

## HAWTHORN METROPOLITAN DISTRICT NO. 2

### REGULAR MEETING

Leyden Rock Clubhouse

17685 W. 83<sup>rd</sup> Drive, Arvada, Colorado

Monday, March 4, 2019

2:00 P.M.

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Krystal Bigley, President	Term to May 2020
Carly Fenton, Treasurer	Term to May 2020
Matthew Cavanaugh, Secretary	Term to May 2020
Christopher Elliott, Assistant Secretary	Term to May 2022
Corey Elliott, Assistant Secretary	Term to May 2022

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### Agenda

1. Call to Order/Declaration of Quorum
2. Director Conflict of Interest Disclosures
3. Approval of Agenda
4. Public Comment – Members of the public may express their views to the Board on matters that affect the District that are not otherwise on the agenda. Comments will be limited to three (3) minutes per person. Comments will be taken in the order reflected on the sign in sheet.
5. Consent Agenda
  - a. Approval of Minutes from December 3, 2018 special meeting (**enclosure**)
  - b. Adoption of Resolution Designating the District's 24-Hour Posting Location (**enclosure**)
  - c. Acknowledge Waste Management Price Increase (**enclosure**)
  - d. Ratification of Independent Contractor Agreement with Poop 911 for Pet Waste Station Services (**enclosure**)
  - e. Ratification of Independent Contractor Agreement with Metco Landscape, LLC for Landscape Maintenance and Snow Removal Services (**enclosure**)
6. Facilities/Management Matters
  - a. District Manager Update
  - b. Covenant Enforcement Update
  - c. Architectural Review Committee Update
  - d. Review proposals for Tree Removal Services
7. Legal Matters
8. Financial Matters
  - a. Consider Approval of Payables/Financials (**to be distributed**)

- b. Discussion Regarding Operations Fee – Payment Due Upon a Transfer
- 9. Acknowledge Resignation of Corey Elliott and Discuss Appointment Process
- 10. Other Business
- 11. Adjourn

DRAFT

MINUTES OF THE REGULAR MEETING OF THE BOARD OF  
DIRECTORS OF

HAWTHORN METROPOLITAN DISTRICT NO. 2

Held: Monday, December 3, 2018, at 2:00 p.m. at 17685 W. 83<sup>rd</sup>  
Drive, Arvada, Colorado.

**Attendance**

The regular meeting of the Board of Directors of the Hawthorn Metropolitan District No. 2, was called and held as shown above and in accordance with the applicable statutes of the State of Colorado. The following Directors, having confirmed their qualification to serve on the Board, were in attendance:

Krystal Bigley  
Carly Fenton  
Matthew Cavanaugh  
Christopher Elliott

Director Corey Elliott was absent. All Director absences are deemed excused unless otherwise specified.

Also present were:

Kristin B. Tompkins, Esq., and Megan J. Murphy, Esq., White Bear Ankele Tanaka & Waldron, Attorneys at Law, District General Counsel; Sarah Hunsche, CliftonLarsonAllen, LLP, District Accountant; Susie Ellis, Community Preservation Specialists; and Mr. Robert Pries, Homeowner.

**Call to Order**

It was noted that a quorum of the Board was present and the meeting was called to order.

**Conflict of Interest  
Disclosures**

Ms. Murphy advised the Board that, pursuant to Colorado law, certain disclosures might be required prior to taking official action at the meeting. Ms. Murphy reported that disclosures for those directors with potential or existing conflicts of interest were filed with the Secretary of State's Office and the Board at least 72 hours prior to the meeting, in accordance with Colorado law, and those disclosures were acknowledged by the Board. Ms. Murphy noted that a quorum was present and inquired into whether members of the Board had any additional disclosures of potential or existing conflicts of interest with regard to any matters scheduled for discussion at the meeting. No additional disclosures were noted. The Board determined that the participation of the members present was necessary to obtain a quorum or to otherwise enable the Board to act.

**Approval of Agenda**

Ms. Murphy presented the Agenda to the Board for consideration. Following discussion, upon a motion duly made and seconded, the

Board unanimously approved the Agenda as amended.

**Public Comment**

None.

Discuss Appointment of Residents to Architectural Review Committee

The Board engaged in a discussion regarding the appointment of residents to the Architectural Review Committee. Following discussion, upon a motion duly made and seconded, the Board unanimously appointed Mr. Robert Pries and Mr. Travis Kaess to the Architectural Review Committee.

**Consent Agenda**

Following a summary by Ms. Murphy the items on the consent agenda were approved by one motion duly made, seconded, and vote unanimously carried.

1. Minutes from September 10, 2018 special meeting
2. 2019 Annual Administrative Resolution
3. Renewal of Property and Liability Schedule and Limits, Workers Compensation Coverage, and SDA Membership

**Legal Matters**

Consider Approval of Engagement Letter with White Bear Ankele Tanaka & Waldron for Legal Services

Ms. Murphy presented the Board with the Engagement Letter of White Bear Ankele Tanaka & Waldron for Legal Services and noted that the engagement letter provides for mandatory arbitration in the event of a dispute between the parties. Ms. Murphy also notified the Board of their right to retain independent counsel. Following discussion, upon a motion duly made and seconded, the Board unanimously approved the engagement.

Discuss Dissolution of Hawthorn Metropolitan District No. 1

The Board engaged in a discussion regarding funding the dissolution of Hawthorn Metropolitan District No. 1. Following discussion, the Board determined to defer this matter to the next meeting.

**Facilities Management**

District Manager Update

None.

Discuss and Consider Approval of Waste Management Price Increase

Ms. Murphy stated that the Waste Management Contract for 2018-2022 authorized a 5% price increase per year. The current proposal for 2018 is a 5.9% price increase. Following discussion, upon a motion duly made and seconded, the Board unanimously authorized up to a 5% price increase with Waste Management and directed the District Manager to coordinate with Waste Management directly.

Covenant Enforcement Update

Ms. Ellis presented the Board with her report on covenant enforcement. No action was necessary.

Review Bids for Snow

The Board reviewed the bids for snow removal services from



Removal Services and Consider Approval of Contractor	BrightView, Metco, Schultz, Arrowhead, and Environmental Landworks. Following discussion, upon a motion duly made and seconded, the Board unanimously approved Metco Landscaping for snow removal services in 2019.
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Review Bids for Landscaping Services and Consider Approval of Contractor	The Board reviewed the bids for landscaping services from BrightView, Metco, Schultz, Arrowhead, and Environmental Landworks. Following discussion, upon a motion duly made and seconded, the Board unanimously approved Metco Landscaping for landscaping services in 2019.
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Review proposals for Tree Removal Service	This matter was deferred to the next meeting.
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### **Financial Matters**

Financials/Claims Payable	Ms. Hunsche presented the Board with the September 30, 2018 unaudited financials for consideration. Following discussion, upon a motion duly made and seconded, the Board unanimously accepted the unaudited financials.
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Ms. Hunsche presented the Board with check numbers 1097-1107. Following discussion, upon a motion duly made and seconded, the Board unanimously ratified the checks and electronic funds transfers, and approved the claims payable in the amount of \$31,800.29.

Conduct Public Hearing on 2018 Budget Amendment and Consider Adoption of Resolution Amending 2018 Budget	Director Bigley opened the public hearing for the 2018 budget amendment. Ms. Murphy noted that notice for the public hearing was made in accordance with the applicable Colorado statutes. No written objections were received prior to the public hearing. After no public comment was made, the public hearing was closed.
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Following discussion, upon a motion a motion duly made and seconded, the Board determined to amend the 2018 General Fund from \$102,107 to \$125,000.

Conduct Public Hearing on 2019 Budget and Consider Adoption of Resolution Approving 2019 Budget	Director Bigley opened the public hearing for the 2019 budget. Ms. Murphy noted that notice for the public hearing was made in accordance with the applicable Colorado statutes. No written objections were received prior to the public hearing. After no public comment was made, the public hearing was closed.
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Ms. Hunsche presented the proposed 2019 budget to the Board for consideration Following discussion, upon a motion duly made and seconded, the Board unanimously adopted the budget as presented, subject to receipt of the 2018 Final Assessed Valuation, and certified 20.241 mills in the General Fund and 55.277 mills in the Debt Service Fund.

The Board directed legal counsel and the District's accountant to certify the District's mill levy by December 15, 2018, and to file the 2019 budget by January 30, 2019.

Consider Approval of Engagement of Dazzio & Associates, P.C. for 2018 Audit

Ms. Murphy presented the Board with the engagement letter of Dazzio & Associates, P.C. for the 2018 Audit. Following discussion, upon a motion duly made and seconded, the Board unanimously approved the engagement.

**Other Business**

None.

Discuss Damage to Open Space (Tract F) (Executive Session for the purpose of receiving legal advice on specific legal questions and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators pursuant to § 24-6-402(4)(b) and § 24-6-402(4)(e), C.R.S.)

The Board entered into an executive session at 2:52 p.m. upon a motion made by Director Fenton, seconded by Director Bigley, and unanimously approved, for the purpose of receiving legal advice regarding damage to open space Tract F, pursuant to § 24-6-402(4)(b), C.R.S. Pursuant to § 24-6-402(2)(d.5)(II)(B), C.R.S., no record will be kept of the remaining portion of this Executive Session that, in the opinion of the District's attorney, constitutes privileged attorney-client communication pursuant to § 24-6-402(4)(b), C.R.S. The Board reconvened in regular session at 3:23 p.m. Upon reconvening in regular session, following discussion, the Board directed Ms. Murphy to send a letter to homeowners regarding covenant violations for damage to open space Tract F.

**Next Meeting**

The next meeting is scheduled for Monday, March 4, 2019.

**Adjournment**

There being no further business to come before the Board, and following discussion and upon motion duly made, seconded and unanimously carried, the Board determined to adjourn the meeting.

The foregoing constitutes a true and correct copy of the minutes of the above-referenced meeting.

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Secretary for the Meeting

ATTORNEY STATEMENT  
REGARDING PRIVILEGED ATTORNEY-CLIENT COMMUNICATION

Pursuant to § 24-6-402(2)(d.5)(II)(B), C.R.S., I attest that, in my capacity as the attorney representing Hawthorn Metropolitan District No. 2, I attended the executive session at the special meeting of Hawthorn Metropolitan District No. 2 convened at 2:52 P.M. on Monday, December 3, 2018, for the sole purpose of providing legal advice regarding damage to open space Tract F as authorized by § 24-6-402(4)(b), C.R.S. I further attest it is my opinion that as the executive session discussion constituted a privileged attorney-client communication as provided by § 24-6-402(4)(b), C.R.S. and, based on that opinion, no further record, written or electronic was kept or required to be kept pursuant to § 24-6-402(2)(b), C.R.S. or § 24-6-402(2)(d.5)(II)(B), C.R.S.

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Megan J. Murphy, Esq.

**RESOLUTION  
OF THE BOARD OF DIRECTORS OF THE  
HAWTHORN METROPOLITAN DISTRICT NO. 2**

**DESIGNATING THE DISTRICT'S 24-HOUR POSTING LOCATION**

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WHEREAS, the Hawthorn Metropolitan District No. 2 (the "District") is a quasi-municipal corporation and political subdivision of the State of Colorado; and

WHEREAS, pursuant to § 24-6-402(1)(a), C.R.S., the District is a local public body and subject to the provisions of §§ 24-6-401, *et seq.*, C.R.S.; and

WHEREAS, pursuant to § 32-1-903(2), C.R.S., notice of the time and place for meetings of the Board of Directors of the District (the "Board") is required to be posted in three (3) public locations within the boundaries of the District at least seventy-two (72) hours before any regular or special meeting; and

WHEREAS, § 24-6-402(2)(c), C.R.S., provides that, in addition to any other means of full and timely notice, a local public body shall be deemed to have given full and timely notice if the notice of the meeting is posted in a designated public place within the boundaries of the local public body no less than twenty-four (24) hours prior to the holding of the meeting; and

WHEREAS, pursuant to § 24-6-402(2)(c), C.R.S., the public place or places for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year; and

WHEREAS, the Board has determined to designate one of the three posting locations used for meeting notices in satisfaction of § 32-1-903(2), C.R.S. as its designated posting location for notices under § 24-6-402(2)(c), C.R.S.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD AS FOLLOWS:

1. Pursuant to § 24-6-402(2)(c), C.R.S., the Board hereby designates the following location for the posting of its twenty-four (24) hour meeting notices:

The Highway 93 RTD Bus Stop.

ADOPTED this 4<sup>th</sup> day of March, 2019.

HAWTHORN METROPOLITAN  
DISTRICT NO. 2

\_\_\_\_\_  
Officer of the District

ATTEST:

\_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

*[Signature Page to Resolution Designating the 24-Hour Posting Location.]*



November 14th, 2018

HAWTHORN METRO DIST  
C/O CLA - KIM HERMAN  
8390 E CRESCENT PKWY STE 500  
GREENWOOD VILLAGE, CO 80111

Dear Kim,

Thank you for providing us with the opportunity to partner with you and your Home Owners Association. We take pride in doing everything possible to ensure that you receive the best overall experience, which includes award-winning customer service, safety, and reliability.

