

## ON-CALL MAINTENANCE AND REPAIR CONTRACT

**THIS ON-CALL MAINTENANCE AND/OR REPAIR CONTRACT** (this “**Contract**”) is by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the “**City**”) and **DUININCK, INC.**, a Minnesota corporation, whose address is 408 6th St., PO Box 208, Prinsburg, MN 56281 (the “**Contractor**”, and collectively with the City, the “**Parties**”).

### RECITALS

**WHEREAS**, the City has identified a need for a qualified contractor to perform, as assigned, services as directed by the City on an “on-call” or “as needed” basis (the “**Program**”). Program work will generally consist of performance of such maintenance services required on a variety of as yet to be identified projects as assigned by the City (each, a “**Project**”).

**WHEREAS**, the work shall consist of the routine (not emergency) maintenance and repair of golf courses at multiple locations throughout the City and County of Denver. Program work will generally consist of performance of such restoration, repair and improvement services.

**WHEREAS**, Standard Work hours are considered Monday through Friday 7:00 A.M to 5:00 P.M. Non-standard work hours are 5:00 P.M. to 7:00 A.M. Monday through Friday, weekends, and City of Denver holidays, as further defined in each specific Task Order assigned hereunder (the “**Task Order**”).

**WHEREAS**, the Contractor is willing, able and has the present capacity to perform all of the maintenance and repair services required by this Contract.

### AGREEMENT

The recitals set forth above are incorporated herein as set forth in their entirety. In consideration of the mutual covenants contained in this Contract, and subject to the terms and conditions stated in this Contract, the Parties agree as follows:

**1. WORK TO BE PERFORMED.**

**A. Work:** The Contractor shall furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to do, perform and complete all of the work described in the Scope of Work attached hereto as **Exhibit A** and incorporated herein by this reference (the “**Work**”). The Contractor shall perform the Work in a highly skilled manner consistent with the performance standards and technical requirements set forth in **Exhibit A**. The Contractor shall commence the Work within five (5) calendar days following the issuance by the City of a Task Order for a Project unless a different period is specified in the Task Order. The Contractor shall complete the Project within the time period specified in the Task Order for the Project. The Contractor shall diligently prosecute the Work to completion using its best efforts, highly skilled work effort and attention. The Contractor shall be solely responsible for all

means, methods and techniques of performance, protection of property and safety. The Contractor shall be responsible to the City for the acts and omissions of the Contractor's employees and any other persons performing any of the Work or furnishing materials.

**B. Oversight:** The Contractor shall conduct the Work under the general direction of and in coordination with the Executive Director of the Department of Parks and Recreation or other designated representative (the "**Director**") and the Department employee(s) assigned to manage the Project (the "**Department**") and make every reasonable effort to fully coordinate the Work and Project with any City agency or any person or firm under contract with the City doing work which affects the Work or Project. The Contractor agrees to allow the City to review any of the procedures used by it in doing the Work and to make available for inspection all notes and other documents used in performing the Work.

**C. Cooperation and Coordination:** The Contractor shall make every reasonable effort to fully coordinate the Work with any City agency or any person or firm under contract with the City doing work which affects the Work on any particular Task Order. The Contractor agrees to allow the City to review any of the procedures used by it in doing the Work and to make available for inspection all notes and other documents used in performing the Work.

**D. Non-exclusivity:** The Contractor acknowledges and agrees that this Contract does not create an exclusive right to perform all Work for which the City may contract for the type of service described in **Exhibit A**. The City may enter into contracts with other contractors to perform the same or similar services and reserves the right to select, at the discretion of the Director, the contractor that is the most cost effective, best suited, and/or most readily able to perform a specific Project.

**E. Task Order:** As the Department determines the need and availability of funding for each Project, the City will issue a written Task Order to the Contractor detailing the nature and extent of services to be provided, the location of the Project, and the timeframes within which the Project is to be performed, with a projected amount to be paid to the Contractor (the "**Project Amount**") based on the Work items described in the Scope of Work and the technical specifications in **Exhibit A** (the "**Technical Specifications**") and the Rate Sheet set forth in **Exhibit B**, which is attached to this Contract and incorporated herein by reference. The Contractor acknowledges and affirms that the City may rely upon **Exhibit B** in the preparation of a Task Order as provided herein. **Exhibit C** attached to this Contract and incorporated herein by reference substantially reflects the form of the Task Order to be issued by the City. Following the receipt of a Task Order, the Contractor shall, within forty-eight (48) hours and in good faith, confirm the scope of services detailed therein and the associated Project Amount, all of which must be in accordance with the terms and conditions of this Contract, and respond back in writing to the Department as to the Contractor's ability to initiate and complete the Project in the timeframes specified in the Task

Order. The Contractor assumes all responsibility and risks, including any additional work or additional costs, for failure to confirm the completeness and accuracy of the Task Order and the Project Amount. Confirmation includes, but is not restricted to, inspections of the Project site and inquiries with the Department as to any directions or specifications in the Task Order that are not clear. Upon the Contractor executing the Task Order, the City shall finalize and execute the Task Order and return a copy of the executed Task Order to the Contractor. The City will not execute the Task Order unless any material changes proposed by the Contractor to the terms of the issued Task Order and/or additions to the Project Amount are deemed acceptable by the Director and incorporated into the Task Order and until funding adequate to cover the entire Project Amount is available.

**F. Task Order Change:** If, after execution of a Task Order and commencement on the Project, additions, deletions or modifications to the Work described in the Task Order, along with any associated changes in the Project Amount, are required by the City or are requested by the Contractor and approved in writing in advance by the Director, a Task Order Change, in substantially the form as set forth in **Exhibit D** attached to this Contract and incorporated herein by reference, may be issued in accordance to the same standards and procedures prescribed for Task Orders. The Contractor shall promptly and thoroughly review and respond to the proposed changes, in accordance to the same standards and procedures prescribed for Task Orders and notify the Department that the Contractor is ready and willing to perform the Project in the manner and timeframes as modified by the Task Order Change. The City will not execute the Task Order Change unless any material changes proposed by the Contractor to the terms of the issued Task Order and/or additions to the Project Amount are deemed acceptable by the Director and incorporated into the Task Order Change and until funding adequate to cover the entire Project Amount, if modified, is available.

**G. Inspection of the Work:** Persons who are employees of the City or who are under contract to the City will be assigned to inspect and test the Work. These persons may perform any tests and observe the Work to determine whether or not materials used, manufacturing and construction processes and methods applied, and equipment installed satisfy the requirements of the Technical Specifications, all other Contract requirements, and the Contractor's warranties and guarantees. The Contractor shall permit these inspectors unlimited access to the Work and provide means of safe access to the Work, which cost shall be included in the Contractor's price for the Work. In addition, the 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 Contractor of any of its quality control responsibilities or any other obligations under this 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, whether or not previous inspections or tests were conducted by the inspector or a City representative.

**H. Warranties; Correction of Work:** The Contractor warrants that all parts, materials, components, equipment, systems and other items incorporated into the Work (collectively, “Items”) shall be new, unless otherwise specified, and suitable for the purpose used, and will be of good quality, free from faults and defects, and in keeping with common industry standards and that said Items shall be properly installed or incorporated into the Work in accordance with manufacturer’s specifications and standard practices for said Items, and all of this shall be in conformance with the specifications and requirements of this Contract. The Contractor’s warranty shall be effective for a one-year period following the completion of the Work and shall be extended for one year following any repair, replacement or corrective action required under the warranty. The Contractor, when requested, shall furnish the Director with satisfactory evidence of the kind and quality of Items proposed to be incorporated into the Work. At any time while this Contract is in effect or during the warranty period, the Contractor shall, at no cost to the City, promptly investigate, repair, replace, or otherwise correct any of its workmanship and/or Items in the Work which contain fault(s) or defect(s), whether such failure(s) are observed by the City or the Contractor, and promptly repair, replace, or otherwise correct any damage to any personal or real property owned by the City or another person resulting from said fault(s) or defect(s) or from the repair, replacement, or correction of the fault(s) or defect(s). Provided the Contractor performs the Work in accordance with the terms of this Agreement, including the warranty described in this paragraph, Contractor shall not be liable to the City under the foregoing warranty for damages to the Work or Items caused by lightning occurring after completion of the Work.

**I. Title:** The Contractor warrants that it has full title to all Items, that its transfer of such title to the City is rightful and free and clear from all security interests, liens, claims, or encumbrances whatsoever, and that the Contractor will defend such title against all persons claiming the whole or part of any Item, at no cost to the City.

