

### THIRD AMENDATORY AGREEMENT

**THIS THIRD AMENDATORY AGREEMENT** is made and entered into this \_\_\_\_\_, day of \_\_\_\_\_, 2010, by and between the **CITY AND COUNTY OF DENVER**, a municipal corporation of the State of Colorado (the "City"), and **AMERICAN CIVIL CONSTRUCTORS**, with an address of 225 East Union Boulevard, Suite 500, Lakewood, Colorado 80228 (the "General Contractor" or "Contractor").

#### RECITALS

1. The City and the General Contractor entered into a Contract dated February 5, 2008, amended by a First Amendatory Agreement dated June 17, 2008 and a Second Amendatory Agreement dated February 18, 2009 (such Contract as thus amended being referred to herein as the "Contract"), for on-call services for the City's Landscape and Irrigation Services Program.

2. The parties wish to amend the Contract as provided herein.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and obligations herein set forth the parties agree as follows:

1. Section 1.4.9.2 of the Contract is amended to read in full as follows:

**"1.4.9.2 Proof of Insurance.** Contractor shall provide a copy of this Agreement to its insurance agent or broker. Contractor certifies that the certificate of insurance (preferably an ACORD certificate of insurance) attached as **Exhibit P** complies with all insurance requirements of this Agreement. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor's breach of this Agreement or of any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements."

2. Section 1.5 of the Contract is amended to read in full as follows:

**"1.5 Maximum Contract Amount and Term.** The Maximum Contract Amount to be paid by the City to the Contractor for all Work performed under this Contract shall in no event exceed the sum of ONE MILLION FIVE HUNDRED SEVENTEEN THOUSAND DOLLARS (\$1,517,000.00), unless this Contract is modified to increase said amount by a duly

authorized, written contract amendment mutually agreeable to and executed by the parties hereto. The term of this Contract shall commence on February 5, 2008, and shall expire on February 5, 2012, unless sooner terminated. Each project will be assigned and authorized separately and no authorized Project cost will exceed Four Hundred Eighty-Five Thousand Dollars (\$485,000.00).”

3. Except as herein amended, the Contract is affirmed and ratified in each and every particular.

**[END OF PAGE]**

The City and the Contractor have signed this Third Amendatory Agreement as of the day and year stated in the first line on Page 1.

**CITY AND COUNTY OF DENVER**

**ATTEST:**


\_\_\_\_\_  
STEPHANIE Y. O'MALLEY, Clerk and Recorder, Ex-Officio Clerk of the City and County of Denver

By: \_\_\_\_\_  
JOHN W. HICKENLOOPER,  
Mayor

**RECOMMENDED AND APPROVED:**

**APPROVED AS TO FORM:**  
DAVID R. FINE, Attorney  
For the City and County of Denver

By: \_\_\_\_\_  
GUILLERMO VIDAL,  
Manager of Public Works

By:   
\_\_\_\_\_  
KEVIN PATTERSON  
Manager of Parks and Recreation

By: \_\_\_\_\_  
Assistant City Attorney

**REGISTERED AND COUNTERSIGNED:**

By: \_\_\_\_\_  
Manager of Finance  
Contract Control No. OC 71252(3)

By: \_\_\_\_\_  
DENNIS GALLAGHER, Auditor of the  
City and County of Denver

**"CITY"**

**AMERICAN CIVIL CONSTRUCTORS**

By:   
\_\_\_\_\_  
Title: Vice President  
\_\_\_\_\_  
**"CONTRACTOR"**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
07/06/2010

<b>PRODUCER</b>  Willis of Colorado, Inc. 26 Century Blvd. P. O. Box 305191 Nashville, TN 37230-5191	877-945-7378	<b>THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.</b>
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC#</b>
<b>INSURED</b>  American Civil Constructors, Inc. Division 203 4901 S. Windermere St. Littleton, CO 80120	INSURER A: Arch Insurance Company	11150-001
	INSURER B: National Union Fire Insurance Company of	19445-001
	INSURER C:	
	INSURER D:	
	INSURER E:	

### COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR ADD'L LTR INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS
A X	<b>GENERAL LIABILITY</b> <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"/> PRO-JECT <input type="checkbox"/> LOC	71PKG2326606	7/1/2010	7/1/2011	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A X	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS <input checked="" type="checkbox"/> \$5,000 Comp Ded. <input checked="" type="checkbox"/> \$5,000 Coll Ded.  <b>GARAGE LIABILITY</b> <input type="checkbox"/> ANY AUTO	71PKG2326606	7/1/2010	7/1/2011	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000  BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$  AUTO ONLY - EA ACCIDENT \$ OTHER THAN AUTO ONLY: EA ACC \$ AGG \$
B	<b>EXCESS/UMBRELLA LIABILITY</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  <input type="checkbox"/> DEDUCTIBLE <input checked="" type="checkbox"/> RETENTION \$ 10,000	BE23465062	7/1/2010	7/1/2011	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> If yes, describe under SPECIAL PROVISIONS below OTHER	71WCI2326506	7/1/2010	7/1/2011	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <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 / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS**  
 THIS VOIDS AND REPLACES PREVIOUSLY ISSUED CERTIFICATE DATED: 7/2/2010 WITH ID: 14418415  
 The City and County of Denver, its elected and appointed officials, employees and volunteers are named as Additional Insured with regards to the Commercial General Liability and Business Automobile policy.  
 The Additional Insured Endorsement which is referenced above under "Type of Insurance-General"

<b>CERTIFICATE HOLDER</b>  City and County of Denver Department of Public Works Parks and Recreation 201 W. Colfax Avenue Denver, CO 80202	<b>CANCELLATION</b> 10 days for Non-Payment of Premium  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL <del>BY FIRST CLASS MAIL</del> 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT <del>OF THIS CERTIFICATE</del> <del>WHOSE NAME IS APPEARED ON THIS CERTIFICATE</del> <del>NEEDS TO BE SIGNED BY THE</del> AUTHORIZED REPRESENTATIVE
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<b>PRODUCER</b>  877-945-7378  Willis of Colorado, Inc. 26 Century Blvd. P. O. Box 305191 Nashville, TN 37230-5191	THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.	
	<b>INSURERS AFFORDING COVERAGE</b>	<b>NAIC#</b>
<b>INSURED</b>  American Civil Constructors, Inc. Division 203 4901 S. Windermere St. Littleton, CO 80120	INSURERA: Arch Insurance Company	11150-001
	INSURERB: National Union Fire Insurance Company of	19445-001
	INSURERC:	
	INSURERD:	
INSURERE:		

**DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS**

Liability<sup>®</sup> is attached.

The Workers' Compensation and General Liability policies include a Waiver of Subrogation in favor of the Additional Insureds only if required by written contract.

This Certificate of Insurance represents coverage currently in effect and may or may not be in compliance with any written contract.

10 days for Workers' Compensation for fraud; material misrepresentation; non-payment of premium; other reasons approved by the Commissioner of Insurance.

## **IMPORTANT**

If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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).

## **DISCLAIMER**

This Certificate of Insurance does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.