As we all know, prices continue to rise and the cost of doing business increases each year. We are diligent about keeping our costs down and running the most efficient operations possible, but in some instances, it is necessary to pass along a small portion of our increased cost to our customers.

As your Account Manager, and community partner, I am happy to announce that this year, for 2019, we were able to keep your increase quite low at just 3.2%. Effective March 1st, 2019, your per home rate will be \$16.02 per month. Based on 199 homes, your group bill will reflect a \$3,187.31 base price per month.

One of the ways that we're working to keep costs down is by helping our customer's lower contamination in recycling loads. Waste Management introduced **Recycle Often. Recycle Right<sup>SM</sup>** – an educational campaign focused on bringing consumers and businesses back to the basics of recycling. By increasing the amount of paper, cans, and bottles that go into the recycling cart and decreasing contamination, we can make a huge difference. That's where you come in.

Will you consider adding a link to **RecycleOftenRecycleRight.com** on your website? By doing so, you can help your community improve their recycling habits through better education on what can and cannot be recycled. They'll have direct access to videos, children's activities and other free resources they can use as desired. We also encourage you to use any of the materials you find useful in communications to your community.

Once again, thank you for your business. We appreciate and value you as a customer. Please don't hesitate to contact me if you have any questions.

Sincerely,

Mike Maher  
HOA Territory Manager  
mmaher1@wm.com

INDEPENDENT CONTRACTOR AGREEMENT  
(Pet Waste Station Services)

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This INDEPENDENT CONTRACTOR AGREEMENT, including any and all exhibits attached hereto (the "Agreement"), is entered into as of the 10<sup>th</sup> day of September, 2018, by and between HAWTHORN METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (the "District"), and LONG CORPORATION d/b/a POOP 911, a Colorado corporation (the "Contractor"). The District and the Contractor are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, the District was organized pursuant to and in accordance with the provisions of §§ 32-1-101, *et seq.*, C.R.S. for the purpose of constructing, financing, operating and maintaining certain public facilities and improvements for itself, its taxpayers, residents and users; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is empowered to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, pursuant to § 32-1-1001(1)(i), C.R.S., the District is empowered to appoint, hire and retain agents, employees, engineers and attorneys; and

WHEREAS, the District desires to engage the Contractor to perform certain services as are needed by the District to serve the property within and without its boundaries; and

WHEREAS, the Contractor has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

TERMS AND CONDITIONS

1. **SCOPE OF SERVICES.** The Contractor shall perform the services described in **Exhibit A**, attached hereto and incorporated herein by this reference (the "Services"): (a) in a first-class manner, to the satisfaction of the District, using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the District; (b) within the time period and pursuant to the Scope of Services specified in said Exhibit A; (c) in such a manner as to minimize any annoyance, interference or disruption to the residents, tenants, occupants and invitees within the District; and (d) in compliance with all applicable federal, state, county and local or municipal body or agency statutes, ordinances and regulations, including, without limitation, any licensing, bonding, and permit requirements, and including without limitation, any such laws relating to storage, use or disposal of hazardous

wastes, substances or materials. Exhibit A may take any form, including forms which may include price and payment terms. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in Exhibit A, the terms in the body of this Agreement shall govern. Contractor shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement.

2. TERM/RENEWAL. This Agreement shall be effective as of the dated date hereof and shall terminate on the earlier to occur of: (i) termination pursuant to Section 18 hereof; or (ii) December 31, 2018. Notwithstanding the foregoing, unless terminated pursuant to (i) or (ii) above, or unless the District determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew for each succeeding year for an additional one (1) year term commencing January 1 of the next succeeding year.

3. ADDITIONAL SERVICES. The District may request the Contractor to provide additional services not set forth in Exhibit A. The terms and conditions of the provision of such services shall be subject to the mutual agreement of the Contractor and the District pursuant to a written service/work order executed by an authorized representative of the District and the Contractor. Authorization to proceed with additional services shall not be given unless the District has appropriated funds sufficient to cover the additional compensable amount. To the extent additional services are provided pursuant to this Section 3, the terms and conditions of this Agreement relating to Services shall also apply to any additional services rendered.

4. REPAIRS/CLAIMS. The Contractor shall notify the District immediately of any and all damage caused by the Contractor to District property and that of third parties. The Contractor will promptly repair or, at the District's option, reimburse the District for the repair of any damage to property caused by the Contractor or its employees, agents or equipment. In addition, the Contractor shall promptly notify the District of all potential claims of which it becomes aware. The Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the District the opportunity to review and inspect such evidence, including the scene of any damage or accidents. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Services and shall provide all reasonable protection to prevent damage or injury to persons and property, including any material and equipment related to the Services, whether in storage on or off site, under the care, custody, or control of the Contractor or any of its subcontractors.

5. GENERAL PERFORMANCE STANDARDS.

a. The Contractor has by careful examination ascertained: (i) the nature and location of the Services; (ii) the configuration of the ground on which the Services are to be performed; (iii) the character, quality, and quantity of the labor, materials, equipment and facilities necessary to complete the Services; (iv) the general and local conditions pertaining to the Services; and (v) all other matters which in any way may affect the performance of the Services by the Contractor. Contractor enters into this Agreement solely because of the results of such examination



and not because of any representations pertaining to the Services or the provision thereof made to it by the District or any agent of the District and not contained in this Agreement. The Contractor represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Contractor's performance of the Services does not meet this standard, the Contractor shall, at the District's request, re-perform the Services not meeting this standard without additional compensation.

b. The Services of the Contractor shall be undertaken and completed to assure their expeditious completion in light of the purposes of this Agreement. If performance of the Services by the Contractor is delayed due to factors beyond the Contractor's reasonable control, or if conditions of the scope or type of services are expected to change, Contractor shall give timely notice to the District of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

c. The Services provided under this Agreement shall be adequate and sufficient for the intended purposes and shall be completed in a good and workmanlike manner.

d. The Contractor declares that it has complied with all Federal, State and local laws, rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses that are required to provide the Services under this Agreement.

e. The responsibilities and obligations of the Contractor under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, sub-consultant or employee of the District. Review, acceptance or approval by the District of the Services performed or any documents prepared by the Contractor shall not relieve the Contractor of any responsibility for deficiencies, omissions or errors in said Services or documents, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. INTENTIONALLY DELETED.

7. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be in accordance with the compensation schedule attached hereto as **Exhibit A**. The Contractor shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as provided in Exhibit A of this Agreement, unless said reimbursement or compensation is approved in writing by the District in advance of incurring such expenses. Any direct reimbursable costs for materials will be reimbursable at the Contractor's actual cost, provided that the Contractor shall make a reasonable attempt to notify the District of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services. Concurrent with the execution of this Agreement, the Contractor shall provide the District with a current completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification

Number and Certification) (“W-9”). No payments will be made to the Contractor until the completed W-9 is provided. The W-9 shall be attached hereto and incorporated herein as **Exhibit B**.

b. Invoices. Invoices for the Services shall be submitted monthly, by the 10<sup>th</sup> of each month, during the term of the Agreement and shall contain the following information:

- i. An itemized statement of the Services performed.
- ii. Any other reasonable information required by the District to process payment of the invoice, including project and/or cost codes as provided in any applicable written service/work order.

The District shall be charged only for the actual time and direct costs incurred for the performance of the Services. Invoices received by the District after the 10<sup>th</sup> of each month may be processed the following month.

8. TIME FOR PAYMENT. Payment for the Services shall be made by the District within thirty (30) days of receipt of a timely, satisfactory and detailed invoice. In the event a Board meeting is not scheduled in time to review payment of an invoice, the Board hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27, without the need for additional Board approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the District’s approved budget. Such payment shall require review and approval of each invoice by the President and one other officer of the District, subject to ratification at the next succeeding special or regular Board meeting.

9. INDEPENDENT CONTRACTOR. The Contractor is an independent contractor and nothing in the Agreement shall constitute or designate the Contractor or any of its employees or agents as employees or agents of the District. The Contractor shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the District, and shall be responsible for supervising its own employees or subcontractors. The District is concerned only with the results to be obtained. The District shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Contractor or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state or federal income or other tax contributions, insurance contributions (e.g. FICA taxes), workers’ compensation, disability, injury, health or life insurance, professional liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits or insurance. The Contractor shall be responsible for its safety, the safety of its employees, the public and the work site in general and shall comply with all applicable provisions of local, state and federal laws, regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970 (OSH Act). All personnel furnished by the Contractor will be deemed employees of the Contractor and will not for any purpose be considered employees or agents of the District, and the Contractor will comply with all employment laws relative to such employees, including but

not limited to Wage and Hour laws, Worker Compensation Laws, Immigration Laws and OSHA-type laws. **The Contractor is not entitled to worker's compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Contractor or some other entity other than the District, and the Contractor is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

10. **EQUAL OPPORTUNITY / EMPLOYMENT ELIGIBILITY.** This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Contractor represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

The Contractor hereby states that it does not knowingly employ or contract with illegal aliens and that the Contractor has participated in or has attempted to participate in the E-Verify Program or Department Program (formerly known as the Basic Pilot Program) (as defined in §8-17.5-101, C.R.S.) in order to verify that it does not employ any illegal aliens. The Contractor affirmatively makes the follow declarations:

a. The Contractor shall not knowingly employ or contract with an illegal alien who will perform work under the public contract for services contemplated in the Agreement and will participate in the E-Verify Program or Department Program (as defined in §8-17.5-101, C.R.S.) in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services contemplated in the Agreement.

b. The Contractor shall not knowingly enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the services contemplated in the Agreement.

c. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify Program or the Department Program.

d. The Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

e. If the Contractor obtains actual knowledge that a subcontractor performing the services under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

i. Notify the subcontractor and the District within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien.

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required above the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

f. The Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that such Department is undertaking pursuant to the authority established in §8-17.5-102, C.R.S.

g. If the Contractor violates a provision of the Agreement pursuant to §8-17.5-102, C.R.S., the District may terminate the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the District.

#### 11. CONTRACTOR'S INSURANCE.

a. The Contractor shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in **Exhibit C**, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the District, its directors, officers, employees and agents is required for each coverage provided. The Commercial General Liability and Comprehensive Automobile Liability Insurance policies will be endorsed to name the District as an additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the District may carry, and any insurance maintained by the District shall be considered excess. The District shall have the right to verify or confirm, at any time, all coverage, information or representations required by this Section 11 of the Agreement.

b. Prior to commencing any work under this Agreement, the Contractor shall provide the District with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage, which certificate(s) shall be attached hereto as **Exhibit C-1**. If the Contractor subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the District and the Contractor. If the coverage required expires during the term of this Agreement, the Contractor or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

c. The Contractor's failure to purchase the required insurance shall not serve to release it from any obligations contained in the Agreement; nor shall the purchase of the required insurance serve to limit the Contractor's liability under any provision in the Agreement. The Contractor shall be responsible for the payment of any deductibles on issued policies.

12. CONFIDENTIALITY AND CONFLICTS.

a. Confidentiality. During the performance of this Agreement, if the Contractor is notified that certain information is to be considered confidential, the Contractor, on behalf of its employees, agrees to enter into a confidentiality agreement. Any information deemed confidential by the District and given to the Contractor by the District, or developed by the Contractor as a result of the performance of a particular task, shall remain confidential. In addition, the Contractor shall hold in strict confidence, and shall not use in competition, any information which the Contractor becomes aware of under or by virtue of this Agreement which the District deems confidential, or which the District has agreed to hold confidential, or which, if revealed to a third party, might reasonably be construed to be contrary to the best interests of the District.

b. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the District, the Contractor agrees to notify the owner of conflicts that impact the Services to the District.

13. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Contractor pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the District under all circumstances, upon payment to the Contractor of the invoices representing the work by which such materials were produced. The Contractor shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services, shall make them available for the District's use and shall provide such copies to the District upon request at no cost.

14. LIENS AND ENCUMBRANCES. The Contractor shall not have any right or interest in any District assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated in the Agreement. The Contractor, for itself, hereby waives and releases any and all statutory or common law mechanic's, materialmen's or other such lien claims, or rights to place a lien upon the District's property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Contractor shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through or under the Contractor to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Contractor further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the District. The Contractor will provide indemnification against all such liens for labor performed, materials supplied or used by the Contractor and/or any other person in connection with the Services undertaken by the Contractor, in accordance with Section 15(b), below.