**J. Completion; Deficiency:** The Contractor shall promptly notify the Department as to the completion of the Work so that inspection of the Work may be made by the City. If a Completion Notice is specified in the Task Order, the Contractor shall not submit a request for payment for the Work performed until a Completion Notice is issued by the Director or ten (10) calendar days after the City is notified of the Work completion, whichever is sooner. If the Work performed is determined by the Director to be defective, deficient or incomplete, whether or not a Completion Notice is required, the Contractor shall correct or

complete the Work, at no additional cost to the City, within the timeframe specified in a Notice of Deficiency issued by the Director, and promptly notify the Director upon correction or completion of the Work.

**K. Time is of the Essence:** The Work is time sensitive. The Contractor acknowledges and affirms that it is imperative that the Contractor exercise due diligence and actively and expeditiously undertake all measures necessary: 1) in initiating, making good progress, and completing the Work and the Project, all within the timeframes specified in this Contract and applicable Task Order, and 2) in promptly and fully correcting or completing any Work noted in a Notice of Deficiency. Failure or refusal by the Contractor to initiate, make good progress, or complete the Work within the Performance Period set forth in the applicable Task Order may result, at the discretion of the Director, in termination of this Contract, or in assessment of liquidated damages under Section 5 of this Contract.

**L. Subcontracting:** Except as approved by the Director in advance and in writing, the Contractor shall not subcontract with another contractor to perform the Work. The Contractor is prohibited from hiring any subcontractor currently debarred by the City in accordance with Section 20-77 of the Denver Revised Municipal Code.

## **2. METHODS OF WORK.**

**A. Resources, Personnel, and Time Commitment:** The Work shall be promptly commenced and actively prosecuted with the optimum complement of workers and equipment in order to complete the Work in an effective and expeditious manner. The Contractor shall furnish all labor, tools, supplies, equipment, materials and everything necessary for and required to perform and complete the Work. The Work shall be undertaken by workers skilled, proficient, and experienced in the trades required by this Contract and shall be performed in an orderly and responsible manner in accordance with recognized standards and the plans and specifications contained in this Contract or provided to the Contractor by the City. If the City reasonably believes that the Work is not proceeding satisfactorily or timely because the Contractor has not utilized an adequate number of qualified and skilled personnel or workers or provided sufficient tools, supplies, equipment, or materials, then the City may require the Contractor, at no additional cost to the City, to utilize additional qualified and skilled personnel or workers or provide additional tools, supplies, equipment, or materials to perform the Work in a manner reasonably acceptable to the City.

**B. Permits and Licenses:** Any tasks specified under this Contract that require the employment of licensed or registered personnel shall be performed by licensed or registered personnel. The Contractor shall obtain, at its own expense, and maintain all permits or licenses, including any prescribed governmental authorizations or approvals, required for the performance of the Work and shall demonstrate,

if requested, what actions the Contractor has taken to comply with the required permits, licenses, authorizations or approvals.

**C. Work Site Conditions:** Work sites and nearby locations shall be kept clean and neat. Equipment, vehicles, and materials no longer needed at the site shall be promptly removed from the site, and any such items lawfully stored for use on the site shall be so placed and secured as to protect the public health and safety. All scraps, debris, trash, excess soil, and other waste materials shall be regularly removed and properly disposed of. Disposal in solid waste containers provided by the City is prohibited unless written authorization is obtained.

**D. Protection of Property:** The Contractor shall assume full responsibility and expense for the protection of all public and private property, including but not limited to structures, street improvements, pathways, irrigation systems, landscaping, water lines, sewers, and other utilities, both above and below ground, at or near the site or sites of the Work or at any other location affected by the prosecution of the Work or the transportation or utilization of workers, equipment, or materials in connection with the Work. The Contractor shall provide, in a timely manner and in advance, written notice to: 1) the City department having charge of any property, right of way, or utility affected by the Work; 2) any utility having charge of any utility affected by the Work; and 3) any private property owner whose property or improvements will be affected by the Work, and shall make all necessary arrangements with such City department, utility, or private property owner for the removal and replacement or the protection of such property. The Contractor shall arrange and obtain any utility locations required by law or necessary to protect utilities or underground facilities on public or private property and shall be liable for any failure to obtain or comply with such utility locations. To the extent that any permit or license is required by a City department or other governmental entity for any work on public property, said permit or license shall be obtained and paid for by the Contractor in advance of performing the Work and shall be complied with in the performance of the Work. If the Contractor or its employees, agents, or subcontractors destroy or damage any property, public or private, the Contractor shall promptly repair or replace such property, to the reasonable satisfaction of the Department, before the City will accept or pay for the Work performed. If the Contractor fails to make such repairs or replacement, the Director may, at the Director's discretion, undertake such repair or replacement and deduct the cost of the same from amounts payable to the Contractor under this Contract.

**E. Safety:** The Contractor is responsible for the health and safety of every person on or at the Work site and shall take all necessary and appropriate precautions and actions to protect such persons from injury, death or loss. The Contractor shall be responsible for being fully familiar with and complying with all applicable City, state or federal laws, ordinances, rules and regulations, requirements and

guidelines, including the Occupational Safety and Health Act and any regulations or directives adopted thereunder (“**Safety Laws**”). The Contractor shall promptly notify the City in writing of any violations of said Safety Laws, along with copies of any injury reports, and any citations, orders, or warnings issued by governmental agencies in the enforcement of said Safety Laws. The Contractor shall provide and properly locate all necessary protective devices and safety precautions, including warning signs, barricades, or other devices or precautions as required by Safety Laws or the City. For all operations requiring the placement and movement of equipment or materials, the Contractor shall observe and exercise, and shall direct its employees or agents to observe and exercise, all appropriate and prudent caution so as to avoid injury to persons or damage to property and to minimize annoyance to or undue interference with the movement of the public and the performance of City functions. All ladders, scaffolding, or other devices used to reach objects not otherwise accessible, shall be of sound construction, firm and stable and shall be maintained in good, operable condition. All such equipment shall be moved, placed, shifted, and removed from work areas in such a manner as to provide maximum safety to persons and property and cause the least possible interference with the normal usage of such areas by the public and City personnel.

**F. Disposal of Non-Hazardous Waste at DADS:** In accordance with the Landfill Agreement made between the City and Waste Management of Colorado, Inc., the Contractor 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 Contractor 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. Task Order proposals shall not use Gun Club Road between I-70 and Mississippi Avenue as a means of access to DADS.

**G. 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.

**H. Waiver of Part 8 of Article 20 of Title 13, Colorado Revised Statutes:** The Contractor specifically waives all the provisions of Part 8 of Article 20 of Title 13, Colorado Revised Statutes regarding defects in the Work under this Contract.

**I. Liens and Other Encumbrances:** The Contractor shall not permit any mechanic’s or materialman’s liens or any other liens to be imposed and remain for more than ninety (90) days upon any City-owned property, or any part thereof, by reason of any worker labor performed or materials or

equipment furnished by any person or legal entity to or on behalf of the Contractor, either pursuant to C.R.S. § 38-26-107 or by any other authority. The Contractor shall promptly pay when due all bills, debts and obligations incurred in connection with this Contract and shall not permit the same to become delinquent. The Contractor shall not permit any lien, mortgage, judgment, execution or adjudication of bankruptcy which will in any way impair the rights of the City under this Contract. The Contractor will indemnify and save harmless the City for the extent of any and all payments, interests, and penalties resulting from failure to comply with this section. The Contractor's obligations set out in this section shall survive the termination of this Contract.

**J. Environmental Compliance:** The Contractor shall obtain all necessary federal, state, and local environmental permits and comply with all applicable federal, state, and local environmental permit requirements relating to the Work. The Contractor shall comply with all applicable local, state, and federal environmental guidelines, rules, regulations, statutes, laws, and orders (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 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.

**K. 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 a Project the City shall withhold from payments to the Contractor sufficient funds to insure the payment of any such claims. Should the City 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 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 two hundred dollars per hour of City Attorney time.

**L. Environmental Sustainability:** The Contractor shall demonstrate commitment to and experience in environmental sustainability and public health protection practices applicable to its line of services including, but not limited to, construction waste recycling and energy efficiency. The Contractor



shall work to reduce landfill waste by recycling and/or salvaging recyclable materials. Where applicable, the Contractor shall procure and install fixtures and equipment that reduce energy use.

3. **TERM.** The term of this Contract shall commence upon execution by all parties and shall end three years thereafter (the “**Term**”). The Contractor agrees to comply with all applicable Contract close-out procedures and requirements set forth in this Contract and as otherwise directed by the Director. If the time needed to complete any Task Order or Task Order Change extends beyond the Term specified above, this Contract shall remain in full force and effect but only as to such Task Order or Task Order Change; however, the total amount paid to the Contractor shall not exceed the Maximum Contract Amount specified in sub-section 4.A below.

