage of \$50,000/\$100,000 for bodily injury and \$5,000 for property damage, covering the location of the encroachment on public property for which permit is issued. Said policy may not be cancelled except on at least thirty (30) days notice to the municipality.

If bond or insurance policy is not maintained, the authorization herein conferred shall terminate immediately and the aforesaid construction shall forthwith be removed.

The authority herein conferred is revocable at any time and the right to revoke is expressly reserved to the municipality.

No part hereof shall be of any force and effect until the acceptance hereinafter set forth has been executed and payment is received in the amount of \$50.00 for processing and first year fees. An annual renewal fee of \$25.00 is required each year. These fees are those that are in effect at the time of permit application which are subject to revision and are authorized by Section 49-40(A), "Engineer's Schedule of Fees" of the Revised Municipal Code of the City and County of Denver.

NOTE: Disputes regarding this Agreement shall be resolved by administrative hearing pursuant to R.M.C. 56-106.

Failure to comply may result in the imposition of civil penalties up to \$10,000.00 per day pursuant to R.M.C. 56-107.

Very truly yours,  
John S. Mrozek  
Manager of Public Works

By *Gregory Riem*

Date Jan 11, 1984

Acceptance:

We accept the foregoing authority on the basis of the conditions herein set forth.

Signed by *Jack Benge*  
Permittee

Date 1/3/84



The City and County of Denver hereby grants to Metropolitan Denver Sewage Disposal District No. 1, its successors and assigns a revocable permit or license to encroach with the Delgany Interceptor, Phase I, in the following described areas in the City and County of Denver, State of Colorado, to-wit:

46th Avenue Encroachment

That part of 46th Avenue, being 10 feet wide, and lying 5 feet on each side of a centerline described as follows:

Commencing at the Southwest Corner of the Northeast Quarter of the Northwest Quarter of Section 23, Township 3 South, Range 68 West of the Sixth Principal Meridian;  
Thence northerly along the West Line of the Northeast Quarter of the Northwest Quarter of said Section 23 a distance of 25 feet to a point 5 feet southerly, when measured perpendicularly from the North Right-of-Way Line of 46th Avenue;  
Thence easterly and parallel with said North Right-of-Way Line of 46th Avenue a distance of 6.64 feet to the true point of beginning;  
Thence continuing easterly and parallel with said North Right-of-Way Line of 46th Avenue a distance of 113.36 feet;  
Thence on a deflection angle to the right of 90 degrees 00 minutes 00 seconds a distance of 93 feet, more or less, to the South Right-of-Way Line of 46th Avenue, being the point of terminus.

### 39th Street Encroachment

That part of 39th Street, being 10 feet wide, and lying 5 feet on each side of a centerline described as follows:




Commencing at the South Corner of Block 35, St. Vincent's Addition, said point being the intersection of the Northeasterly Right-of-Way Line of 38th Street and the Northwesterly Right-of-Way Line of Arkins Court;  
Thence northeasterly along said Northwesterly Right-of-Way Line of Arkins Court a distance of 322.75 feet to the point of intersection of said Northwesterly Right-of-Way Line of Arkins Court and the Southwesterly Right-of-Way Line of 39th Street;  
Thence northwesterly along said Southwesterly Right-of-Way Line of 39th Street a distance of 62.23 feet to the true point of beginning;  
Thence on a deflection angle to the right of 70 degrees 57 minutes 46 seconds a distance of 84.63 feet to the Northeasterly Right-of-Way Line of 39th Street, being the point of terminus, lengthening and shortening the sidelines to terminate with the Northeasterly and the Southwesterly Right-of-Way Lines of 39th Street.