15. INDEMNIFICATION.

a. The Contractor shall defend, indemnify and hold harmless the District and each of its directors, officers, contractors, employees, agents and consultants, from and against

any and all claims, demands, losses, liabilities, actions, lawsuits, damages, and expenses, including reasonable legal expenses and attorneys' fees, by the degree or percentage of negligence or fault arising directly or indirectly, out of the errors or omissions, negligence, willful misconduct, or any criminal or tortious act or omission of the Contractor or any of its subcontractors, officers, agents or employees, in connection with this Agreement and/or the Contractor's performance of the Services or work pursuant to this Agreement. The Contractor is not obligated to indemnify the District for the District's own negligence. This indemnification obligation will not be limited in any way by any limitation on the amount or types of damages, compensation or benefits payable by or for the Contractor under worker's compensation acts, disability acts or other employee benefit acts.

b. The Contractor will at all times defend, indemnify and hold the District and its directors, officers, managers, agents and employees harmless against any liability for claims and liens for labor performed or materials used or furnished in the performance of Contractor's Services, including any costs and expenses incurred in the defense of such claims and liens, reasonable attorneys' fees and any damages to the District resulting from such claims or liens. After written demand by the District, the Contractor will immediately cause the effect of any suit or lien to be removed from the District's property. In the event the Contractor fails to do so, the District is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed, and the costs thereof, together with reasonable attorneys' fees, will be immediately due and payable by the Contractor or may, at the District's option, be offset against any sums due and payable to Contractor pursuant to this Agreement. In the event a suit on such claim or lien is brought, the Contractor will, at the option of the District, defend said suit at its own cost and expense, with counsel satisfactory to the District and will pay and satisfy any such claim, lien, or judgment as may be established by the decision of the Court in such suit. The Contractor may litigate any such lien or suit, provided the Contractor causes the effect thereof to be removed promptly in advance from the District's property.

c. This indemnity coverage shall also cover the District's defense costs in the event that the District, in its sole discretion, elects to provide its own defense. The District retains the right to disapprove counsel, if any, selected by the Contractor to fulfill the foregoing defense indemnity obligation, which right of disapproval shall not be unreasonably exercised. Insurance coverage requirements specified in the Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the District's protection in the performance of this Agreement. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

16. ASSIGNMENT. The Contractor shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the District. Any attempted assignment, delegation or subcontracting of this Agreement in whole or in part with respect to which the District has not consented, in writing, shall be null and void and of no effect whatsoever.

17. SUB-CONTRACTORS. The Contractor is solely and fully responsible to the District for the performance of all Services under this Agreement, whether performed by the Contractor or a subcontractor engaged by the Contractor. The Contractor shall not subcontract any Services without prior written approval by the District. The Contractor agrees that each and every agreement of the Contractor with any subcontractor to perform Services under this Agreement shall contain an indemnification provision identical to the one contained in Section 15 of this Agreement holding the District harmless for the acts of the subcontractor. The Contractor further agrees that any such subcontract shall be terminable for cause or convenience and that, unless directed otherwise by the District, the Contractor shall immediately terminate all such subcontracts immediately upon termination of this Agreement. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the District. The Contractor further agrees that all such subcontracts shall provide that they may be terminated immediately without further cost upon termination of this Agreement. Neither the District's approval of any subcontractors, suppliers or materialmen, nor the failure of performance thereof by such parties, will relieve, release or affect in any manner any of the Contractor's duties, liabilities or obligations under this Agreement, and the Contractor will at all times be and remain fully liable. The Contractor agrees that each of its employees, and any subcontractors, suppliers and materialmen will be properly qualified and will use reasonable care in the performance of their duties.

18. TERMINATION. In addition to the termination provisions contained in Section 2, above, this Agreement may be terminated for cause or for convenience by the Contractor upon delivery of thirty (30) days prior written notice to the District and by the District by giving the Contractor thirty (30) days prior written notice. Such notice shall not be required for automatic expiration under Section 2, above. If this Agreement is terminated, the Contractor shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. Said payment shall be made in the normal course of business. Should either Party to this Agreement be declared bankrupt, make a general assignment for the benefit of creditors or commit a substantial and material breach of this Agreement in the view of the other Party, said other Party shall be excused from rendering or accepting any further performance under this Agreement. In the event of termination by either Party hereto, the Contractor shall cooperate with the District to ensure a timely and efficient transition of all work and work product to the District or its designees. All time, fees and costs associated with such transition shall not be billed by the Contractor to the District.

19. DEFAULT. If either Party fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of the default, at the address specified in Section 20 below, and the defaulting party will have fifteen (15) days from and after receipt of the notice to cure the default. If the default is not of a type which can be cured within such fifteen (15)-day period and the defaulting party gives written notice to the non-defaulting party within such fifteen (15)-day period that it is actively and diligently pursuing a cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the fifteen (15)-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. If any default under this Agreement is not cured as described above, the non-defaulting party will,

in addition to any other legal or equitable remedy, have the right to terminate this Agreement and enforce the defaulting party's obligations pursuant to this Agreement by an action for injunction or specific performance.

20. NOTICES. Any notice or communication required under this Agreement must be in writing, and may be given personally, sent via nationally recognized overnight carrier service, or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of: (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent; or (ii) three days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered or sent via nationally recognized overnight carrier service, a notice will be deemed to have been given and received on the first to occur of: (i) one business day after being deposited with a nationally recognized overnight air courier service; or (ii) delivery to the party to whom it is addressed. Any party hereto may at any time, by giving written notice to the other party hereto as provided in this Section 20 of the Agreement, designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the parties at their addresses set forth below:

District:	Hawthorn Metropolitan District No. 2 c/o CliftonLarsonAllen LLP 8390 East Crescent Parkway, Suite 500 Greenwood Village, Colorado 80111 Attention: Kim Herman (303) 779-5710 ext. 37923 (phone) (303) 779-0348 (fax) <a href="mailto:Kim.Herman@claconnect.com">Kim.Herman@claconnect.com</a>
With copy to:	WHITE BEAR ANKELE TANAKA & WALDRON Attorneys at Law 2154 East Commons Avenue, Suite 2000 Centennial, Colorado 80122 Attention: Kristin Tompkins (303) 858-1800 (phone) (303) 858-1801 (fax) <a href="mailto:ktompkins@wbapc.com">ktompkins@wbapc.com</a>
Contractor:	Long Corporation d/b/a POOP 911 2755 South Locust Street, #251 Denver, Colorado 80222 Attention: Jory Long (303) 483-5941 (phone) <a href="mailto:jorylong@hotmail.com">jorylong@hotmail.com</a>



21. AUDITS. The District shall have the right to audit, with reasonable notice, any of the Contractor's books and records which may be necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll and personnel records) and the Contractor agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two (2) years after termination of the Agreement and to make the same available to the District at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

22. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Contractor and the District.

23. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

24. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in the Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

25. GOVERNING LAW / DISPUTES.

a. Arbitration. All claims, counterclaims, disputes and other matters in question between the Parties hereto arising out of or relating to this Agreement or the breach hereof may be decided by arbitration upon the mutual agreement to do so by the Parties to this Agreement. In that case, arbitration will be administered by the Judicial Arbiter Group in Denver, Colorado under its arbitration rules, by a single arbitrator, unless a different arbitrator is agreed upon by the Parties. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. THE PARTIES RECOGNIZE THAT BY AGREEING TO BINDING ARBITRATION AS THE METHOD FOR DISPUTE RESOLUTION, THEY RELINQUISH THE RIGHT TO BRING AN ACTION IN COURT AND WAIVE THE RIGHT TO A JURY TRIAL AND THE EXTENSIVE DISCOVERY RIGHTS TYPICALLY PERMITTED IN JUDICIAL PROCEEDINGS. Colorado law shall apply to any dispute, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Each Party will be responsible for paying one half of all fees and expenses charged by the arbitrator. Notice of request for arbitration must be filed in writing with the other Party(ies) to this Agreement. If agreed to, notice must be filed with the Judicial Arbiter Group. The request must be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event may it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. In the event that the Parties do not agree to arbitration, each party shall be permitted to pursue all available legal and equitable remedies.

b. Litigation and Venue. In the event the Parties do not agree to arbitration pursuant to Section 25(a), above, venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At the District's request, the Contractor shall carry on its duties and obligations under this Agreement during any legal proceedings and the District shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated.

c. Prevailing Party. Other than arbitration fees as set forth in Section 25(a) of the Agreement, in the event that it becomes necessary for either party to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees. For purposes of this Agreement, "prevailing party" shall mean the party in whose favor a judgment, decree, or final order is rendered, either by an arbitrator or the court, after appeal, if any. In the event both Parties prevail on one or more claims, the prevailing party shall mean the net winner of a dispute, taking into account the claims pursued, the claims on which the pursuing party was successful, the amount of money sought, the amount of money awarded, and offsets or counterclaims pursued (successfully or unsuccessfully) by the other Party.

d. At the District's request, the Contractor will consent to being joined in litigation between the District and third parties, but such consent shall not be construed as an admission of fault or liability. The Contractor shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner or failure of the District to furnish timely information or to approve or disapprove of Contractor's Services in a timely manner.

26. GOOD FAITH OF PARTIES. In the performance of this Agreement, or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

27. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District pursuant to this Agreement requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations. The Contractor expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the District, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the District or

statutory debt limitation, including, without limitation, Article X, Section 20 or Article XI, Section 6 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of District funds. The District's obligations under this Agreement exist subject to annual budgeting and appropriations, and shall remain subject to the same for the entire term of this Agreement.

28. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

29. NEGOTIATED PROVISIONS. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

30. SEVERABILITY. If any covenant, term, condition or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition or provision shall not affect any other provision contained in the Agreement, the intention being that such provisions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

31. NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

32. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202, *et seq.*, C.R.S.

33. WARRANTY. The Contractor shall and does by this Agreement guarantee and warrant that all workmanship, materials, and equipment furnished, installed, or performed for the accomplishment of the Services (collectively, the "Work") will be of good quality and new, unless otherwise required or permitted by the Agreement. The Contractor further warrants that the Work will conform to all requirements of the Agreement and all other applicable laws, ordinances, codes, rules and regulations of any governmental authorities having jurisdiction over the Work. All Services are subject to the satisfaction and acceptance of the District, but payments for the completed Work will not constitute final acceptance nor discharge the obligation of the Contractor to correct defects at a later date. Such warranties set forth in the

Agreement are in addition to, and not in lieu of, any other warranties prescribed by Colorado law.

34. TAX EXEMPT STATUS. The District is exempt from Colorado State sales and use taxes. Accordingly, taxes from which the District is exempt shall not be included in any invoices submitted to the District. The District shall, upon request, furnish Contractor with a copy of its certificate of tax exemption. Contractor and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase the materials tax free. The Contractor and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

35. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Remainder of page intentionally left blank. Signature pages follow].*

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

HAWTHORN METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado

  
\_\_\_\_\_  
Officer of the District

ATTEST:

\_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

\_\_\_\_\_  
General Counsel to the District

***District's Signature Page to Independent Contractor Agreement for Pet Waste Station Services  
with Hawthorn Metropolitan District No. 2, dated August \_\_\_\_, 2018***

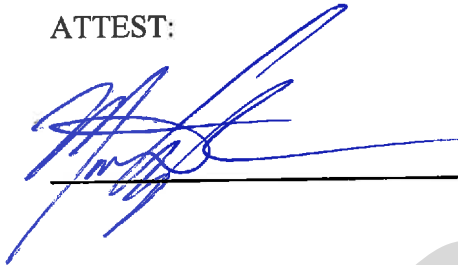
IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

HAWTHORN METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado

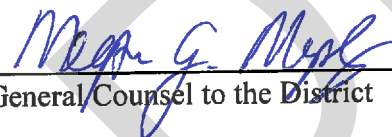
\_\_\_\_\_  
Officer of the District

ATTEST:

  
\_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

  
\_\_\_\_\_  
General Counsel to the District

***District's Signature Page to Independent Contractor Agreement for Pet Waste Station Services  
with Hawthorn Metropolitan District No. 2, dated September 10, 2018***

CONTRACTOR:

Long Corporation d/b/a POOP 911, a Colorado corporation



Printed Name: Jory Long

Title: OWNER

MISSOURI  
STATE OF ~~COLORADO~~

COUNTY OF Camden

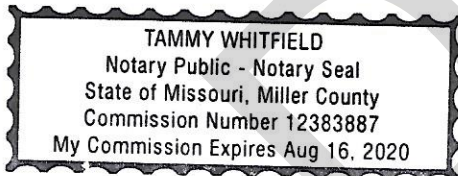
)  
) ss.  
)

The foregoing instrument was acknowledged before me this 2 day of Aug, 2018, by Jory Long, as the owner of Long Corporation d/b/a POOP 911.

WITNESS my hand and official seal.