4. **COMPENSATION AND PAYMENT.**

A. **Maximum Contract Amount:** Each Project will be assigned and authorized separately by Task Order and the maximum liability of the City for any one Task Order shall not exceed the sum of **FOUR HUNDRED FIFTY THOUSAND AND NO/100 DOLLARS (\$450,000.00)**, including all authorized Task Order Changes. The Maximum Contract Amount to be paid by the City to the Contractor for satisfactory completion of all Task Orders authorized by the City and performed by the Contractor under this Contract shall in no event exceed the sum of **ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00)**, unless this Contract is modified to increase said amount by a duly authorized and written amendment to this Contract executed by the Parties in the same manner as this Contract. The Maximum Contract Amount stated herein is not intended, and shall not be construed, as a promise or guarantee to the Contractor that the final price payable to the Contractor for all of the authorized Work will equal the Maximum Contract Amount.

B. **Conditions of Payment:** Payment shall be made upon satisfactory completion of the Work in accordance with the Task Order issued and this Contract. A properly issued and signed final receipt and lien waiver shall be a condition precedent to any obligation for the City to make final payment for Work performed by the Contractor. The request for payment submitted by the Contractor must fully document and itemize the Work rendered and all equipment, supplies, materials, labor, and other authorized and actually incurred costs. The request for payment shall affirmatively represent that: i) all of the Work specified in the Task Order has been fully performed and completed and any Deficiency Notice has been satisfied; ii) no claims, liens, or amounts owed to employees, suppliers, or materialmen are outstanding and all requirements and conditions of Section 2.I above have been fully complied with; iii) all rights, title and interests to the materials or improvements provided or installed as the result of the Work have transferred to the City; and iv) no interest or encumbrance of any kind associated with the Work will be asserted, has been acquired, or will be made by the Contractor or any other person or entity. If the request for payment

does not contain these representations, the representations are hereby deemed to contain them. The request for payment must be approved by the Director in writing in order to be eligible for compensation under this Contract. Any payment may be reduced by any liquidated damages assessed by the Director under subsection 5.D.2 below.

C. **Subject to Appropriation; No Multiple Year Obligation:** It is understood and agreed that any payment obligation of the City hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Contract, encumbered for the purpose of this Contract and paid into the Treasury of the City. The Contractor acknowledges that (i) the City does not by this Contract, irrevocably pledge present cash reserves for payments in future fiscal years, and (ii) this Contract is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of the City.

D. **Amendments:** The Contractor acknowledges that the City is not obligated to execute an amendment to this Contract, and that any work performed by Contractor beyond that specifically described or allowed under this Contract or without a fully and properly executed amendment to this Contract is performed at Contractor's risk and without authorization under this Contract.

## 5. **TERMINATION & REMEDIES.**

A. **Termination for Convenience by the City:** The Director, upon giving twenty (20) calendar days written notice (unless a longer period is given), may terminate this Contract, in whole or in part, when it is in the best interest of the City as determined by the Director. To the extent that the Contractor has initiated or completed the Work for which the Contractor has not yet been compensated in accordance with this Contract, appropriate compensation for all such authorized Work shall be paid to the Contractor in accordance with this Contract.

B. **Termination, With Cause, by the City:** The occurrence of any one or more of the following shall constitute a breach of this Contract ("**Breach**"), for which the Director may, at the Director's option, either terminate this Contract or withdraw a Task Order, with cause, upon written notice to the Contractor:

1) The Contractor fails or refuses, within three (3) calendar days of being notified, to expeditiously and actively undertake or substantially or timely perform its responsibilities and obligations or fails or refuses to make adequate progress in performing its responsibilities and obligations under this Contract, including the due diligence obligations set forth in section 1 of this Contract or the Work methods under section 2 of this Contract, provided that the failure or refusal to undertake, make good progress, or complete the Work is not due to matters beyond the Contractor's control such as weather

disaster or persistent bad weather, floods, or other acts of God, civil unrest, acts of the public enemy, national calamity, or strike at a manufacturer or supplier for the Project;

2) There is substantial evidence that it has been or will be impossible for the Contractor to perform the Work required due to matters within the Contractor's control such as voluntary bankruptcy, strikes, boycotts, and labor disputes involving the Contractor's employees or closure or suspension of operations by regulatory order of a governmental entity or an order of a court due to violations or infractions by the Contractor or the Contractor's employees;

3) The Contractor has persistently or flagrantly failed to perform the Work or failed to timely perform the Work or to comply with the specifications and requirements as set forth in the Scope of Work in **Exhibit A** to this Contract;

4) The Contractor has submitted one or more requests for payment under this Contract that are fraudulent or persistently or flagrantly erroneous or misleading;

5) The Contractor has made an assignment or transfer of, or subcontracted, its responsibilities and obligations under this Contract without obtaining the Director's written consent or not in conformance with this Contract;

6) The Contractor fails to obtain, renew, replace, or maintain the insurance coverage required by this Contract or causes or is at fault for damage to property or injury to persons that is not covered or not adequately covered by insurance and the Contractor fails to remedy the situation to the satisfaction of the Director;

7) The Contractor fails to obtain or properly and timely maintain any financial assurances required by this Contract;

8) Any lien is filed against City property because of any act or omission of the Contractor and is not timely discharged, unless the Contractor furnishes to the City such bond or other financial assurance reasonably acceptable to the Director to protect the interests of the City;

9) The Contractor has failed to obtain or maintain any required permit or license or has utilized personnel or workers not licensed or registered as required by law;

10) The Contractor has failed to deliver title or warranties or has failed to honor warranties as required by this Contract;

11) The Contractor fails, within three (3) calendar days of being notified, to comply with, or fails to compel its subcontractors to comply with, the prevailing wage requirements or other City ordinances applicable to the type and nature of the Work; or

12) The Contractor or any of its officers or employees are convicted, plead nolo contendere, enter into a formal contract in which they admit guilt, enter a plea of guilty, or otherwise admit

culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature, in connection with the Contractor's business.

**C. Compensation:** Upon termination of this Contract by the City, with cause, under sub-section 5.B above, the Contractor shall be compensated for the Work that the Director determines to have been satisfactorily completed, except that the City shall be entitled to keep any unpaid amount owing to the Contractor to the extent that said amount or some portion of said amount is needed to compensate the City for: 1) liquidated damages, if specified under sub-section 5.E below; 2) the costs of releasing any liens or satisfying any claims related to the Work; and 3) the costs of paying a new contractor for those services necessary to complete or rectify the Work or to repair or replace any damaged or lost property caused by the Breach. The Contractor shall have no claim of any kind whatsoever against the City for any termination with cause, except for compensation for the Work satisfactorily performed as described herein.

**D. Remedies:**

**1) *Termination:*** For any termination with cause of this Contract, the City shall have the right to any or all of the following remedies through the courts or other means of legal recourse available to the City: a) cancellation of this Contract; b) actual damages or costs caused by the Breach of the Contractor; and c) recovery of costs incurred by the City itself in paying for the release of liens related to the Work or in completing or rectifying the Work or in retaining and compensating another contractor to complete or rectify the Work, to the extent not covered in sub-section 5.C. above. In any legal action brought by the Contractor, the Contractor shall not be entitled to recover any more than the full amount, not previously paid, of any Task Orders executed with and performed in whole or part by the Contractor. The City and the Contractor understand and agree that the rights of specific performance and to incidental, consequential, or punitive damages have been hereby expressly waived and released by both Parties.

**2) *Liquidated Damages:*** If the Director determines, for a Breach under sub-section 5.B above, not to terminate this Contract but to apply liquidated damages as provided in this paragraph, the Contractor shall be liable to the City for liquidated damages in the amount of one hundred dollars (\$100.00) per day, calculated from the day that the Director issues notice to the Contractor of a Breach through a) the day before the Breach is remedied, or b) the day before a new Task Order or contract is executed with another contractor to perform the Work, as so determined by the Director. The Contractor and the City each hereby acknowledges and agrees that it would be impractical and extremely difficult to estimate the damages which the City might incur for said breach, and that, in the interest of assuring that the Work is timely and properly performed, the liquidated damages provided herein is the most fair and

reasonable way to compensate the City for any delay or inadequate performance without termination of this Contract or litigation.

6. **WHEN RIGHTS AND REMEDIES NOT WAIVED.** In no event will any payment or other action by the City constitute or be construed to be a waiver by the City of any breach of covenant or default that may then exist on the part of the Contractor. No payment, other action, or inaction by the City when any breach or default exists will impair or prejudice any right or remedy available to it with respect to any breach or default. No assent, expressed or implied, to any breach of any term of this Contract constitutes a waiver of any other breach.

7. **INDEPENDENT CONTRACTOR.** The Contractor is an independent contractor retained to perform services for limited periods of time. Neither the Contractor nor any of its employees are employees or officers of the City under Chapter 18 of the Denver Revised Municipal Code, or for any purpose whatsoever. The Contractor is responsible for the operational management, errors and omissions of the Contractor's employees, agents, and subcontractors. Without limiting the foregoing, the Contractor understands and acknowledges that the Contractor and the Contractor's employees, agents and subcontractors: a) are not entitled to workers' compensation benefits through the City; b) are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by the Contractor or some other entity besides the City; and c) are obligated to pay federal and state taxes on any monies earned pursuant to this Contract. Furthermore, it is understood and agreed that nothing in this Contract is intended, or shall be construed, to constitute a joint venture between the Parties.