## Arkins Court, 38th Street, East Arkins Court and 31st Street Encroachment

That part of Arkins Court, 38th Street, East Arkins Court and 31st Street, being 10 feet wide, and lying 5 feet on each side of a centerline described as follows:

Commencing at the South Corner of Block 35, St. Vincent's Addition, said point being the intersection of the Northeasterly Right-of-Way Line of 38th Street and the Northwesterly Right-of-Way Line of Arkins Court;  
Thence northeasterly along said Northwesterly Right-of-Way Line of Arkins Court a distance of 142.41 feet to the true point of beginning;  
Thence on a deflection angle to the right of 160 degrees 57 minutes 46 seconds a distance of 198.03 feet to a point of curve;  
Thence along the arc of said tangent curve to the right, having a central angle of 89 degrees 29 minutes 15 seconds and a radius of 7.417 feet, a distance of 11.448 feet to a point of tangent;  
Thence westerly along said tangent a distance of 26.552 feet to a point of curve;  
Thence along the arc of said tangent curve to the left, having a central angle of 83 degrees 35 minutes 15 seconds and a radius of 9.81 feet, a distance of 14.31 feet to a point of tangent;  
Thence southwesterly along said tangent a distance of 471.69 feet;  
Thence on a deflection angle to the right of 00 degrees 01 minutes 39 seconds a distance of 389.00 feet;  
Thence on a deflection angle to the left of 00 degrees 27 minutes 19 seconds a distance of 1,179.00 feet;  
Thence on a deflection angle to the left of 00 degrees 00 minutes 53 seconds a distance of 580.00 feet;  
Thence on a deflection angle to the left of 00 degrees 08 minutes 40 seconds a distance of 243.00 feet;  
Thence on a deflection angle to the right of 00 degrees 54 minutes 54 seconds a distance of 490 feet, more or less, to the point of terminus, lengthening and shortening the sidelines to terminate with the Northwesterly Right-of-Way Line of Arkins Court.