My commission expires: Aug 16, 2020

(SEAL)



  
Notary Public

*Contractor's Signature Page to Independent Contractor Agreement for Pet Waste Station Services with Hawthorn Metropolitan District No. 2, dated July 3, 2018*

**EXHIBIT A**  
**SCOPE OF SERVICES/COMPENSATION SCHEDULE**

POOP 911 will perform one of the following services at the pet Waste Stations identified by red dots in the attached map:

- 1. Servicing the pet Waste Stations \$35 per visit:**  
Includes removing the waste / adding pet waste bags when required at \$8 per roll extra.
- 2. Servicing the pet Waste Stations:**  
Includes removing the waste / adding pet waste bags when required at \$8 per roll extra  
**Plus Walking the common areas:**  
Includes picking up the pet waste in the common areas/landscaped areas located on Tracts A, B, C, D, E, F, G, and H.  
**Weekly \$110.00** per visit
- 3. Deodorizer application as required / Directed by the District**  
\$75.00 per application when requested.
- 4. Special Events / On Demand scooping request**  
\$50.00 Per hour (pro-rated for time on the property).
- 5. Additional pet waste stations**  
\$350.00 per station installed. POOP 911 shall install two (2) additional pet Waste Stations: one (1) to be installed on the east side or left side of the mailboxes on West 60<sup>th</sup> Lane between Flattop Street and El Dorado Street; and one (1) to be installed at the end of the cul-de-sac on West 60<sup>th</sup> Lane on the west side of the path (furthest away from homes as possible).





**EXHIBIT B**  
**CONTRACTOR'S COMPLETED W-9**

DRAFT

# Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

**Jory J. Long**

2 Business name/disregarded entity name, if different from above

**POOP 911**

3 Check appropriate box for federal tax classification; check only **one** of the following seven boxes:

- ☐ Individual/sole proprietor or single-member LLC  
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶  
☐ Other (see instructions) ▶  
☐ C Corporation  
☒ S Corporation  
☐ Partnership  
☐ Trust/estate
- Note.** For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) \_\_\_\_\_

Exemption from FATCA reporting code (if any) \_\_\_\_\_

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)

**P.O. Box 844482**

6 City, state, and ZIP code

**Dallas TX. 75284**

Requester's name and address (optional)

7 List account number(s) here (optional)

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number

				-			-				
--	--	--	--	---	--	--	---	--	--	--	--

or

Employer identification number

2	6	-	1	9	6	3	4	8	9
---	---	---	---	---	---	---	---	---	---

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign  
Here

Signature of  
U.S. person ▶

Date ▶

**20 JAN 2017**

## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/fw9](http://www.irs.gov/fw9).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

## EXHIBIT C

### INSURANCE REQUIREMENTS

NOTE: All insurance required and provided hereunder shall also comply with the provisions of Section 11 of the Agreement.

1. Standard Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor involved with the performance of the Services, with policy amounts and coverage in compliance with the laws of the jurisdiction in which the Services will be performed.
2. Commercial General Liability Insurance with minimum limits of liability of not less than \$1,000,000 per occurrence for bodily injury and property damage liability; \$2,000,000 designated location, general aggregate. Such insurance will include coverage for contractual liability, personal injury and broad form property damage, and shall include all major divisions of coverage and be on a comprehensive basis including, but not limited to:
  - a. premises operations;
  - b. personal injury liability without employment exclusion;
  - c. blanket contractual;
  - d. broad form property damages, including completed operations;
  - e. medical payments;
  - f. products and completed operations;
  - g. independent consultants coverage;
  - h. coverage inclusive of construction means, methods, techniques, sequences, and procedures, employed in the capacity of a construction consultant; and

**This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.**

3. Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired automobiles used in connection with the performance of the Services, with limits of liability of not less than \$1,000,000 combined single limit bodily injury and property damage. **This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.**
4. If applicable: Contractor shall secure and maintain a third party fidelity bond in favor of the District covering the Contractor and its employees and agents who may provide or be responsible for the provision of Services where such activities contemplate the responsibility for money or property of the District. Such bond shall protect the District against any fraudulent or dishonest act which may result in the loss of money, securities, or other property belonging to or in the possession of the District. Said bond shall be in an amount as determined by the District, from a surety acceptable to the District.
5. Any other insurance commonly used by contractors for services of the type to be performed pursuant to this Agreement.
6. Professional liability insurance in the amount of \$1,000,000.00 each occurrence.

**EXHIBIT C-1**  
CERTIFICATE(S) OF INSURANCE

DRAFT





LONGCOR-01

DCLEMENTS

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/4/2019

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> DC Insurers-Mountain, LLC 3705 Kipling St # 106 Wheat Ridge, CO 80033	<b>CONTACT NAME:</b> Deborah Clements <b>PHONE (A/C, No, Ext):</b> <b>FAX (A/C, No):</b> <b>E-MAIL ADDRESS:</b> debi@dcinsurers.com
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Auto-Owners Insurance Company
	<b>INSURER B:</b>
	<b>INSURER C:</b>
	<b>INSURER D:</b>
	<b>INSURER E:</b>
	<b>INSURER F:</b>

## COVERAGES

## CERTIFICATE NUMBER:

## 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 type="checkbox"/> LOC OTHER:	X	X	74162168	2/1/2019	2/1/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	X		4843435900	2/1/2019	2/1/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	X	X	4843435902	2/1/2019	2/1/2020	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y/N If yes, describe under DESCRIPTION OF OPERATIONS below		X	74162976	2/1/2019	2/1/2020	<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)  
BUILDING - MAINTENANCE CLEAN UP DOG EXCREMENT

Certificate holder is listed as additional insured as their interests may appear as required by written contract as respects Hawthorn Metro. Dist. #2.

## CERTIFICATE HOLDER

## CANCELLATION

Clifton Larson Allen  
Hawthorn Metro. Dist. #2

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

## AUTOMATIC DESIGNATED INSURED - BLANKET COVERAGE

### Automobile Policy

**SECTION II - LIABILITY COVERAGE** is provided to any person or organization only to the extent such person or organization is liable for **your** conduct arising from an **automobile** to which **SECTION II - LIABILITY COVERAGE** applies.

The insurance provided by this endorsement does not apply to any extension of **SECTION II - LIABILITY COVERAGE** provided elsewhere in this policy.

All other policy terms and conditions apply.

DRAFT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## COMMERCIAL GENERAL LIABILITY PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

### 1. EXTENDED WATERCRAFT LIABILITY

Under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions, g.**, exclusion **(2)** is deleted and is replaced by the following:

- (2)** A watercraft you do not own that is:
- (a)** Less than 50 feet long; and
  - (b)** Not being used to carry persons or property for a charge;

### 2. HIRED AUTO AND NON-OWNED AUTO LIABILITY

Coverage for "bodily injury" and "property damage" liability provided under **SECTION I COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, is extended as follows under this item, but only if you do not have any other insurance available to you which affords the same or similar coverage.

#### Coverage

We will pay those sums the insured becomes legally obligated to pay as damages because of "bodily injury" or "property damage" arising out of the maintenance or use of an "auto":

- a.** You do not own;
- b.** Which is not registered in your name; or
- c.** Which is not leased or rented to you for more than ninety consecutive days

and which is used in your business.

#### Exclusions

With respect to only **HIRED AUTO AND NON-OWNED AUTO LIABILITY**, the exclusions which apply to **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, other than the Nuclear Energy Liability Exclusion Endorsement, do not apply. The following exclusions apply to this coverage:

This coverage does not apply to:

- a.** "Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" resulting from the use of reasonable force to protect persons or property.
- b.** Any obligation of the insured under a workers compensation, disability benefits or unemployment compensation law or any similar law.
- c. (1)** "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
  - (a)** That are, or are contained in any property that is:
    - 1)** Being transported or towed by, handled or prepared for placement into or upon, or taken from the "auto";



- 2) Otherwise in the course of transit by you or on your behalf; or
- 3) Being disposed of, stored, treated or processed into or upon the "auto";
- (b) Before such "pollutants" or property containing "pollutants" are moved from the place they are accepted by you or anyone acting on your behalf for placement into or onto the "auto"; or
- (c) After such "pollutants" or property containing "pollutants" are removed from the "auto" to where they are delivered, disposed of or abandoned by you or anyone acting in your behalf.
- c. (1) (a) above does not apply to "pollutants" that are needed or result from the normal mechanical, electrical or hydraulic functioning of the "auto" or its parts, if the discharge, release, escape, seepage, migration or dispersal of such "pollutants" is directly from a part of the "auto" designed to hold, store, receive or dispose of such "pollutants" by the "auto" manufacturer.
- c. (1) (b) and c. (1) (c) above do not apply, if as a direct result of maintenance or use of the "auto", "pollutants" or property containing "pollutants" which are not in or upon the "auto", are upset, overturned or damaged at any premises not owned by or leased to you. The discharge, release, escape, seepage, migration or dispersal of the "pollutants" must be directly caused by such upset, overturn or damage.
- (2) Any loss, cost or expense arising out of any:
  - (a) Request, demand or order that any insured or others test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of "pollutants"; or
  - (b) Claim or "suit" by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing, or in any way responding to, or assessing the effects of "pollutants".
- d. "Bodily injury" or "property damage" however caused, arising directly or indirectly, out of:
  - (1) War, including undeclared or civil war;
  - (2) Warlike action by a military force, including action in hindering or defending against an actual or expected attack, by any government, sovereign or other authority using military personnel or other agents; or
  - (3) Insurrection, rebellion, revolution, usurped power, or action taken by governmental authority in hindering or defending against any of these.
- e. "Bodily injury" or "property damage" for which the insured is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages:
  - (1) Assumed in a contract or agreement that is an "insured contract", provided the "bodily injury" or "property damage" occurs subsequent to the execution of the contract or agreement. However, if the insurance under this policy does not apply to the liability of the insured, it also does not apply to such liability assumed by the insured under an "insured contract".
  - (2) That the insured would have in the absence of the contract or agreement.
- f. "Property damage" to:
  - (1) Property owned or being transported by, or rented or loaned to any insured; or
  - (2) Property in the care, custody or control of any insured

other than "property damage" to a residence or a private garage by a private passenger "auto" covered by this coverage.

**g. "Bodily injury" to:**

- (1)** An "employee" of the insured arising out of and in the course of employment by the insured; or
- (2)** The spouse, child, parent, brother or sister of that "employee" as a consequence of Paragraph **(1)** above.

This exclusion applies:

- (1)** Whether the insured may be liable as an employer or in any other capacity; and
- (2)** To any obligation to share damages with or repay someone else who must pay damages because of the injury.

This exclusion does not apply to:

- (1)** Liability assumed by the insured under an "insured contract".
- (2)** "Bodily injury" to any "employee" of the insured arising out of and in the course of his domestic employment by the insured unless benefits for such injury are in whole or in part either payable or required to be provided under any workers compensation law.

**Who Is An Insured**

With respect to only this coverage, **SECTION II - WHO IS AN INSURED**, is deleted and replaced by the following:

**SECTION II - WHO IS AN INSURED**

Each of the following is an insured with respect to this coverage:

- a.** You.

- b.** Your partners if you are designated in the Declarations as a partnership or a joint venture.
- c.** Your members if you are designated in the Declarations as a limited liability company.
- d.** Your "executive officers" if you are designated in the Declarations as an organization other than a partnership, joint venture or limited liability company.
- e.** Any person using the "auto" and any person or organization legally responsible for the use of an "auto" not owned by such person or organization, provided the actual use is with your permission.

None of the following is an insured:

- a.** Any person engaged in the business of his or her employer with respect to "bodily injury" to any co-"employee" of such person injured in the course of employment.
- b.** Any person using the "auto" and any person other than you, legally responsible for its use with respect to an "auto" owned or registered in the name of:
  - (1)** Such person; or
  - (2)** Any partner or "executive officer" of yours or a member of his or her household; or
  - (3)** Any "employee" or agent of yours who is granted an operating allowance of any sort for the use of such "auto".
- c.** Any person while employed in or otherwise engaged in duties in connection with an "auto business", other than an "auto business" you operate.
- d.** The owner or lessee (of whom you are a sublessee) of a hired "auto" or the owner of an "auto" you do not own or which is not registered in your name which is used in your business or any agent or employee of any such owner or lessee.

- e. Any person or organization with respect to the conduct of any current or past partnership or joint venture that is not shown as a Named Insured in the Declarations.

### **Additional Definitions**

The following definition applies to only this coverage:

"Auto business" means the business or occupation of selling, repairing, servicing, storing or parking "autos".

### **Limits of Insurance**

With respect to only this coverage, **SECTION III - LIMITS OF INSURANCE**, is deleted and replaced by the following:

#### **SECTION III - LIMITS OF INSURANCE**

- a. The Limits of Insurance shown in the Declarations and the rules below fix the most we will pay regardless of the number of:

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

- b. We will pay damages for "bodily injury" or "property damage" up to the limits of liability stated in the Declarations for this coverage. Such damages shall be paid as follows:

- (1) When Hired Auto and Non-Owned Auto Each Occurrence Limit is shown in the Declarations, such limit is the total amount of coverage and the most we will pay for all damages because of or arising out of all "bodily injury" and "property damage" in any one "occurrence".
- (2) When Bodily Injury Hired Auto and Non-Owned Auto Each Occurrence Limit and Property Damage Hired Auto and Non-Owned Auto Each Occurrence Limit are shown in the Declarations:

- (a) The limit shown for Bodily Injury Hired Auto and Non-Owned Auto Each Occurrence is the total amount of coverage and the most we will pay for all damages because of or arising out of all "bodily injury" in any one "occurrence".