8. **INSURANCE.**

A. **General Conditions:** The Contractor 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. The Contractor shall keep the required insurance coverage in force at all times during the term of this Contract, or any extension thereof, during any warranty period, and for three (3) years after termination of this Contract. 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. Such notice 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, the 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 Contractor shall be responsible for the payment of any deductible or self-insured retention. 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.

**B. Proof of Insurance:** The Contractor shall provide a copy of this Contract to its insurance agent or broker. The Contractor may not commence services or work relating to this Contract prior to placement of coverages required under this Contract. The Contractor certifies that the certificate of insurance attached as **Exhibit E**, preferably 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 the Contractor's breach of this Contract or of any of the City's rights or remedies under this Contract. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements.

**C. Additional Insureds:** For Commercial General Liability and Automobile Liability, the Contractor and subcontractor's 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 required under this Contract, the Contractor's insurer shall waive subrogation rights against the City.

**E. Subcontractors and Subconsultants:** All subcontractors and subconsultants (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. The 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 and subconsultants maintain the required coverages. The Contractor agrees to provide proof of insurance for all such subcontractors and subconsultants upon request by the City.

**F. Workers' Compensation/Employer's Liability Insurance:** The 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 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 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 the Contractor executes this Contract.

**G. Commercial General Liability:** The Contractor shall maintain a Commercial General Liability insurance policy with limits of \$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 Contractor shall maintain Business Automobile Liability with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Contract.

**I. Additional Provisions:**

- 1) For Commercial General Liability, the policy must provide the following:
  - (a) That this Contract is an Insured Contract under the policy;
  - (b) Defense costs are outside the limits of liability;
  - (c) A severability of interests, separation of insureds provision (no insured vs. insured exclusion); and
  - (d) A provision that coverage is primary and non-contributory with other coverage or self-insurance maintained by the City.
- 2) For claims-made coverage:
  - (a) 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.
  - (b) The 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 per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

**9. DEFENSE AND INDEMNIFICATION.**

**A.** The Contractor agrees to defend, indemnify, reimburse and hold harmless the City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating

to the work performed under this Contract (“**Claims**”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify the City for any acts or omissions of the Contractor or its subcontractors either passive or active, irrespective of fault, including the City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the City.

**B.** The Contractor’s duty to defend and indemnify the City shall arise at the time written notice of the Claim is first provided to the City regardless of whether the claimant has filed suit on the Claim. The Contractor’s duty to defend and indemnify the City shall arise even if the City is the only party sued by claimant and/or claimant alleges that the City’s negligence or willful misconduct was the sole cause of claimant’s damages.

**C.** The Contractor shall defend any and all Claims which may be brought or threatened against the City and shall pay on behalf of the City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of the City will be in addition to any other legal remedies available to the City and will not be the City’s exclusive remedy.

**D.** Insurance coverage requirements specified in this Contract in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor is responsible to obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

**E.** This defense and indemnification obligation shall survive the expiration or termination of this Contract.

**10. COLORADO GOVERNMENTAL IMMUNITY ACT.** The Parties hereto understand and agree that the City is relying upon, and has not waived, the monetary limitations and all other rights, immunities and protection provided by the Colorado Governmental Act, § 24-10-101 *et seq.*, C.R.S.

**11. TAXES, CHARGES AND PENALTIES.** The City is not liable for the payment of taxes, late charges or penalties of any nature, except for any additional amounts that the City may be required to pay under the City’s prompt payment ordinance D.R.M.C. § 20-107, *et seq.* The Contractor shall promptly pay when due, all taxes, bills, debts and obligations it incurs performing the services under this Contract and shall not allow any lien, mortgage, judgment or execution to be filed against City property.

**12. COMPLIANCE WITH ALL LAWS.** The Contractor shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.



**13. EXAMINATION OF RECORDS AND AUDITS.** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access, and the right to examine, copy and retain copies, at the City's election in paper or electronic form, any pertinent books, documents, papers and records related to the Contractor's performance pursuant to this Contract, provision of any goods or services to the City, and any other transactions related to this Contract. The Contractor shall cooperate with City representatives and City representatives shall be granted access to the foregoing documents and information during reasonable business hours and until the latter of three (3) years after the final payment under this Contract or expiration of the applicable statute of limitations. When conducting an audit of this Contract, the City Auditor shall be subject to government auditing standards issued by the United States Government Accountability Office by the Comptroller General of the United States, including with respect to disclosure of information acquired during the course of an audit. No examination of records and audits pursuant to this paragraph shall require the Contractor to make disclosures in violation of state or federal privacy laws. The Contractor shall at all times comply with D.R.M.C. 20-276.

**14. ASSIGNMENT; SUBCONTRACTING.** The Contractor shall not voluntarily or involuntarily assign any of its rights or obligations, or subcontract performance obligations, under this Contract without obtaining the Director's prior written consent. Any assignment or subcontracting without such consent will be ineffective and void and will be cause for termination of this Contract by the City. The Director has sole and absolute discretion whether to consent to any assignment or subcontracting, or to terminate this Contract because of unauthorized assignment or subcontracting. In the event of any subcontracting or unauthorized assignment: (i) the Contractor shall remain responsible to the City; and (ii) no contractual relationship shall be created between the City and any sub-consultant, subcontractor or assign.

**15. NO THIRD-PARTY BENEFICIARY.** Enforcement of the terms of this Contract and all rights of action relating to enforcement are strictly reserved to the Parties. Nothing contained in this Contract gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Contractor receiving services or benefits pursuant to this Contract is an incidental beneficiary only.

**16. NO AUTHORITY TO BIND CITY TO CONTRACTS.** The Contractor lacks any authority to bind the City on any contractual matters. Final approval of all contractual matters that purport to obligate the City must be executed by the City in accordance with the City's Charter and the Denver Revised Municipal Code.

**17. CONTRACTS AS COMPLETE INTEGRATION; AMENDMENTS.** This Contract is the complete integration of all understandings between the Parties as to the subject matter of this Contract.

No prior, contemporaneous or subsequent addition, deletion, or other modification has any force or effect, unless embodied in this Contract in writing. No oral representation by any officer or employee of the City at variance with the terms of this Contract or any written amendment to this Contract will have any force or effect or bind the City.

**18. SEVERABILITY.** Except for the provisions of this Contract requiring appropriation of funds and limiting the total amount payable by the City, if a court of competent jurisdiction finds any provision of this Contract or any portion of it to be invalid, illegal, or unenforceable, the validity of the remaining portions or provisions will not be affected, if the intent of the Parties can be fulfilled.

**19. CONFLICT OF INTEREST.**

**A.** No employee of the City shall have any personal or beneficial interest in the services or property described in this Contract. The Contractor shall not hire, or contract for services with, any employee or officer of the City that would be in violation of the City’s Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

**B.** The Contractor shall not engage in any transaction, activity or conduct that would result in a conflict of interest under this Contract. The Contractor represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Contractor by placing the Contractor’s own interests, or the interests of any party with whom the Contractor has a contractual arrangement, in conflict with those of the City. The City, in its sole discretion, will determine the existence of a conflict of interest and may terminate this Contract if it determines a conflict exists, after it has given the Contractor written notice describing the conflict.

**C.** At or prior to execution of this Contract, the Contractor shall complete and sign the “Political Contributions and/or Donations Disclosure Certificate” (the “Disclosure Certificate”) available at <https://www.denvergov.org/content/dam/denvergov/Portals/777/documents/cityclerk/Sec%20%202020-69%20Bidder%20Disclosure%20Form.pdf>, shall file the Certificate with the Denver City Clerk in compliance with D.R.M.C. § 20-69, and shall deliver a copy of the Disclosure Certificate as filed with the City Clerk to the Director.

**20. NOTICES.** All notices required by the terms of this Contract must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to the Contractor at the address first above written, and if to the City at:

By Contractor to: Executive Director of Parks and Recreation  
201 West Colfax Avenue, Dept. 602  
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The Parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

**21. DISPUTES.** All disputes between the City and the Contractor arising out of or regarding this Contract will be resolved by administrative hearing pursuant to the procedure established by D.R.M.C. § 56-106(b)-(f). For the purposes of that administrative procedure, the City official rendering a final determination shall be the Director as defined in this Contract.