**LEGEND**

-  LIMITS OF WORK
-  MATCHLINE
-  EXISTING SANITARY SEWERS WITH 10' OFFSETS

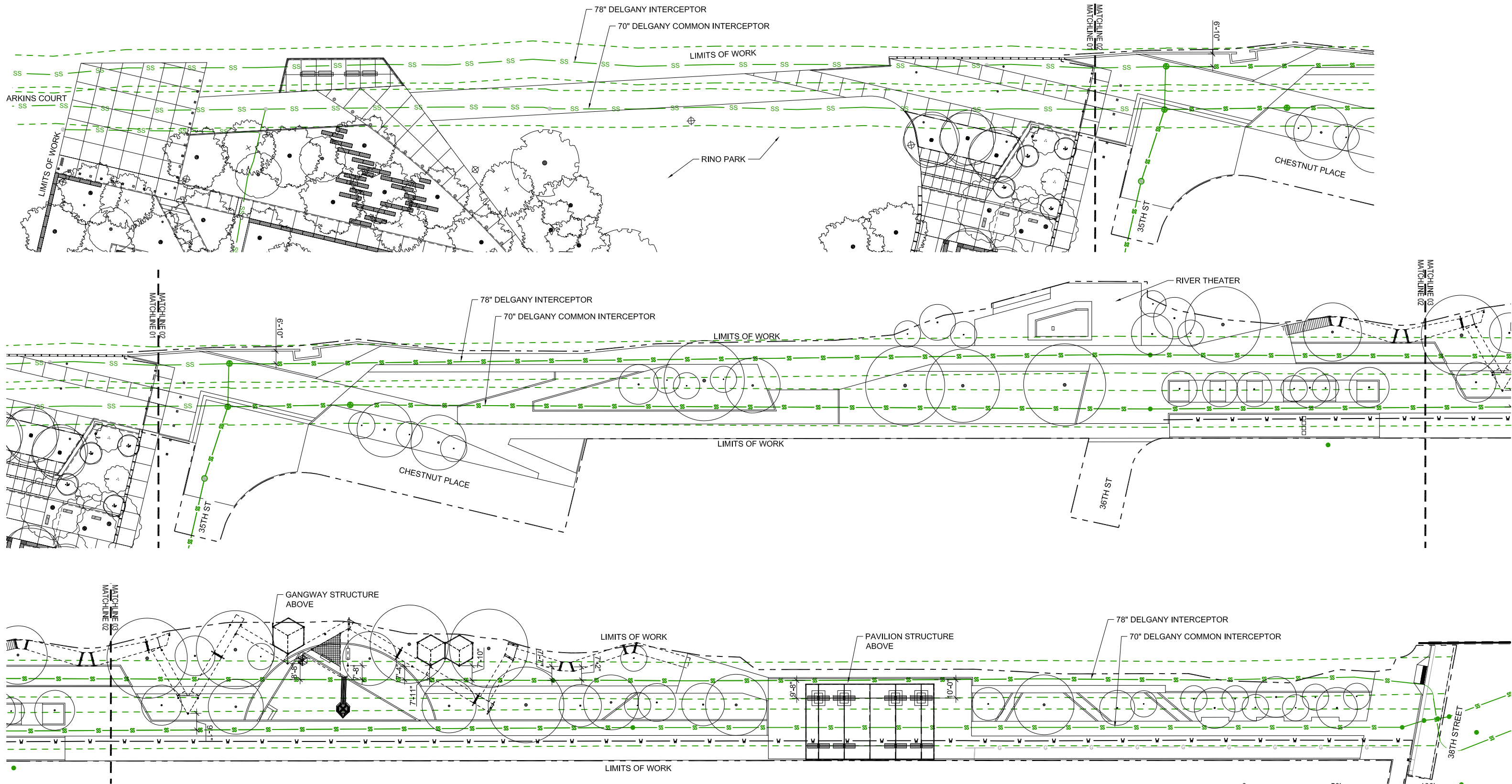
**EXHIBIT B**

**NOTES:**

1. INFORMATION IS ACCURATE AS OF BID SET SUBMITTAL, JUNE 2019. FINAL PLANS ARE SUBJECT TO CHANGE. AS BUILT DRAWINGS POST-CONSTRUCTION SHALL BE PROVIDED TO REFLECT FINAL CONDITION.
2. RINO PROMENADE FROM 35H STREET TO 38TH STREET ON ARKINS COURT- FIELD WORK FOR CONTROL WAS PERFORMED BY JF SATO & ASSOCIATES IN FEBRUARY AND MARCH OF 2016. CITY AND COUNTY OF DENVER BENCH MARK #377, BEING A BRASS CAP LOCATED AT THE SOUTHEASTERN CORNER OF DOWNING ST. AND 36TH ST. NAVD88 ELEVATION=5196.44
3. RINO PARK FROM 35TH STREET TO RINO PARK PROPERTY LINE- SURVEY WAS PERFORMED BY EV STUDIO CIVIL ENGINEERING/ALTITUDE LAND CONSULTANTS, INC. SURVEY DATED 01/27 /16 UNDER CONTRACT WITH THE CITY OF DENVER. EXISTING CONTOUR INTERVAL IS 1 FOOT.



2019-10-29



# EXHIBIT C

CERTIFICATE OF COVERAGE	Certificate #: 6615
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<b>ADMINISTRATOR</b> McGriff, Seibels & Williams, Inc. PO Box 1539 Portland, OR 97207-1539	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE COVERAGE DOCUMENT. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE COVERAGE DOCUMENTS LISTED HEREIN.
<b>COMPANIES AFFORDING COVERAGE</b>	
<b>NAMED MEMBER</b> Metro Wastewater Reclamation District 6450 York Street Denver, CO 80229	COMPANY A Colorado Special Districts Property and Liability Pool COMPANY B COMPANY C COMPANY D

**COVERAGES**

This is to certify that coverage documents listed herein have been issued to the Named Member herein for the Coverage period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which the certificate may be issued or may pertain, the coverage afforded by the coverage documents listed herein is subject to all the terms, conditions and exclusions of such coverage documents.