- (b) The limit shown for Property Damage Hired Auto and Non-Owned Auto Each Occurrence is the total amount of coverage and the most we will pay for all damages because of or arising out of all "property damage" in any one "occurrence".

### **3. BROADENED SUPPLEMENTARY PAYMENTS**

Under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY, COVERAGE B. PERSONAL INJURY AND ADVERTISING INJURY LIABILITY and SUPPLEMENTARY PAYMENTS - COVERAGES A AND B:**

Paragraph 4., the amount we will pay for the actual loss of earnings is increased from \$250 per day to \$400 per day.

### **4. ADDITIONAL PRODUCTS-COMPLETED OPERATIONS AGGREGATE LIMIT**

If the endorsement, **EXCLUSION - PRODUCTS COMPLETED OPERATIONS HAZARD, CG 21 04**, is not attached to this policy, then the following is added to **SECTION III - LIMITS OF INSURANCE:**

Commencing with the effective date of this policy, we will provide one additional Products-Completed Operations Aggregate Limit, for each annual period, equal to the amount of the Products-Completed Operations Aggregate Limit shown in the Declarations. The maximum Products-Completed Operations Aggregate Limit for any annual period will be no more than two times the original Products-Completed Operations Aggregate Limit.

## 5. PERSONAL INJURY EXTENSION

- a. If the endorsement EXCLUSION - PERSONAL INJURY AND ADVERTISING INJURY, 55350, is attached to this policy, then this provision, 5. PERSONAL INJURY EXTENSION, does not apply.
- b. If the endorsement EXCLUSION - PERSONAL INJURY AND ADVERTISING INJURY, 55350, is not attached to this policy, then under **SECTION V - DEFINITIONS, 15.** "Personal injury" is deleted and replaced by the following:

**15.** "Personal injury" means, other than "bodily injury", arising out of one or more of the following offenses:

- a. False arrest, detention or imprisonment;
- b. Malicious prosecution;
- c. The wrongful eviction from, wrongful entry into, or invasion of the right of private occupancy of a room, dwelling or premises that a person occupies by or on behalf of its owner, landlord or lessor;
- d. Oral or written publication of material that slanders or libels a person or organization or disparages a person's or organization's goods, products or services;
- e. Oral or written publication of material that violates a person's right of privacy; or
- f. Discrimination, humiliation, sexual harassment and any violation of civil rights caused by such discrimination, humiliation or sexual harassment.

## 6. BROADENED KNOWLEDGE OF OCCURRENCE

Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. Duties In The Event Of**

**Occurrence, Offense, Claim Or Suit**, the following paragraph is added:

Paragraphs **a.** and **b.** of this condition will not serve to deny any claim for failure to provide us with notice as soon as practicable after an "occurrence" or an offense which may result in a claim:

- a. If the notice of a new claim is given to your "employee"; and
- b. That "employee" fails to provide us with notice as soon as practicable.

This exception shall not apply:

- a. To you; or
- b. To any officer, director, partner, risk manager or insurance manager of yours.

## 7. DAMAGE TO PREMISES RENTED TO YOU

Under **SECTION I - COVERAGES, COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY**, the last paragraph is deleted and replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, smoke or water damage to premises rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **7. DAMAGE TO PREMISES RENTED TO YOU, a. Limits of Insurance.**

The following additional exclusions apply to "property damage" arising out of Water Damage to premises rented to you or temporarily occupied by you with permission of the owner:

**(1)** "Property damage" to:

- (a)** The interior of the premises caused by or resulting from rain or snow, whether driven by wind or not; or
- (b)** Heating, air conditioning, plumbing or fire protection systems, or other equipment or appliances.

(2) "Property damage" caused by or resulting from any of the following:

(a) Mechanical breakdown, including bursting or rupture caused by centrifugal force;

(b) Cracking, settling, expansion or shrinking;

(c) Smoke or smog;

(d) Birds, insects, rodents or other animals;

(e) Wear and tear;

(f) Corrosion, rust, decay, fungus, deterioration, hidden or latent defect or any quality in property that causes such property to destroy or damage itself; or

(g) Water that flows or leaks from any heating, air conditioning, plumbing or fire protection system caused by or resulting from freezing, unless:

1) You make a reasonable effort to maintain heat in the building or structure; or

2) You drain the equipment and shut off the water supply if the heat is not maintained.

(3) "Property damage" caused directly or indirectly by any of the following:

(a) Water that backs up from a drain or sewer;

(b) Mud flow or mudslide;

(c) Volcanic eruption, explosion or effusion;

(d) Any earth movement, such as earthquake, landslide, mine subsidence, earth sinking, earth rising or earth shifting;

(e) Regardless of the cause, flood, surface water, waves, tides, tidal waves, storm surge, overflow of any body of water, or their spray, all whether wind driven or not;

(f) Water under the ground surface pressing on, or seeping or flowing through:

1) Walls, foundations, floors or paved surfaces;

2) Basements, whether paved or not; or

3) Doors, windows or other openings.

(4) "Property damage" for which the insured is obligated to pay as damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the insured would have in the absence of this contract or agreement.

#### a. Limits of Insurance

With respect to this coverage only, under **SECTION III - LIMITS OF INSURANCE**, paragraph 6. is deleted and replaced by the following:

6. The most we will pay under Coverage A for damages because of "property damage" to premises rented to you or temporarily occupied by you with permission of the owner arising out of or caused by fire, lightning, explosion, smoke and water damage is the amount shown in the Declarations under Damage to Premises Rented to You.

b. Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 4. Other Insurance**, paragraph b., the word fire is amended to include fire, lightning, explosion, smoke or water damage.

#### 8. BLANKET ADDITIONAL INSURED - LESSOR OF LEASED EQUIPMENT

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- a. **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization with whom you have agreed:

- (1) In a written contract or agreement, executed prior to loss, to name as an additional insured; or
- (2) In an oral contract or agreement, executed prior to loss, to name as an additional insured only if a Certificate of Insurance was issued prior to loss indicating that the person or organization was an additional insured

but only with respect to liability for:

- (1) "Bodily injury";
- (2) "Property damage";
- (3) "Personal injury"; or
- (4) "Advertising injury"

caused in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

- b. With respect to the insurance afforded to an additional insured, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

- c. The following is added to **SECTION III - LIMITS OF INSURANCE:**

The Limits of Insurance for the additional insured are those specified in the written contract or agreement between the insured and the lessor, not to exceed the limits provided in this policy. These limits are inclusive of and not in addition to the Limits of Insurance shown in the Declarations.

## 9. **BLANKET ADDITIONAL INSURED - MANAGERS OR LESSORS OF PREMISES**

- a. **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization with whom you have agreed:

- (1) In a written contract or agreement, executed prior to loss, to name as an additional insured; or
- (2) In an oral contract or agreement, executed prior to loss, to name as an additional insured only if a Certificate of Insurance was issued prior to loss indicating that the person or organization was an additional insured

but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you.

- b. This provision is subject to the following additional exclusions, applicable to this provision only:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (2) Structural alterations, new constructions or demolition operations performed by or on behalf of the additional insured.

- c. The following is added to **SECTION III - LIMITS OF INSURANCE:**

The Limits of Insurance for the additional insured are those specified in the written contract or agreement between the insured and the manager or lessor of the premises, not to exceed the limits provided in this policy. These limits are inclusive of and not in addition to the Limits of Insurance shown in the Declarations.

## 10. **NEWLY FORMED OR ACQUIRED ORGANIZATIONS**

Under **SECTION II - WHO IS AN INSURED**, Paragraph 4. is deleted and replaced by the following:

- 4. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, and over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
- b. Coverage **A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- c. Coverage **B** does not apply to "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the organization.

No person or organization is an insured with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

## 11. BLANKET WAIVER OF SUBROGATION

The following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 8. Transfer Of Rights of Recovery Against Others To Us.**

When you have agreed to waive your right of subrogation in a written contract, executed prior to loss, with any person or organization, we waive any right to recovery we may have against such person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under a contract with that person or organization and included in the "products-completed operations hazard".

All other policy terms and conditions apply.

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Worker's Compensation and Employers Liability Insurance Policy

**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

WC 00 03 13

We have the right to recover our payments from anyone liable for any injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Schedule

**COLORADO**

Any person for whom, or organization in which, you perform a service.



COMMERCIAL GENERAL LIABILITY  
55373 (1-07)

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

## BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM.

**A. Under SECTION II - WHO IS AN INSURED, the following is added:**

A person or organization is an Additional Insured, only with respect to liability arising out of "your work" for that Additional Insured by or for you:

1. If required in a written contract or agreement; or
2. If required by an oral contract or agreement only if a Certificate of Insurance was issued prior to the loss indicating that the person or organization was an Additional Insured.

**B. Under SECTION III - LIMITS OF INSURANCE, the following is added:**

The limits of liability for the Additional Insured are those specified in the written contract or agreement between the insured and the owner, lessee or contractor or those specified in the Certificate of Insurance, if an oral contract or agreement, not to exceed the limits provided in this policy. These limits are inclusive of and not in addition to the limits of insurance shown in the Declarations.

**C. SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, is amended as follows:**

1. The following provision is added to **4. Other Insurance**:

This insurance is primary for the Additional Insured, but only with respect to liability arising out of "your work" for that Additional Insured by or for you. Other insurance available to the Additional Insured will apply as excess insurance and not contribute as primary insurance to the insurance provided by this endorsement.

2. The following provision is added:

**Other Additional Insured Coverage Issued By Us**

If this policy provides coverage for the same loss to any Additional Insured specifically shown as an Additional Insured in another endorsement to this policy, our maximum limit of insurance under this endorsement and any other endorsement shall not exceed the limit of insurance in the written contract or agreement between the insured and the owner, lessee or contractor, or the limits provided in this policy, whichever is less. Our maximum limit of insurance arising out of an "occurrence", shall not exceed the limit of insurance shown in the Declarations, regardless of the number of insureds or Additional Insureds.

All other policy terms and conditions apply.

INDEPENDENT CONTRACTOR AGREEMENT  
(Landscape Maintenance and Snow Removal)

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This INDEPENDENT CONTRACTOR AGREEMENT, including any and all exhibits attached hereto (the “Agreement”), is entered into as of the 18<sup>th</sup> day of December, 2018, by and between HAWTHORN METROPOLITAN DISTRICT NO. 2, a quasi-municipal corporation and political subdivision of the State of Colorado (the “District”), and METCO LANDSCAPE, LLC, a Colorado limited liability company (the “Contractor”). The District and the Contractor are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

WHEREAS, the District was organized pursuant to and in accordance with the provisions of §§ 32-1-101, *et seq.*, C.R.S. for the purpose of constructing, financing, operating and maintaining certain public facilities and improvements for itself, its taxpayers, residents and users; and

WHEREAS, pursuant to § 32-1-1001(1)(d)(I), C.R.S., the District is empowered to enter into contracts and agreements affecting the affairs of the District; and

WHEREAS, pursuant to § 32-1-1001(1)(i), C.R.S., the District is empowered to appoint, hire and retain agents, employees, engineers and attorneys; and

WHEREAS, the District desires to engage the Contractor to perform certain services as are needed by the District to serve the property within and without its boundaries; and

WHEREAS, the Contractor has represented that it has the professional experience, skill and resources to perform the services, as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations set forth herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

TERMS AND CONDITIONS

1. **SCOPE OF SERVICES.** The Contractor shall perform the services described in **Exhibit A**, attached hereto and incorporated herein by this reference (the “Services”): (a) in a first-class manner, to the satisfaction of the District, using the degree of skill and knowledge customarily employed by other professionals performing similar services in the area of the District; (b) within the time period and pursuant to the Scope of Services specified in said Exhibit A; (c) in such a manner as to minimize any annoyance, interference or disruption to the residents, tenants, occupants and invitees within the District; and (d) in compliance with all applicable federal, state, county and local or municipal body or agency statutes, ordinances and regulations, including, without limitation, any licensing, bonding, and permit requirements, and including without limitation, any such laws relating to storage, use or disposal of hazardous

wastes, substances or materials. Exhibit A may take any form, including forms which may include price and payment terms. In the event of any conflict between terms set forth in the body of this Agreement and terms set forth in Exhibit A, the terms in the body of this Agreement shall govern. Contractor shall have no right or authority, express or implied, to take any action, expend any sum, incur any obligation, or otherwise obligate the District in any manner whatsoever, except to the extent specifically provided in this Agreement.

2. TERM/RENEWAL. This Agreement shall be effective as of January 1, 2019 and shall terminate on the earlier to occur of: (i) termination pursuant to Section 18 hereof; or (ii) December 31, 2019. Notwithstanding the foregoing, unless terminated pursuant to (i) or (ii) above, or unless the District determines not to appropriate funds for this Agreement for the next succeeding year, this Agreement shall automatically renew for each succeeding year for an additional one (1) year term commencing January 1 of the next succeeding year.