**22. GOVERNING LAW; VENUE.** This Contract will be construed and enforced in accordance with applicable federal law, the laws of the State of Colorado, and the Charter, Revised Municipal Code, ordinances, regulations and Executive Orders of the City and County of Denver, which are expressly incorporated into this Contract. Unless otherwise specified, any reference to statutes, laws, regulations, charter or code provisions, ordinances, executive orders, or related memoranda, includes amendments or supplements to same. Venue for any legal action relating to this Contract will be in the District Court of the State of Colorado, Second Judicial District (Denver District Court).

**23. NO DISCRIMINATION IN EMPLOYMENT.** In connection with the performance of work under this Contract, the Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.

**24. MWBE PROCUREMENT GOALS.**

**A.** This Contract is subject to all applicable provisions of Article V, of Chapter 28, Denver Revised Municipal Code (D.R.M.C.), designated as §§ 28-117 –137 and 28-152 – 28-158, D.R.M.C., (referred to in this Contract as the “**MBE/WBE/SBE Purchasing Ordinance**”) and any Rules or Regulations promulgated pursuant thereto. This Contract has been assigned a 3% goal in accordance with the Code, Rules and Regulations. The Contractor identified in its Proposal (bid) MWBE firms with which it intends to subcontract under this Contract, with a total participation level by such firms of 3%.

**B.** Under § 28-132 D.R.M.C., the Contractor has an ongoing, affirmative obligation to maintain for the duration of this Contract, at a minimum, compliance with its originally achieved level of MBE and WBE participation upon which this Contract was awarded, unless the City initiates a material alteration to the scope of work affecting MBEs or WBEs performing on this Contract through change order,

contract amendment, force account, or as otherwise described in § 28-133 D.R.M.C. The Contractor acknowledges that:

(1) It must establish and maintain records and submit regular reports, as required, which will allow the City to assess progress in achieving the MBE/WBE participation goal.

(2) If change orders or any other contract modifications are issued under this Contract, the Contractor shall have a continuing obligation to immediately inform DSBO in writing of any agreed upon increase or decrease in the scope of work of such contract, upon any of the bases discussed in § 28-133, D.R.M.C., regardless of whether such increase or decrease in scope of work has been reduced to writing at the time of notification.

(3) If change orders or other contract modifications are issued under the contract, that include an increase in scope of work of this Contract, whether by amendment, change order, force account or otherwise which increases the dollar value of the contract, whether or not such change is within the scope of work designated for performance by an MWBE at the time of contract award, such change orders or contract modification shall be immediately submitted to DSBO for notification purposes. Those amendments, change orders, force accounts or other contract modifications that involve a changed scope of work that cannot be performed by existing project subconsultants or by the Contractor shall be subject to a goal for MWBEs equal to the original goal on the contract which was included in the proposal. The Contractor shall satisfy such goal with respect to such changed scope of work by soliciting new MBEs or WBEs in accordance with § 28-133, D.R.M.C., as applicable, or the Contractor must show each element of Modified Good Faith Effort set out in § 28-135(d) D.R.M.C. The Contractor shall supply to the director the documentation described in § 28-135(d) D.R.M.C. with respect to the increased dollar value of the contract.

(4) Failure to comply with these provisions may subject the Contractor to sanctions set forth in § 28-137 of the Purchasing Ordinance. Should any questions arise regarding specific circumstances, the Contractor must consult the Purchasing Ordinance or contact the Project's designated DSBO representative at (720) 913-1999.

**25. USE, POSSESSION OR SALE OF ALCOHOL OR DRUGS.** The Contractor shall cooperate and comply with the provisions of Executive Order 94 concerning the use, possession or sale of alcohol or drugs. Violation of this provision or refusal to cooperate with implementation of the policy can result in the City barring the Contractor from City facilities or participating in City operations.

**26. PREVAILING WAGES.**

A. The Contractor shall comply with, and agrees to be bound by, all requirements, conditions and City determinations regarding the Payment of Prevailing Wages Ordinance, Sections 20-76 through 20-79, D.R.M.C. including, but not limited to, the requirement that every covered worker working

on a City owned or leased building or on City-owned land shall be paid no less than the prevailing wages and fringe benefits in effect on the date the bid or request for proposal was advertised. In the event a request for bids, or a request for proposal, was not advertised, the Contractor shall pay every covered worker no less than the prevailing wages and fringe benefits in effect on the date funds for the contract were encumbered. A copy of the applicable prevailing wage rate schedule is attached as **Exhibit F** and incorporated herein by reference.

**B.** Date bid or request for qualifications/proposals was advertised: June 18, 2019.

**C.** Prevailing wage and fringe rates will adjust on, and only on, the anniversary of the actual date of bid or proposal issuance. Unless expressly provided for in this Contract, the Contractor will receive no additional compensation for increases in prevailing wages or fringe benefits.

**D.** The Contractor shall provide the Auditor with a list of all subcontractors providing any services under this Contract.

**E.** The Contractor shall provide the Auditor with electronically-certified payroll records for all covered workers employed under this Contract.

**F.** The Contractor shall prominently post at the work site the current prevailing wage and fringe benefit rates. The posting must inform workers that any complaints regarding the payment of prevailing wages or fringe benefits may be submitted to the Denver Auditor by calling 720-913-5000 or emailing [auditor@denvergov.org](mailto:auditor@denvergov.org).

**G.** If the Contractor fails to pay workers as required by the Prevailing Wage Ordinance, the Contractor will not be paid until documentation of payment satisfactory to the Auditor has been provided. The City may, by written notice, suspend or terminate work if the Contractor fails to pay required wages and fringe benefits.

**27. MINIMUM WAGE.** The Contractor shall comply with, and agrees to be bound by, all requirements, conditions, and City determinations regarding the City's Minimum Wage Ordinance, Sections 20-82 through 20-84 D.R.M.C., including, but not limited to, the requirement that every covered worker shall be paid no less than the City Minimum Wage in accordance with the foregoing D.R.M.C. Sections. By executing this Contract, the Contractor expressly acknowledges that the Contractor is aware of the requirements of the City's Minimum Wage Ordinance and that any failure by the Contractor, or any other individual or entity acting subject to this Contract, to strictly comply with the foregoing D.R.M.C. Sections shall result in the penalties and other remedies authorized therein.

**28. FINANCIAL ASSURANCES.** Without limiting or waiving any other responsibilities or obligations of the Contractor under this Contract, the Contractor shall provide a payment and performance bond(s), in the form specified in **Exhibit G** attached to this Contract and incorporated herein by reference,

covering all Task Orders performed hereunder (the “**Surety**”). An initial bond in the amount of Fifty Thousand Dollars (\$50,000.00) 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 Task Order, the Contractor shall provide properly executed bond Change Riders, in the form specified in **Exhibit H** attached to this Contract and incorporated herein by reference, in the amount(s) of any additional Task Orders issued hereunder. The Contractor shall deliver to the Director, prior to the execution of this Contract, a fully executed Surety which shall provide effective and sufficient financial assurance for the full and faithful performance of the Contractor’s duties and obligations under this Contract and the payment of bills for labor and materials for the Work, along with appropriate powers of attorney. The Surety must be issued from a surety corporation or bank authorized to do business in the State of Colorado and which is acceptable to the City. Such Surety shall be payable to the City upon demand for the Contractor’s failure to perform as required under this Contract and/or failure to pay all amounts owed to laborers, mechanics, subcontractors, and materialmen for work performed or materials, supplies, rental items, tools, and equipment provided for the Work under this Contract. The Surety shall also assure the repair or replacement of any Work found to be defective or otherwise not in compliance with this Contract. The Surety shall remain in effect or be promptly renewed or replaced by another Surety acceptable to the City during the Term and during the Term of any Extension Amendment and for a ninety (90) day period after the expiration or termination of this Contract or any Extension Amendment and any warranty period or other period prescribed by law. Satisfactory proof of renewal or acceptable replacement must be provided to the Director at least sixty (60) days prior to the date of expiration or termination of the Surety. The Contractor’s obligations set out in this section shall survive the expiration or termination of this Contract and failure to obtain or maintain said Surety shall be grounds for immediate termination.

**29. LEGAL AUTHORITY.** The Contractor represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Contract. Each person signing and executing this Contract on behalf of the Contractor represents and warrants that he has been fully authorized by the Contractor to execute this Contract on behalf of the Contractor and to validly and legally bind the Contractor to all the terms, performances and provisions of this Contract. The City shall have the right, in its sole discretion, to either temporarily suspend or permanently terminate this Contract if there is a dispute as to the legal authority of either the Contractor or the person signing this Contract to enter into this Contract.

**30. PUBLIC CONTRACTS FOR SERVICE.**

**A.** This Contract is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “**Certification Ordinance**”).

**B.** The Contractor certifies that:

- 1) At the time of its execution of this Contract, it does not knowingly employ or contract with an illegal alien who will perform work under this Contract.
- 2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

**C.** The Contractor also agrees and represents that:

- 1) It shall not knowingly employ or contract with an illegal alien to perform work under this Contract.
- 2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under this Contract.
- 3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract, through participation in either the E-Verify Program.
- 4) It is prohibited from using either the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under this Contract, and it is required to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- 5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor shall also terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.
- 6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S., or the City Auditor, under authority of D.R.M.C. 20-90.3.