CO LTR	Type of Coverage	Coverage #	Effective Date	Expiration Date	Limits	
A	<b>General Liability</b>	32C58643-640	1/1/2019	1/1/2020	General Aggregate	Unlimited
	<input checked="" type="checkbox"/> Commercial General Liability	* Except that for claims, occurrences or suits to which the monetary limits of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et. seq., as amended, apply, there shall be a further sublimit of (a) \$387,000 for an injury to any one person in any single occurrence; and (b) \$1,093,000 for an injury to two or more persons in any single occurrence; but in the event of an injury to two or more persons in any single occurrence, the sublimit shall not exceed \$387,000 for each injured person.			Each Occurrence *	\$2,000,000
	<input checked="" type="checkbox"/> Public Officials Liability					
	<input checked="" type="checkbox"/> Employment Practices					
	<input checked="" type="checkbox"/> Occurrence					
A	<b>Automobile Liability</b>	32C58643-640	1/1/2019	1/1/2020	Each Occurrence *	\$2,000,000
	<input checked="" type="checkbox"/> Scheduled Autos					
	<input checked="" type="checkbox"/> Hired Autos					
	<input checked="" type="checkbox"/> Non-Owned Autos					
	<b>Auto Physical Damage</b>					
	<input type="checkbox"/> Scheduled Autos					
	<input type="checkbox"/> Hired Autos					
	<b>Excess Liability</b>				General Aggregate	
	<input type="checkbox"/> Other Than Umbrella Form				Each Occurrence *	
	<b>Property</b>					
	<input type="checkbox"/>					

**DESCRIPTION:**  
 Re: Access and License Agreement for underground sanitary sewer pipelines / City and County of Denver, its elected and appointed officials, employees and volunteers are included as an Additional Covered Member and subrogation is waived under general and auto liability as required by written contract.

<b>CERTIFICATE HOLDER</b> City and County of Denver Department of Parks and Recreation 201 West Colfax Avenue, Department 601 Denver, CO 80202	<b>CANCELLATION:</b> SHOULD ANY OF THE ABOVE DESCRIBED COVERAGES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE COVERAGE FORM PROVISIONS.
By: Joseph E. DePaepe	Date: 11/13/2019

**CERTIFICATE OF COVERAGE**

Certificate #: 848

**Administrator**

McGriff, Seibels Williams, Inc.  
PO Box 1539  
Portland, OR 97207-1539

This certificate is issued as a matter of information only and confers no rights upon the certificate holder other than those provided in the coverage and policy document. This certificate does not amend, extend or alter the coverage afforded by the coverage documents listed herein.

**Named Member**

Metro Wastewater Reclamation District  
  
6450 York Street  
Denver, CO 80229

**COMPANIES AFFORDING COVERAGE**

COMPANY A Colorado Special Districts Property and Liability Pool  
COMPANY B Safety National Casualty Corporation

**COVERAGES**

This is to certify that coverage documents listed herein have been issued to the Named Member herein for the Coverage period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which the certificate may be issued or may pertain, the coverage afforded by the coverage documents listed herein is subject to all the terms, conditions and exclusions of such coverage documents.

CO LTR	Type of Coverage	Coverage #	Effective Date	Expiration Date	Limits						
AB	<b>Workers' Compensation and Employer's Liability</b>	19W58643-22	1/1/2019	1/1/2020	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER <table border="1"> <tr> <td>EL EACH ACCIDENT</td> <td>\$2,000,000</td> </tr> <tr> <td>EL DISEASE - POLICY LIMIT</td> <td>\$2,000,000</td> </tr> <tr> <td>EL DISEASE - EACH EMPLOYEE</td> <td>\$2,000,000</td> </tr> </table>	EL EACH ACCIDENT	\$2,000,000	EL DISEASE - POLICY LIMIT	\$2,000,000	EL DISEASE - EACH EMPLOYEE	\$2,000,000
EL EACH ACCIDENT	\$2,000,000										
EL DISEASE - POLICY LIMIT	\$2,000,000										
EL DISEASE - EACH EMPLOYEE	\$2,000,000										

**Description**

Subject to the terms and conditions of the Workers' Compensation Coverage Document.

Evidence of coverage including a waiver of subrogation in favor of the certificate holder. There is no coverage for contractors or subcontractors hired by Metro Wastewater Reclamation District.

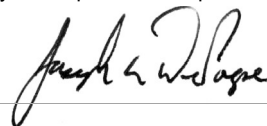
**CERTIFICATE HOLDER**

City and County of Denver  
Department of Parks and Recreation  
201 West Colfax Avenue, Department 601  
Denver, CO 80202

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED COVERAGES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE COVERAGE AND POLICY FORM PROVISIONS.

By: Joseph E. DePaepe



Date: 11/12/2019