3. ADDITIONAL SERVICES. The District may request the Contractor to provide additional services not set forth in Exhibit A. The terms and conditions of the provision of such services shall be subject to the mutual agreement of the Contractor and the District pursuant to a written service/work order executed by an authorized representative of the District and the Contractor. Authorization to proceed with additional services shall not be given unless the District has appropriated funds sufficient to cover the additional compensable amount. To the extent additional services are provided pursuant to this Section 3, the terms and conditions of this Agreement relating to Services shall also apply to any additional services rendered.

4. REPAIRS/CLAIMS. The Contractor shall notify the District immediately of any and all damage caused by the Contractor to District property and that of third parties. The Contractor will promptly repair or, at the District's option, reimburse the District for the repair of any damage to property caused by the Contractor or its employees, agents or equipment. In addition, the Contractor shall promptly notify the District of all potential claims of which it becomes aware. The Contractor further agrees to take all reasonable steps to preserve all physical evidence and information which may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and to grant to the District the opportunity to review and inspect such evidence, including the scene of any damage or accidents. The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Services and shall provide all reasonable protection to prevent damage or injury to persons and property, including any material and equipment related to the Services, whether in storage on or off site, under the care, custody, or control of the Contractor or any of its subcontractors.

5. GENERAL PERFORMANCE STANDARDS.

a. The Contractor has by careful examination ascertained: (i) the nature and location of the Services; (ii) the configuration of the ground on which the Services are to be performed; (iii) the character, quality, and quantity of the labor, materials, equipment and facilities necessary to complete the Services; (iv) the general and local conditions pertaining to the Services; and (v) all other matters which in any way may affect the performance of the Services by the Contractor. Contractor enters into this Agreement solely because of the results of such examination

and not because of any representations pertaining to the Services or the provision thereof made to it by the District or any agent of the District and not contained in this Agreement. The Contractor represents that it has or shall acquire the capacity and the professional experience and skill to perform the Services and that the Services shall be performed in accordance with the standards of care, skill and diligence provided by competent professionals who perform services of a similar nature to those specified in this Agreement. If competent professionals find that the Contractor's performance of the Services does not meet this standard, the Contractor shall, at the District's request, re-perform the Services not meeting this standard without additional compensation.

b. The Services of the Contractor shall be undertaken and completed to assure their expeditious completion in light of the purposes of this Agreement. If performance of the Services by the Contractor is delayed due to factors beyond the Contractor's reasonable control, or if conditions of the scope or type of services are expected to change, Contractor shall give timely notice to the District of such a delay or change and receive an equitable adjustment of time and/or compensation, as negotiated between the Parties.

c. The Services provided under this Agreement shall be adequate and sufficient for the intended purposes and shall be completed in a good and workmanlike manner.

d. The Contractor declares that it has complied with all Federal, State and local laws, rules, regulations, ordinances and/or similar directives regarding business permits, certificates and licenses that are required to provide the Services under this Agreement.

e. The responsibilities and obligations of the Contractor under this Agreement shall not be relieved or affected in any respect by the presence of any agent, consultant, sub-consultant or employee of the District. Review, acceptance or approval by the District of the Services performed or any documents prepared by the Contractor shall not relieve the Contractor of any responsibility for deficiencies, omissions or errors in said Services or documents, nor shall it be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

6. MONTHLY STATUS REPORT. The Contractor shall provide to the District, at the District's request, on or before the 25<sup>th</sup> of each month, a narrative progress and status report describing work in progress and results achieved during the reporting period, including a description of the Services performed during the invoice period and the Services anticipated to be performed during the ensuing invoice period ("Monthly Report").

7. COMPENSATION AND INVOICES.

a. Compensation. Compensation for the Services provided under this Agreement shall be in accordance with the compensation schedule attached hereto as **Exhibit A**. The Contractor shall be responsible for all expenses it incurs in performance of this Agreement and shall not be entitled to any reimbursement or compensation except as provided in Exhibit A of this Agreement, unless said reimbursement or compensation is approved in writing by the District in advance of incurring such expenses. Any direct reimbursable costs for materials will be reimbursable at the Contractor's actual cost, provided that the Contractor shall make a reasonable

attempt to notify the District of the estimated amount of such reimbursable costs (or any material adjustments thereto subsequently identified) prior to commencing the requested services. Concurrent with the execution of this Agreement, the Contractor shall provide the District with a current completed Internal Revenue Service Form W-9 (Request for Taxpayer Identification Number and Certification) ("W-9"). No payments will be made to the Contractor until the completed W-9 is provided. The W-9 shall be attached hereto and incorporated herein as **Exhibit B**.

b. Invoices. Invoices for the Services shall be submitted monthly, by the 10<sup>th</sup> of each month, during the term of the Agreement and shall contain the following information:

- i. An itemized statement of the Services performed.
- ii. Any other reasonable information required by the District to process payment of the invoice, including project and/or cost codes as provided in any applicable written service/work order.

The District shall be charged only for the actual time and direct costs incurred for the performance of the Services. Invoices received by the District after the 10<sup>th</sup> of each month may be processed the following month.

8. TIME FOR PAYMENT. Payment for the Services shall be made by the District within thirty (30) days of receipt of: (i) a timely, satisfactory and detailed invoice; and (ii) if applicable, a satisfactory and detailed Monthly Report, for that portion of the Services performed and not previously billed. The District may determine to waive or extend the deadline for filing the Monthly Report, or may make payment for Services to the Contractor notwithstanding a delay in filing the Monthly Report, upon reasonable request of the Contractor, if it is in the best interest of the District to do so. In the event a Board meeting is not scheduled in time to review payment of an invoice, the Board hereby authorizes payment for Services, subject to the appropriation and budget requirements under Section 27, without the need for additional Board approval, so long as any payment required to be made does not exceed the amounts appropriated for such Services as set forth in the District's approved budget. Such payment shall require review and approval of each Monthly Report and invoice by the President and one other officer of the District, subject to ratification at the next succeeding special or regular Board meeting.

9. INDEPENDENT CONTRACTOR. The Contractor is an independent contractor and nothing in the Agreement shall constitute or designate the Contractor or any of its employees or agents as employees or agents of the District. The Contractor shall have full power and authority to select the means, manner and method of performing its duties under this Agreement, without detailed control or direction from the District, and shall be responsible for supervising its own employees or subcontractors. The District is concerned only with the results to be obtained. The District shall not be obligated to secure, and shall not provide, any insurance coverage or employment benefits of any kind or type to or for the Contractor or its employees, sub-consultants, contractors, agents, or representatives, including coverage or benefits related but not limited to: local, state or federal income or other tax contributions, insurance contributions (e.g. FICA taxes), workers' compensation, disability, injury, health or life insurance, professional

liability insurance, errors and omissions insurance, vacation or sick-time benefits, retirement account contributions, or any other form of taxes, benefits or insurance. The Contractor shall be responsible for its safety, the safety of its employees, the public and the work site in general and shall comply with all applicable provisions of local, state and federal laws, regulations and orders affecting safety and health, including but not limited to the Occupational Safety and Health Act of 1970 (OSH Act). All personnel furnished by the Contractor will be deemed employees of the Contractor and will not for any purpose be considered employees or agents of the District, and the Contractor will comply with all employment laws relative to such employees, including but not limited to Wage and Hour laws, Worker Compensation Laws, Immigration Laws and OSHA-type laws. **The Contractor is not entitled to worker's compensation benefits or unemployment insurance benefits, unless unemployment compensation coverage is provided by the Contractor or some other entity other than the District, and the Contractor is obligated to pay federal and state income taxes on moneys earned pursuant to this Agreement.**

10. **EQUAL OPPORTUNITY / EMPLOYMENT ELIGIBILITY.** This Agreement is subject to all applicable laws and executive orders relating to equal opportunity and non-discrimination in employment and the Contractor represents and warrants that it will not discriminate in its employment practices in violation of any such applicable law or executive order.

The Contractor hereby states that it does not knowingly employ or contract with illegal aliens and that the Contractor has participated in or has attempted to participate in the E-Verify Program or Department Program (formerly known as the Basic Pilot Program) (as defined in §8-17.5-101, C.R.S.) in order to verify that it does not employ any illegal aliens. The Contractor affirmatively makes the follow declarations:

a. The Contractor shall not knowingly employ or contract with an illegal alien who will perform work under the public contract for services contemplated in the Agreement and will participate in the E-Verify Program or Department Program (as defined in §8-17.5-101, C.R.S.) in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services contemplated in the Agreement.

b. The Contractor shall not knowingly enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform the services contemplated in the Agreement.

c. The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify Program or the Department Program.

d. The Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

e. If the Contractor obtains actual knowledge that a subcontractor performing the services under this Agreement knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

i. Notify the subcontractor and the District within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien.

ii. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required above the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

f. The Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that such Department is undertaking pursuant to the authority established in §8-17.5-102, C.R.S.

g. If the Contractor violates a provision of the Agreement pursuant to §8-17.5-102, C.R.S., the District may terminate the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the District.

#### 11. CONTRACTOR'S INSURANCE.

a. The Contractor shall acquire and maintain, at its sole cost and expense, during the entire term of this Agreement, insurance coverage in the minimum amounts set forth in **Exhibit C**, attached hereto and incorporated herein by this reference. A waiver of subrogation and rights of recovery against the District, its directors, officers, employees and agents is required for Commercial General Liability and Workers Compensation coverage. The Commercial General Liability and Comprehensive Automobile Liability Insurance policies will be endorsed to name the District as an additional insured. All coverage provided pursuant to this Agreement shall be written as primary policies, not contributing with and not supplemental to any coverage that the District may carry, and any insurance maintained by the District shall be considered excess. The District shall have the right to verify or confirm, at any time, all coverage, information or representations required by this Section 11 of the Agreement.

b. Prior to commencing any work under this Agreement, the Contractor shall provide the District with a certificate or certificates evidencing the policies required by this Agreement, as well as the amounts of coverage for the respective types of coverage, which certificate(s) shall be attached hereto as **Exhibit C-1**. If the Contractor subcontracts any portion(s) of the Services, said subcontractor(s) shall be required to furnish certificates evidencing statutory workers' compensation insurance, comprehensive general liability insurance and automobile liability insurance in amounts satisfactory to the District and the Contractor. If the coverage required expires during the term of this Agreement, the Contractor or subcontractor shall provide replacement certificate(s) evidencing the continuation of the required policies.

c. The Contractor's failure to purchase the required insurance shall not serve to release it from any obligations contained in the Agreement; nor shall the purchase of the required insurance serve to limit the Contractor's liability under any provision in the Agreement. The Contractor shall be responsible for the payment of any deductibles on issued policies.

12. CONFIDENTIALITY AND CONFLICTS.

a. Confidentiality. During the performance of this Agreement, if the Contractor is notified that certain information is to be considered confidential, the Contractor, on behalf of its employees, agrees to enter into a confidentiality agreement. Any information deemed confidential by the District and given to the Contractor by the District, or developed by the Contractor as a result of the performance of a particular task, shall remain confidential. In addition, the Contractor shall hold in strict confidence, and shall not use in competition, any information which the Contractor becomes aware of under or by virtue of this Agreement which the District deems confidential, or which the District has agreed to hold confidential, or which, if revealed to a third party, might reasonably be construed to be contrary to the best interests of the District.

b. Conflicts. Prior to the execution of, and during the performance of this Agreement and prior to the execution of future agreements with the District, the Contractor agrees to notify the owner of conflicts that impact the Services to the District.

13. OWNERSHIP OF DOCUMENTS. All documents produced by or on behalf of the Contractor pursuant to this Agreement, including, but not limited to, all maps, plans, drawings, specifications, reports, electronic files and other documents, in whatever form, shall remain the property of the District under all circumstances, upon payment to the Contractor of the invoices representing the work by which such materials were produced. The Contractor shall maintain electronic and reproducible copies on file of any such instruments of service involved in the Services, shall make them available for the District's use and shall provide such copies to the District upon request at no cost.

14. LIENS AND ENCUMBRANCES. The Contractor shall not have any right or interest in any District assets, nor any claim or lien with respect thereto, arising out of this Agreement or the performance of the services contemplated in the Agreement. The Contractor, for itself, hereby waives and releases any and all statutory or common law mechanic's, materialmen's or other such lien claims, or rights to place a lien upon the District's property or any improvements thereon in connection with any Services performed under or in connection with this Agreement, and the Contractor shall cause all permitted subcontractors, suppliers, materialmen, and others claiming by, through or under the Contractor to execute similar waivers prior to commencing any work or providing any materials in connection with the Services. The Contractor further agrees to execute a sworn affidavit respecting the payment and lien releases of all subcontractors, suppliers and materialmen, and release of lien respecting the Services at such time or times and in such form as may be reasonably requested by the District. The Contractor will provide indemnification against all such liens for labor performed, materials supplied or used by the Contractor and/or any other person in connection with the Services undertaken by the Contractor, in accordance with Section 15(b), below.