**D.** The Contractor is liable for any violations as provided in the Certification Ordinance. If the Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Contract for a breach of this Contract. If this Contract is so terminated, the Contractor shall be liable

for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying the Contractor from submitting bids or proposals for future contracts with the City.

**31. NO CONSTRUCTION AGAINST DRAFTING PARTY.** The Parties and their respective counsel have had the opportunity to review this Contract, and this Contract will not be construed against a Party merely because any provisions of this Contract were prepared by a particular Party.

**32. CONTRACT DOCUMENTS; ORDER OF PRECEDENCE.** This Contract consists of sections 1 through 38 which precede the signature page(s) (“**Contract Text**”), and the following exhibits and attachments which are incorporated herein and made a part hereof by reference:

- Exhibit A      Scope of Work
- Exhibit B      Schedule of Billing Rates
- Exhibit C      Task Order Form
- Exhibit D      Task Order Change Form
- Exhibit E      Insurance Certificate
- Exhibit F      Prevailing Wage Rate Schedules
- Exhibit G      Form of Bond
- Exhibit H      Form of Bond Change Rider

In the event of an irreconcilable conflict (i) between a provision of the Contract Text and any of the listed exhibits or attachments or (ii) among provisions of any exhibits or attachments, such that it is impossible to give reasonable effect to all, the order of precedence to determine which document shall control to resolve such conflict, is as follows, in descending order:

- Contract Text
- Exhibit A
- Exhibit B
- Exhibit C
- Exhibit D
- Exhibit E
- Exhibit F
- Exhibit G
- Exhibit H

**33. SURVIVAL OF CERTAIN PROVISIONS.** The terms of this Contract and any exhibits and attachments that by reasonable implication contemplate continued performance, rights, or compliance beyond expiration or termination of this Contract survive this Contract and will continue to be enforceable.



Without limiting the generality of this provision, the Contractor's obligations to provide insurance and to indemnify the City will survive for a period equal to any and all relevant statutes of limitation, plus the time necessary to fully resolve any claims, matters, or actions begun within that period.

**34. TIME IS OF THE ESSENCE.** The Parties agree that in the performance of the terms, conditions, and requirements of this Contract, time is of the essence.

**35. SECTION 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.

**36. CITY EXECUTION OF CONTRACT.** This Contract will not be effective or binding on the City until it has been fully executed by all required signatories of the City and County of Denver, and if required by Charter, approved by the City Council.

**37. ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS.** The Contractor consents to the use of electronic signatures by the City. This Contract, and any other documents requiring a signature under this Contract, 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 this Contract 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 this Contract 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.

**38. INUREMENT.** The rights and obligations of the Parties inure to the benefit of and shall be binding upon the Parties and their respective successors and assigns, provided assignments are consented to in accordance with the terms of this Contract.

**[END OF CONTRACT TEXT; SIGNATURE PAGE FOLLOWS]**

**Contract Control Number:** PARKS-201952524-00  
**Contractor Name:** DUININCK, INC.

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:

\_\_\_\_\_

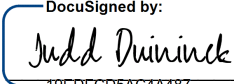
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By:

\_\_\_\_\_

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

PARKS-201952524-00  
DUININCK, INC.

By:  DocuSigned by:  
Judd Duininck  
T9EDFCD5AC4A487...

Name: Judd Duininck  
(please print)

Title: General Manager  
(please print)

ATTEST: [if required]

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

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

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

## **EXHIBIT A Scope of Work**

### **A. GENERAL DESCRIPTION:**

The Department of Parks and Recreation (“DPR”) has identified a need for golf course restoration, repair and improvement services on a continuing on-call basis throughout the city.

### **B. ON-CALL CONTRACT PROCEDURES/REQUESTS FOR BIDS:**

On-call contractors shall conduct bids and perform work in accordance with City rules and regulations governing bidding and contractor work, including but not limited to, the use of Denver’s Division of Small Business Opportunity (DSBO) certified minority owned business enterprises and/or women owned business enterprises (M/WBE) as appropriate, and performance and payment bonding. On-call contractors will be required to select and utilize appropriate subcontractors, as necessary, to achieve M/WBE utilization goals which are associated with the contract and with the scopes of work described within the Request for Bids packages.

### **C. DESCRIPTION OF SERVICES:**

The on-call contractors shall provide professional golf course restoration services, repairs and improvements per Denver Golf standards, United States Golf Association, and other industry standards. Work may be phased to permit a minimum of nine holes of golf in operation while work is performed, if required. It’s anticipated that the on-call contractors’ scope of work may include, but is not limited to (as may be required per project):

- Installation and/or contouring of greens, tees, fairways, bunkers, and large area lawn sod/seed reestablishment (work may involve the use of laser guided equipment);
- Installation of block walls and/or retaining walls;
- Installation of drinking fountains;
- Installation or transplantation of large tree and/or plant material and miscellaneous landscaping;
- Installation of containment fencing (e.g. steel pole and netting);
- Installation of concrete cart paths;
- Installation of miscellaneous golf course improvements or accessories including but not limited to laser measured yardage markers, prefabricated out-buildings and miscellaneous structures, and tee monument signs;
- Installation of storm water components and facilities;
- Renovation and installation of water features and systems including but not limited to ponds, lakes, and streams;
- Renovation and installation of computer controlled automated irrigation systems (specifically Denver Golf standard Toro Infinity decoder systems);
- Renovation and installation of irrigation which may encompass PVC and HDPE pipe; and
- Other restoration, repair or improvement services as needed or required, including but not limited to sidewalks and pathways, site grading, drainage, and retaining walls.

All work shall be installed with benefit of all applicable permits in compliance with local, county, state, and federal requirements, including but not limited to building, mechanical, electrical, National Pollution Discharge Elimination System, storm water, and Denver Department of Public Health and Environment (DDPHE) requirements.

**D. TECHNICAL SPECIFICATIONS:**

Work performed shall be governed by the applicable provisions of the following technical specifications:

- Denver Golf Technical Specifications
- Golf Maintenance Standards Manual
- Denver Parks Technical Specifications

## EXHIBIT B

### Schedule of Billing Rates

Contractor: Duininck, Inc.

PERSONNEL CLASSIFICATION	BILLING RATE PER HOUR
<u>Owner/Division Lead</u>	\$ <u>150.00</u>
<u>Project Manager</u>	\$ <u>125.00</u>
<u>Estimator</u>	\$ <u>125.00</u>
<u>Foreman</u>	\$ <u>110.00</u>
<u>Lead Shaper</u>	\$ <u>120.00</u>
<u>Lead Irrigation Installer</u>	\$ <u>110.00</u>
Other(s) (please list individually below)	
<u>Operator</u>	\$ <u>90.00</u>
<u>Laborer</u>	\$ <u>85.00</u>
<u>Apprentice</u>	\$ <u>110.00</u>
<u>Pipefitter</u>	\$ <u>110.00</u>
<u> </u>	\$ <u> </u>
<u> </u>	\$ <u> </u>
<u> </u>	\$ <u> </u>

## Schedule of Billing Rates

Contractor: APCO Electric, Inc.

PERSONNEL CLASSIFICATION	BILLING RATE PER HOUR
<u>Owner/Division Lead</u>	\$ _____
<u>Project Manager</u>	\$ <u>165.00</u>
<u>Estimator</u>	\$ <u>165.00</u>
<u>Foreman</u>	\$ <u>135.00</u>
<u>Lead Shaper</u>	\$ _____
<u>Lead Irrigation Installer</u>	\$ _____

Other(s) (please list individually below)

### 2019 Regular Time Rates:

<u>Electrician</u>	\$ <u>115.00</u>
<u>Electrical Apprentice Per. 1-4</u>	\$ <u>80.00</u>
<u>Electrical Apprentice Per. 5-8</u>	\$ <u>90.00</u>
<u>Truck Trip Charge</u>	\$ <u>90.00/DY</u>
<u>Tow Behind Lift</u>	\$ <u>725.00/DY</u>
<u>Scissor Lift 4x4 up to 30' Platform</u>	\$ <u>950.00/DY</u>



## On-Call Services TASK ORDER

**NAME OF PROJECT:**

Administered by: DENVER GOLF, DEPARTMENT OF PARKS AND RECREATION  
 101 W. COLFAX AVE., SUITE 900, DENVER, CO 80202, (720)-913-0622, EMAIL [gregory.cieciak@denvergov.org](mailto:gregory.cieciak@denvergov.org)

Contractor/Consultant: Vendor ID #: On-Call Contract #: Contract Name: On-call golf course restoration, repair, & improvement services	Task Order #: Fund / Org. / Project # / Cap. Program:  Contract (PO) #: TBD
---	--

It is hereby mutually agreed that when this 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 Month Day, Year and attached as Exhibit A.