15. INDEMNIFICATION.

a. The Contractor shall defend, indemnify and hold harmless the District and each of its directors, officers, contractors, employees, agents and consultants, from and against any and all claims, demands, losses, liabilities, actions, lawsuits, damages, and expenses, including reasonable legal expenses and attorneys' fees, by the degree or percentage of negligence or fault arising directly or indirectly, out of the errors or omissions, negligence, willful misconduct, or any criminal or tortious act or omission of the Contractor or any of its subcontractors, officers, agents or employees, in connection with this Agreement and/or the Contractor's performance of the Services or work pursuant to this Agreement. The Contractor is not obligated to indemnify the District for the District's own negligence. This indemnification obligation will not be limited in any way by any limitation on the amount or types of damages, compensation or benefits payable by or for the Contractor under worker's compensation acts, disability acts or other employee benefit acts.

b. The Contractor will at all times defend, indemnify and hold the District and its directors, officers, managers, agents and employees harmless against any liability for claims and liens for labor performed or materials used or furnished in the performance of Contractor's Services, including any costs and expenses incurred in the defense of such claims and liens, reasonable attorneys' fees and any damages to the District resulting from such claims or liens. After written demand by the District, the Contractor will immediately cause the effect of any suit or lien to be removed from the District's property. In the event the Contractor fails to do so, the District is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed, and the costs thereof, together with reasonable attorneys' fees, will be immediately due and payable by the Contractor or may, at the District's option, be offset against any sums due and payable to Contractor pursuant to this Agreement. In the event a suit on such claim or lien is brought, the Contractor will, at the option of the District, defend said suit at its own cost and expense, with counsel satisfactory to the District and will pay and satisfy any such claim, lien, or judgment as may be established by the decision of the Court in such suit. The Contractor may litigate any such lien or suit, provided the Contractor causes the effect thereof to be removed promptly in advance from the District's property.

c. This indemnity coverage shall also cover the District's defense costs in the event that the District, in its sole discretion, elects to provide its own defense. The District retains the right to disapprove counsel, if any, selected by the Contractor to fulfill the foregoing defense indemnity obligation, which right of disapproval shall not be unreasonably exercised. Insurance coverage requirements specified in the Agreement shall in no way lessen or limit the liability of the Contractor under the terms of this indemnification obligation. The Contractor shall obtain, at its own expense, any additional insurance that it deems necessary for the District's protection in the performance of this Agreement. This defense and indemnification obligation shall survive the expiration or termination of this Agreement.

16. ASSIGNMENT. The Contractor shall not assign this Agreement or parts thereof, or its respective duties, without the express written consent of the District. Any attempted

assignment, delegation or subcontracting of this Agreement in whole or in part with respect to which the District has not consented, in writing, shall be null and void and of no effect whatsoever.

17. SUB-CONTRACTORS. The Contractor is solely and fully responsible to the District for the performance of all Services under this Agreement, whether performed by the Contractor or a subcontractor engaged by the Contractor. The Contractor shall not subcontract any Services without prior written approval by the District. The Contractor agrees that each and every agreement of the Contractor with any subcontractor to perform Services under this Agreement shall contain an indemnification provision identical to the one contained in Section 15 of this Agreement holding the District harmless for the acts of the subcontractor. The Contractor further agrees that any such subcontract shall be terminable for cause or convenience and that, unless directed otherwise by the District, the Contractor shall immediately terminate all such subcontracts immediately upon termination of this Agreement. Prior to commencing any Services, a subcontractor shall provide evidence of insurance coverage to the District. The Contractor further agrees that all such subcontracts shall provide that they may be terminated immediately without further cost upon termination of this Agreement. Neither the District's approval of any subcontractors, suppliers or materialmen, nor the failure of performance thereof by such parties, will relieve, release or affect in any manner any of the Contractor's duties, liabilities or obligations under this Agreement, and the Contractor will at all times be and remain fully liable. The Contractor agrees that each of its employees, and any subcontractors, suppliers and materialmen will be properly qualified and will use reasonable care in the performance of their duties.

18. TERMINATION. In addition to the termination provisions contained in Section 2, above, this Agreement may be terminated for convenience by the Contractor upon delivery of thirty (30) days prior written notice to the District and by the District by giving the Contractor thirty (30) days prior written notice. Either Party may terminate this Agreement for cause at any time, upon written notice to the other Party setting forth the cause for termination, and the notified Party's failure to cure the cause, to the reasonable satisfaction of the Party giving such notice, within the cure period set forth in Section 19. Such notice shall not be required for automatic expiration under Section 2, above. If this Agreement is terminated, the Contractor shall be paid for all the Services satisfactorily performed prior to the designated termination date, including reimbursable expenses due. Said payment shall be made in the normal course of business. Should either Party to this Agreement be declared bankrupt, make a general assignment for the benefit of creditors or commit a substantial and material breach of this Agreement in the view of the other Party, said other Party shall be excused from rendering or accepting any further performance under this Agreement. In the event of termination by either Party hereto, the Contractor shall cooperate with the District to ensure a timely and efficient transition of all work and work product to the District or its designees. All time, fees and costs associated with such transition shall not be billed by the Contractor to the District.

19. DEFAULT. If either Party fails to perform in accordance with the terms, covenants and conditions of this Agreement, or is otherwise in default of any of the terms of this Agreement, the non-defaulting party shall deliver written notice to the defaulting party of the default, at the address specified in Section 20 below, and the defaulting party will have fifteen (15) days from

and after receipt of the notice to cure the default. If the default is not of a type which can be cured within such fifteen (15)-day period and the defaulting party gives written notice to the non-defaulting party within such fifteen (15)-day period that it is actively and diligently pursuing a cure, the defaulting party will have a reasonable period of time given the nature of the default following the end of the fifteen (15)-day period to cure the default, provided that the defaulting party is at all times within the additional time period actively and diligently pursuing the cure. If any default under this Agreement is not cured as described above, the non-defaulting party will, in addition to any other legal or equitable remedy, have the right to terminate this Agreement and enforce the defaulting party's obligations pursuant to this Agreement by an action for injunction or specific performance.

20. **NOTICES.** Any notice or communication required under this Agreement must be in writing, and may be given personally, sent via nationally recognized overnight carrier service, or by registered or certified mail, return receipt requested. If given by registered or certified mail, the same will be deemed to have been given and received on the first to occur of: (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent; or (ii) three days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If personally delivered or sent via nationally recognized overnight carrier service, a notice will be deemed to have been given and received on the first to occur of: (i) one business day after being deposited with a nationally recognized overnight air courier service; or (ii) delivery to the party to whom it is addressed. Any party hereto may at any time, by giving written notice to the other party hereto as provided in this Section 20 of the Agreement, designate additional persons to whom notices or communications will be given, and designate any other address in substitution of the address to which such notice or communication will be given. Such notices or communications will be given to the parties at their addresses set forth below:

District: Hawthorn Metropolitan District  
c/o CliftonLarsonAllen LLP  
8390 East Crescent Parkway, Suite 300  
Greenwood Village, Colorado 80111  
Attention: Patrick Shannon  
(303) 779-5710 (phone)  
(303) 779-0348 (fax)  
Patrick.Shannon@claconnect.com

With copy to: WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law  
2154 East Commons Avenue, Suite 2000  
Centennial, Colorado 80122  
Attention: Kristin Tompkins, Esq.  
(303) 858-1800 (phone)  
(303) 858-1801 (fax)  
[ktompkins@wbapc.com](mailto:ktompkins@wbapc.com)

Contractor: Metco Landscape, LLC  
2200 Rifle Street  
Aurora, Colorado 80011  
Attention: Justin McWhorter  
(703) 633-0223 (phone)  
justinm@metcolandscape.com

21. AUDITS. The District shall have the right to audit, with reasonable notice, any of the Contractor's books and records which may be necessary to substantiate any invoices and payments under this Agreement (including, but not limited to, receipts, time sheets, payroll and personnel records) and the Contractor agrees to maintain adequate books and records for such purposes during the term of this Agreement and for a period of two (2) years after termination of the Agreement and to make the same available to the District at all reasonable times and for so long thereafter as there may remain any unresolved question or dispute regarding any item pertaining thereto.

22. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the Parties hereto relating to the Services, and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. This Agreement may not be modified except by a writing executed by both the Contractor and the District.

23. BINDING AGREEMENT. This Agreement shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the Parties hereto.

24. NO WAIVER. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other of the provisions of this Agreement, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided in the Agreement, nor shall the waiver of any default be deemed a waiver of any subsequent default.

25. GOVERNING LAW / DISPUTES.

a. Arbitration. All claims, counterclaims, disputes and other matters in question between the Parties hereto arising out of or relating to this Agreement or the breach hereof may be decided by arbitration upon the mutual agreement to do so by the Parties to this Agreement. In that case, arbitration will be administered by the Judicial Arbiter Group in Denver, Colorado under its arbitration rules, by a single arbitrator, unless a different arbitrator is agreed upon by the Parties. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. THE PARTIES RECOGNIZE THAT BY AGREEING TO BINDING ARBITRATION AS THE METHOD FOR DISPUTE RESOLUTION, THEY RELINQUISH THE RIGHT TO BRING AN ACTION IN COURT AND WAIVE THE RIGHT TO A JURY TRIAL AND THE EXTENSIVE DISCOVERY RIGHTS TYPICALLY PERMITTED IN JUDICIAL PROCEEDINGS. Colorado law shall apply to any dispute, without regard to conflict of law principles that would result in the application of any law other than the law of the State of Colorado. Each Party will be responsible for paying one half of all fees and expenses charged by

the arbitrator. Notice of request for arbitration must be filed in writing with the other Party(ies) to this Agreement. If agreed to, notice must be filed with the Judicial Arbitrator Group. The request must be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event may it be made after the date when institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. In the event that the Parties do not agree to arbitration, each party shall be permitted to pursue all available legal and equitable remedies.

b. Litigation and Venue. In the event the Parties do not agree to arbitration pursuant to Section 25(a), above, venue for all actions arising from this Agreement shall be in the District Court in and for the county in which the District is located. The Parties expressly and irrevocably waive any objections or rights which may affect venue of any such action, including, but not limited to, *forum non-conveniens* or otherwise. At the District's request, the Contractor shall carry on its duties and obligations under this Agreement during any legal proceedings and the District shall continue to pay for the Services performed under this Agreement until and unless this Agreement is otherwise terminated.

c. Prevailing Party. Other than arbitration fees as set forth in Section 25(a) of the Agreement, in the event that it becomes necessary for either party to enforce the provisions of this Agreement or to obtain redress for the breach or violation of any of its provisions, whether by litigation, arbitration or other proceedings, the prevailing party shall recover from the other party all costs and expenses associated with such proceedings, including reasonable attorney's fees. For purposes of this Agreement, "prevailing party" shall mean the party in whose favor a judgment, decree, or final order is rendered, either by an arbitrator or the court, after appeal, if any. In the event both Parties prevail on one or more claims, the prevailing party shall mean the net winner of a dispute, taking into account the claims pursued, the claims on which the pursuing party was successful, the amount of money sought, the amount of money awarded, and offsets or counterclaims pursued (successfully or unsuccessfully) by the other Party.

d. At the District's request, the Contractor will consent to being joined in litigation between the District and third parties, but such consent shall not be construed as an admission of fault or liability. The Contractor shall not be responsible for delays in the performance of the Services caused by factors beyond its reasonable control including delays caused by Act of God, accidents, failure of any governmental or other regulatory authority to act in a timely manner or failure of the District to furnish timely information or to approve or disapprove of Contractor's Services in a timely manner.

26. GOOD FAITH OF PARTIES. In the performance of this Agreement, or in considering any requested approval, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

27. SUBJECT TO ANNUAL APPROPRIATION AND BUDGET. The District does not intend hereby to create a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever. The performance of those obligations of the District pursuant to this Agreement

requiring budgeting and appropriation of funds are subject to annual budgeting and appropriations. The Contractor expressly understands and agrees that the District's obligations under this Agreement shall extend only to monies appropriated for the purposes of this Agreement by the Board and shall not constitute a mandatory charge, requirement or liability in any ensuing fiscal year beyond the then-current fiscal year. No provision of this Agreement shall be construed or interpreted as a delegation of governmental powers by the District, or as creating a multiple-fiscal year direct or indirect debt or other financial obligation whatsoever of the District or statutory debt limitation, including, without limitation, Article X, Section 20 or Article XI, Section 6 of the Constitution of the State of Colorado. No provision of this Agreement shall be construed to pledge or to create a lien on any class or source of District funds. The District's obligations under this Agreement exist subject to annual budgeting and appropriations, and shall remain subject to the same for the entire term of this Agreement.