*Scope of Work:*

*Location:*

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 Task Order, except as otherwise stipulated herein, for the following considerations:

The lump sum of: dollar amount with 00/100 (\$00.00)

Task Order Completion Date: Month Day, Year

Accepted for Contractor/Consultant by: \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_  
PRINT AND SIGN NAME

**COST SUMMARY FOR ON-CALL CONTRACT**

Previous Task Orders	\$
Task Order Change Additions/Deductions	\$ N/A
Net Prior to this Task Order	\$
This Task Order - <b>Add</b>	\$
Revised Contract Amount	\$
Maximum Contract Amount	\$
<b>Amount Available</b>	<b>\$</b>

**APPROVALS**

Approved by Project Manager, Denver Golf, Name	Date
Approved by Director of Golf, Scott Rethlake	Date

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





Exhibit D



**On-Call Services  
TASK ORDER CHANGE**

**NAME OF PROJECT:**

Administered by: DENVER GOLF, DEPARTMENT OF PARKS AND RECREATION  
101 W. COLFAX AVE., SUITE 900, DENVER, CO 80202, (720)-913-0622, EMAIL gregory.cieciak@denvergov.org

Contractor/Consultant:	Task Order #:
Vendor ID #:	Change Order #:
On-Call Contract #:	Fund / Org. / Project # / Cap. Program:
Contract Name: On-call golf course restoration, repair, & improvement services	Contract (PO) #:

It is hereby mutually agreed that when this 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 Task Order described in the narrative below, summarized on scope table on next page and in Bid/Proposal, dated Month Day, Year and attached as Exhibit A.

*Scope of Work:*

*Location:*

The additional sum, as indicated herein below, constitutes full and complete consideration, payment and satisfaction to the Contractor/Consultant for the above described changes to the Task 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 Task Order.

**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 Task Order, except as otherwise stipulated herein, for the following considerations:

Add to the Task Order the sum of: dollar amount with 00/100 (\$00.00)

Task Revised Completion Date: Month Day, Year

Accepted for Contractor/Consultant by: \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_  
PRINT AND SIGN NAME

TASK ORDER NO. ____ COST SUMMARY	APPROVALS
Original Task Order Amount \$	
Previous Change Order Additions <Deductions> \$	
SUB-TOTAL \$	Approved by Project Manager, Denver Golf, Name _____ Date _____
This Task Order Change - <b>Add</b> <Deduct> \$	
<b>REVISED TOTAL</b> \$	
<b>TASK ORDER AMOUNT</b>	Approved by Director of Golf, Scott Rethlake _____ Date _____
<hr/>	
COST SUMMARY FOR ON-CALL CONTRACT	
Total of All Task Orders Issued \$	
Previous Task Order Change Additions/Deductions \$	
Net Prior to this Change \$	
This Change -- <b>Add</b> <Deduct> <u>\$ or NO COST</u>	Approved by Director of Finance, Parks and Recreation _____ Date _____
Revised Contract Amount \$	
Maximum Contract Amount \$	
Amount Available \$	



EXHIBIT E



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/08/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Willis Towers Watson Midwest, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 372305191 USA	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): 1-877-945-7378      FAX (A/C, No): 1-888-467-2378 E-MAIL ADDRESS: certificates@willis.com	
	<b>INSURER(S) AFFORDING COVERAGE</b> INSURER A: Zurich American Insurance Company	<b>NAIC #</b> 16535
<b>INSURED</b> Duinincnk, Inc., Duinincnk Golf Duinincnk Golf PO Box 208 Prinsburg, MN 56281	INSURER B: American Guarantee and Liability Insurance      26247	
	INSURER C:	
	INSURER D:	
	INSURER E:	
INSURER F:		

**COVERAGES**      **CERTIFICATE NUMBER: W13780625**      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input checked="" type="checkbox"/> LOC OTHER:	Y	Y	GLO-3491927-00	06/01/2019	06/01/2020	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$	
A	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	BAP-3491928-00	06/01/2019	06/01/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$	
B	<input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0	Y	Y	SXS 3166483-00	06/01/2019	06/01/2020	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$	
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	Y	WC-3108148-00	06/01/2019	06/01/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Certificate Holder is included as an Additional Insured as required by written contract or agreement executed prior to loss per the attached endorsements.

Waiver of Subrogation applies in favor of the Certificate Holder with respects to coverages per the attached endorsements as permitted by law and as required by written contract or agreement executed prior to loss.

<b>CERTIFICATE HOLDER</b>  City and County of Denver Department of Parks & Recreation 201 W. Colfax Ave. Dept 602 Denver, CO 80202	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE  

## EXHIBIT F



**TO:** All Users of the City and County of Denver Prevailing Wage Schedules  
**FROM:** Alena Duran, Classification & Compensation Analyst  
**DATE:** February 27, 2019  
**SUBJECT:** Latest Change to Prevailing Wage Schedules

The effective date for this publication will be **Friday, February 22, 2019** and applies to the City and County of Denver for **HEAVY CONSTRUCTION PROJECTS** in accordance with the Denver Revised Municipal Code, Section 20-76(c).

General Wage Decision No. CO190002  
Superseded General Decision No. CO20180012  
Modification No. 2  
Publication Date: 02/22/2019  
(6 pages)

Unless otherwise specified in this document, apprentices shall be permitted only if they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor (DOL). The employer and the individual apprentice must be registered in a program which has received prior approval by the DOL. Any employer who employs an apprentice and is found to be in violation of this provision shall be required to pay said apprentice the full journeyman scale.

Attachments as listed above.

**Office of Human Resources**  
201 W. Colfax Ave. Dept. 412 | Denver, CO 80202  
p: 720.913.5751 | f: 720.913.5720  
[www.denvergov.org/humanresources](http://www.denvergov.org/humanresources)

General Decision Number: CO190002 02/22/2019 CO2

Superseded General Decision Number: CO20180012

State: Colorado

Construction Type: Heavy

Counties: Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, Jefferson, Larimer, Mesa, Pueblo and Weld Counties in Colorado.

HEAVY CONSTRUCTION PROJECTS

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.60 for calendar year 2019 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.60 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2019. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/04/2019
1	02/01/2019
2	02/22/2019

ASBE0028-001 07/01/2018

	Rates	Fringes
Asbestos Workers/Insulator (Includes application of all insulating materials, protective coverings, coatings and finishings to all types of mechanical systems).....	\$ 31.73	14.23

-----  
 \* BRCO0007-004 01/01/2019

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
 JEFFERSON AND WELD COUNTIES

	Rates	Fringes
BRICKLAYER.....	\$ 29.52	10.48

-----  
 BRCO0007-006 05/01/2018

EL PASO AND PUEBLO COUNTIES

	Rates	Fringes
BRICKLAYER.....	\$ 25.88	10.34

-----  
 ELEC0012-004 09/01/2018

PUEBLO COUNTY

	Rates	Fringes
ELECTRICIAN		
Electrical contract over		
\$1,000,000.....	\$ 27.70	12.30+3%
Electrical contract under		
\$1,000,000.....	\$ 24.85	12.30+3%

-----  
 ELEC0068-001 06/01/2018

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
 JEFFERSON, LARIMER, AND WELD COUNTIES

	Rates	Fringes
ELECTRICIAN.....	\$ 35.80	15.45

-----  
 ELEC0111-001 09/01/2017

	Rates	Fringes
Line Construction:		
Groundman.....	\$ 25.68	25.25%+\$5.75
Line Equipment Operator.....	\$ 31.35	25.25% + \$5.75
Lineman and Welder.....	\$ 44.92	25.25%+\$5.75

-----  
 ELEC0113-002 06/01/2018

EL PASO COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 31.80	15.90

-----  
ELEC0969-002 01/01/2019

MESA COUNTY

	Rates	Fringes
ELECTRICIAN.....	\$ 24.80	9.84

-----  
ENGI0009-001 05/01/2017

	Rates	Fringes
Power equipment operators:		
Blade: Finish.....	\$ 27.92	10.10
Blade: Rough.....	\$ 27.60	10.10
Bulldozer.....	\$ 27.60	10.10
Cranes: 50 tons and under..	\$ 27.75	10.10
Cranes: 51 to 90 tons.....	\$ 27.92	10.10
Cranes: 91 to 140 tons.....	\$ 28.55	10.10
Cranes: 141 tons and over...	\$ 29.82	10.10
Forklift.....	\$ 27.22	10.10
Mechanic.....	\$ 28.08	10.10
Oiler.....	\$ 26.84	10.10
Scraper: Single bowl under 40 cubic yards.....	\$ 27.75	10.10
Scraper: Single bowl, including pups 40 cubic yards and over and tandem bowls.....	\$ 27.92	10.10
Trackhoe.....	\$ 27.75	10.10

-----  
\* IRON0024-003 01/01/2019

	Rates	Fringes
Ironworkers:.....	\$ 29.85	21.76
Structural		

-----  
LABO0086-001 05/01/2009

	Rates	Fringes
Laborers:		
Pipelayer.....	\$ 18.68	6.78

-----  
PLUM0003-005 06/01/2017ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
JEFFERSON, LARIMER AND WELD COUNTIES

	Rates	Fringes
PLUMBER.....	\$ 39.08	16.44

-----  
PLUM0058-002 07/01/2018



EL PASO COUNTY

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 32.75	14.85
-----		
PLUM0058-008 07/01/2018		

PUEBLO COUNTY

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 32.75	14.85
-----		
PLUM0145-002 07/01/2016		

MESA COUNTY

	Rates	Fringes
Plumbers and Pipefitters.....	\$ 35.17	11.70
-----		
PLUM0208-004 06/01/2016		

ADAMS, ARAPAHOE, BOULDER, BROOMFIELD, DENVER, DOUGLAS,  
JEFFERSON, LARIMER AND WELD COUNTIES

	Rates	Fringes
PIPEFITTER.....	\$ 37.10	16.62
-----		
SHEE0009-002 07/01/2018		

	Rates	Fringes
Sheet metal worker.....	\$ 34.02	17.49
-----		
TEAM0455-002 07/01/2018		

	Rates	Fringes
Truck drivers:		
Pickup.....	\$ 21.41	4.32
Tandem/Semi and Water.....	\$ 22.04	4.32
-----		
SUCO2001-006 12/20/2001		

	Rates	Fringes
BOILERMAKER.....	\$ 17.60	
Carpenters:		
Form Building and Setting...	\$ 16.97	2.74
All Other Work.....	\$ 15.14	3.37

Cement Mason/Concrete Finisher...\$ 17.31	2.85
IRONWORKER, REINFORCING.....\$ 18.83	3.90
Laborers:	
Common.....\$ 11.22	2.92
Flagger.....\$ 8.91	3.80
Landscape.....\$ 12.56	3.21
Painters:	
Brush, Roller & Spray.....\$ 15.81	3.26
Power equipment operators:	
Backhoe.....\$ 16.36	2.48
Front End Loader.....\$ 17.24	3.23
Skid Loader.....\$ 15.37	4.41

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

**Office of Human Resources  
Supplemental Rates  
(Specific to the Denver Projects)  
(Supp #74, Date: 02-03-2012)**

<b>Classification</b>		<b>Base</b>	<b>Fringe</b>
Ironworker	Ornamental	\$24.80	\$10.03
Laborer	Group 1	\$18.18	\$8.27
	Group 2	\$21.59	\$8.61
Laborer (Janitor)	Janitor/Yardmen	\$17.68	\$8.22
Laborer (Asbestos)	Removal of Asbestos	\$21.03	\$8.55
Laborer (Tunnel)	Group 1	\$18.53	\$8.30
	Group 2	\$18.63	\$8.31
	Group 3	\$19.73	\$8.42
	Group 4	\$21.59	\$8.61
	Group 5	\$19.68	\$8.42
Line Construction	Lineman, Gas Fitter/Welder	\$36.88	\$9.55
	Line Eq Operator/Line Truck Crew	\$25.74	\$8.09
Millwright		\$28.00	\$10.00
Power Equipment Operator	Group 1	\$22.97	\$10.60
	Group 2	\$23.32	\$10.63
	Group 3	\$23.67	\$10.67
	Group 4	\$23.82	\$10.68
	Group 5	\$23.97	\$10.70
	Group 6	\$24.12	\$10.71
	Group 7	\$24.88	\$10.79
Power Equipment Operator (Tunnels above and below ground, shafts and raises):	Group 1	\$25.12	\$10.81
	Group 2	\$25.47	\$10.85
	Group 3	\$25.57	\$10.86
	Group 4	\$25.82	\$10.88
	Group 5	\$25.97	\$10.90
	Group 6	\$26.12	\$10.91
	Group 7	\$26.37	\$10.94
Truck Driver	Group 1	\$18.42	\$10.00
	Group 2	\$19.14	\$10.07
	Group 3	\$19.48	\$10.11
	Group 4	\$20.01	\$10.16
	Group 5	\$20.66	\$10.23
	Group 6	\$21.46	\$10.31

Go to <http://www.denvergov.org/Auditor> to view the Prevailing Wage Clarification Document for a list of complete classifications used.

**EXHIBIT G****CITY AND COUNTY OF DENVER  
DEPARTMENT OF PARKS & RECREATION****PERFORMANCE AND PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned Duininck, Inc., a corporation organized and existing under and by virtue of the laws of the State of Minnesota, hereafter referred to as the "Contractor", and Western Surety Company, 151 N Franklin St., Chicago, IL 60606, a corporation organized and existing under and by virtue of the laws of the State of South Dakota, 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 Fifty Thousand Dollars (\$50,000.00), 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 on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, 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. 201952524**, [**On-Call Golf Course Renovation, Repairs, & Improvements**], 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;

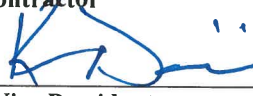
PROVIDED FURTHER, that if said Contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing it or its subcontractors with labor and materials, rental machinery, tools or equipment used or performed in the prosecution of work provided for in the 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 22nd day of November, 2019.

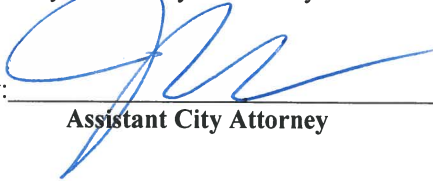
Attest:   
\_\_\_\_\_  
Secretary



Duininck, Inc.  
Contractor  
By:   
\_\_\_\_\_  
Vice President



Western Surety Company  
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:   
\_\_\_\_\_  
Michael B. Hancock  
MAYOR  
By:   
\_\_\_\_\_  
ALLEGRA "HAPPY" HAYNES  
MANAGER OF THE DENVER DEPT.  
OF PARKS & RECREATION



# Western Surety Company

## POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

**Know All Men By These Presents**, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

**Wes G Wieberdink, Roger Ahrenholz, Myron Mulder, Individually**

of Prinsburg, MN, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

**- In Unlimited Amounts -**

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

**In Witness Whereof**, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 27th day of June, 2019.



WESTERN SURETY COMPANY

*Paul T. Bruflat*  
\_\_\_\_\_  
Paul T. Bruflat, Vice President

State of South Dakota }  
County of Minnehaha } ss

On this 27th day of June, 2019, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires  
June 23, 2021



*J. Mohr*  
\_\_\_\_\_  
J. Mohr, Notary Public

### CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 22nd day of November, 2019.



WESTERN SURETY COMPANY

*L. Nelson*  
\_\_\_\_\_  
L. Nelson, Assistant Secretary

**Authorizing By-Law**

**ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY**

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.



**EXHIBIT H  
CHANGE RIDER**

Task Order No. \_\_\_\_\_

**TO BE ATTACHED TO AND FORM PART OF**

\_\_\_\_\_  
PERFORMANCE AND PAYMENT  
(TYPE OF BOND)

NO: \_\_\_\_\_

IN FAVOR OF: \_\_\_\_\_  
CITY AND COUNTY OF DENVER  
(OBLIGEE)

ON BEHALF OF: \_\_\_\_\_  
(PRINCIPAL)

EFFECTIVE: \_\_\_\_\_  
(ORIGINAL EFFECTIVE DATE)

IT IS AGREED THAT, in consideration of the original premium charged for this bond, and any additional premium that may be properly chargeable as a result of this rider,

The Surety, \_\_\_\_\_, hereby gives is consent to:

- INCREASE BOND PENALTY       CHANGE THE NAME OF PRINCIPAL
- DECREASE BOND PENALTY       CHANGE THE ADDRESS OF THE PRINCIPAL
- CHANGE THE EFFECTIVE DATE       CHANGE THE EXPIRATION DATE
- OTHER: \_\_\_\_\_

of the attached bond      FROM: \_\_\_\_\_

TO: \_\_\_\_\_

EFFECTIVE: \_\_\_\_\_

PROVIDED, however, that the attached bond shall be subject to all its agreements, limitations, and conditions except as herein expressly modified, and that the liability of the Surety under the attached bond as changed by this rider shall not be cumulative.

SIGNED AND SEALED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 202\_\_.

\_\_\_\_\_ **INSURANCE COMPANY**

\_\_\_\_\_  
(witness)

By: \_\_\_\_\_  
(Attorney-in-Fact) (Seal)

**ACCEPTED BY OBLIGEE**

\_\_\_\_\_  
(witness)

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