28. GOVERNMENTAL IMMUNITY. Nothing in this Agreement shall be construed to waive, limit, or otherwise modify, in whole or in part, any governmental immunity that may be available by law to the District, its respective officials, employees, contractors, or agents, or any other person acting on behalf of the District and, in particular, governmental immunity afforded or available to the District pursuant to the Colorado Governmental Immunity Act, §§ 24-10-101, *et seq.*, C.R.S.

29. NEGOTIATED PROVISIONS. This Agreement shall not be construed more strictly against one Party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being acknowledged that each Party has contributed substantially and materially to the preparation of this Agreement.

30. SEVERABILITY. If any covenant, term, condition or provision of this Agreement shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such covenant, term, condition or provision shall not affect any other provision contained in the Agreement, the intention being that such provisions are severable. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision so that the resulting reformed provision is legal, valid and enforceable.

31. NO THIRD PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the Parties that any person other than Parties receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

32. OPEN RECORDS. The Parties understand that all material provided or produced under this Agreement may be subject to the Colorado Open Records Act, §§ 24-72-202, *et seq.*, C.R.S.

33. WARRANTY. The Contractor shall and does by this Agreement guarantee and warrant that all workmanship, materials, and equipment furnished, installed, or performed for the accomplishment of the Services (collectively, the “Work”) will be of good quality and new, unless otherwise required or permitted by the Agreement. The Contractor further warrants that the Work will conform to all requirements of the Agreement and all other applicable laws, ordinances, codes, rules and regulations of any governmental authorities having jurisdiction over the Work. All Services are subject to the satisfaction and acceptance of the District, but payments for the completed Work will not constitute final acceptance nor discharge the obligation of the Contractor to correct defects at a later date. Such warranties set forth in the Agreement are in addition to, and not in lieu of, any other warranties prescribed by Colorado law.

34. TAX EXEMPT STATUS. The District is exempt from Colorado State sales and use taxes. Accordingly, taxes from which the District is exempt shall not be included in any invoices submitted to the District. The District shall, upon request, furnish Contractor with a copy of its certificate of tax exemption. Contractor and subcontractors shall apply to the Colorado Department of Revenue, Sales Tax Division, for an Exemption Certificate and purchase the materials tax free. The Contractor and subcontractors shall be liable for exempt taxes paid due to failure to apply for Exemption Certificates or for failure to use said certificate.

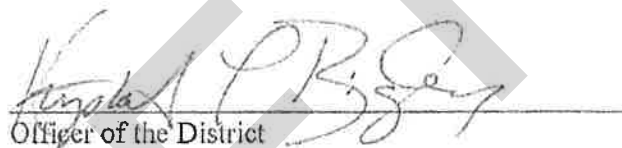
35. COUNTERPART EXECUTION. This Agreement may be executed in several counterparts, each of which may be deemed an original, but all of which together shall constitute one and the same instrument. Executed copies hereof may be delivered by facsimile or email of a PDF document, and, upon receipt, shall be deemed originals and binding upon the signatories hereto, and shall have the full force and effect of the original for all purposes, including the rules of evidence applicable to court proceedings.

*[Remainder of page intentionally left blank. Signature pages follow].*

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first above written. By the signature of its representative below, each Party affirms that it has taken all necessary action to authorize said representative to execute this Agreement.

DISTRICT:

HAWTHORN METROPOLITAN DISTRICT NO.  
2, a quasi-municipal corporation and political  
subdivision of the State of Colorado

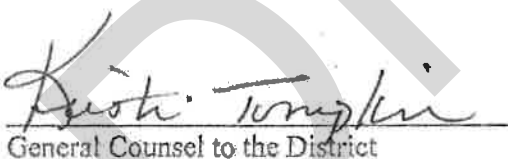
  
\_\_\_\_\_  
Officer of the District

ATTEST:

  
\_\_\_\_\_

APPROVED AS TO FORM:

WHITE BEAR ANKELE TANAKA & WALDRON  
Attorneys at Law

  
\_\_\_\_\_  
General Counsel to the District

*District's Signature Page to Independent Contractor Agreement for Landscape Maintenance  
and Snow Removal Services with Hawthorn Metropolitan District No. 2, dated December 18,  
2018*



CONTRACTOR:  
METCO LANDSCAPE, LLC, a Colorado limited liability company



Printed Name: Hans West

Title: VP Operations

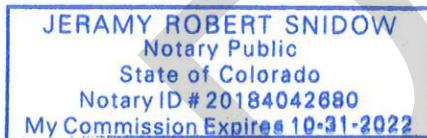
STATE OF COLORADO )  
 ) ss.  
COUNTY OF Adams )

The foregoing instrument was acknowledged before me this 2nd day of February, 2018, by JERAMY SNIDOW, as the BRANCH ADMINISTRATOR of Metco Landscape, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.

My commission expires: 10-31-2022

(SEAL)



  
Notary Public

*Contractor's Signature Page to Independent Contractor Agreement for Landscape Maintenance and Snow Removal Services with Hawthorn Metropolitan District No. 2, dated December 18, 2018*

**EXHIBIT A**  
**SCOPE OF SERVICES/COMPENSATION SCHEDULE**

The Contractor shall perform landscape maintenance services from January 1, 2019 through December 31, 2019 for a cost not to exceed \$25,900.00. Any additional services shall be approved by the District pursuant to written service/work orders executed by an authorized representative of the District and the Contractor.

The Contractor shall perform snow removal services on an hourly basis.

DRAFT

HAWTHORN METROPOLITAN DISTRICT NO. 2  
8390 E. CRESCENT PARKWAY, STE 300  
GREENWOOD VILLAGE, CO 80111  
PHONE: 303-779-5710 FAX: 303-779-0348

NAME OF DISTRICT: HAWTHORN METROPOLITAN DISTRICT NO. 2

LOCATION: W. 58th Avenue and Gilbert (or HWY 93) in Golden, CO 80403

SCOPE OF SERVICES:

1. **COMMUNITY**

Hawthorn Metropolitan District requests landscape maintenance as described below.

B. Hawthorn Metropolitan District common areas are shown on Exhibit B – Landscape Plan. Areas covered by the Metro District:

1. COMPLETED Tree Lawn on both sides of Gilbert Street to West 58th treated as turf area and shall receive weekly maintenance
2. Weed rock beds along both sides of Gilbert Street and West 60th Lane
3. Park turf areas on both sides of Gilbert Street shall receive weekly maintenance.
4. Weed crusher fine path on East side of Gilbert, North of 58th Avenue weekly.
5. All other areas defined as Metro District Maintenance Area shall be treated as native area and shall receive mowing on a time and material basis.
6. Automatic irrigation system WILL require start-up and programming.

The MANAGING AGENT will be a single point of contact for the CONTRACTOR for the Hawthorn Metropolitan District. The intent is to provide high quality, integrated landscaping services across the entire community. Exhibit B – Landscape Map shows the boundaries of the District.

**IN THE EVENT A HOMEOWNER APPROACHES THE CONTRACTOR WITH QUESTIONS REGARDING LANDSCAPE MAINTENANCE OR REQUESTS ADDITIONAL SERVICES, CONTRACTOR IS TO DIRECT HOMEOWNER TO CONTACT MANAGING AGENT. CONTRACTOR SHALL NOT ANSWER HOMEOWNER QUESTIONS OR PROVIDE ADDITIONAL SERVICES TO HOMEOWNERS.**

2. **Requirements**

The CONTRACTOR will provide grounds care and maintenance only on the grounds of the DISTRICT as shown on the enclosed map. If included, the CONTRACTOR will also provide fertilization of plant materials; weed and pest control applications on the grounds of the DISTRICT and horticultural advice as specified herein and as shown on the enclosed Exhibit B Landscape Map.

3. **DAMAGE BY CONTRACTOR**

Damages caused by the CONTRACTOR or their employees, shall be immediately repaired or replaced by the CONTRACTOR at no charge to the DISTRICT.

(a) **DAMAGE - IMPROPER WINTERIZATION**

The CONTRACTOR will pay for any damages attributable to improper winterization of the sprinkler system, as determined by the DISTRICT.

(b) **DAMAGE TO PLANT MATERIALS AND STRUCTURES**

The CONTRACTOR will be responsible for any damage to trees or structures due to string trimmers, including replacement of trees, if necessary.

4. **SPRINKLER SYSTEM**

The operation and repair of the sprinkler system is the responsibility of the CONTRACTOR as follows:

**HAWTHORN METROPOLITAN DISTRICT NO. 2**  
**8390 E. CRESCENT PARKWAY, STE 300**  
**GREENWOOD VILLAGE, CO 80111**  
**PHONE: 303-779-5710 FAX: 303-779-0348**

**SPRINKLER ACTIVATION/WINTERIZATION**

The sprinkler system will be tested and ready for use by April 1. It will not be activated until authorized by the DISTRICT. The sprinkler system will be winterized at the end of October, by blowing out the lines with compressed air. At the approximate time of winterization, the CONTRACTOR will provide a final mowing and trimming for the season. The cost of winterization and activation is included in this agreement.

**5. SPRINKLER REPAIRS**

Non-emergency sprinkler damage will be repaired within 72 hours. All repairs require a DISTRICT work order prior to work commencement. Repairs will be billed for promptly. Any bills for repairs completed more than 30 days prior to receipt of a billing may not be paid at the discretion of the DISTRICT. The CONTRACTOR will inform the MANAGER within 72 hours of any emergency repairs that were completed without advanced approval.

**6. SPRINKLER TESTING**

**SPRINKLER TESTING shall be included in the base contract.** As often as necessary, but no less than weekly, each zone on each clock and the sprinkler system rain sensors, if applicable, will be checked and adjusted to assure the sprinkler system is working properly and there are no brown spots.

**7. SPRINKLER ADJUSTMENTS/WATER CONSERVATION**

The CONTRACTOR is responsible for the proper operation of the sprinkler system. The irrigation system will be set and operated by the CONTRACTOR to provide adequate water to keep the grass green, but will not be over-watered. Watering times will be adjusted up or down, as often as necessary, to assure a healthy turf. The irrigation system will be set to operate only from 10:00 p.m. to 5:00 a.m., if possible. The CONTRACTOR shall practice water conservation by shutting off the system, as necessary, during lengthy rainy periods or after heavy rainfalls and turning the system back on when appropriate. While practicing water conservation, the CONTRACTOR shall, at the same time, assure that the irrigated areas do not dry out. All sprinkler heads will be adjusted, if possible, to assure coverage and avoid over spray on walks, drives, tennis courts, concrete surfaces, or structures. Any variations to the above will require notification of the MANAGING AGENT, for Board approval.

**8. DRY SPOTS**

The CONTRACTOR will respond to complaints of "dry spots" within 72 hours.

**9. TURF MAINTENANCE**

**The grounds of the DISTRICT will be maintained in accordance with the following specifications:**

**10. MOWING**

Commencing in April, mowing will include two (2) mows in April, mowing weekly from May through September, with two (2) mows in October prior to winterization. Mowers will be set at two and one half (2 1/2) to three and one half (3 1/2) inches depending on weather conditions.

**11. EDGING**

All walks, curb lines and fence lines (boundary) will be edged ONCE a month.

**12. NATIVE AREAS**

(a) Native area trees and paths shall have a "Beauty Band" mowed or trimmed FOUR (4) times per year once native grass grows to a length of 18 inches. Additional beauty band treatment may be required and contracted on a time and materials basis.

HAWTHORN METROPOLITAN DISTRICT NO. 2  
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- (b) All native areas will receive application of weed control chemical three times per year, once as a pre-emergent in the spring, once in the summer time and again late season when appropriate, to control weeds and eliminate them from the native areas. The contractor will visit the property periodically to assure that the chemical applied is appropriate for the weeds present in the native areas.

**13. GRASS CLIPPINGS**

Grass clippings will be caught in the turf areas. Native area clippings will not be caught. If there are tennis courts or pool areas, care will be used to avoid grass clippings from getting into them. If clippings get in, they will be immediately removed before leaving the site. **GRASS CLIPPINGS SHALL NOT BE CAUGHT IN AREAS DEFINED AS NATIVE.**

**14. CLEAN-UP**

Walks, driveways, and streets will be swept or blown free of clippings after each mowing, as necessary.

**15. TRIMMING**

The perimeter of all grassed areas and around curbs, fences (boundary and patio), steps, and utility boxes will be trimmed to assure a neat and attractive appearance at the time of each mowing. Care will be used to avoid damage to any fence or posts. **TRIMMING IS NOT REQUIRED IN AREAS DEFINED AS NATIVE.**

**16. WEEDING IN BEDS**

All planting bark and rock beds will be maintained weed free by the CONTRACTOR at all times. Sidewalks and curbs will be kept free of any vegetation on a continuing basis. Weed control is to be a consistent effort throughout the season and not an occasional effort once weeds establish themselves. IF BEDS OR SIDEWALKS/CURBS ARE INFESTED WITH WEEDS ON THE CONTRACT PAYMENT DATE IN PARAGRAPH 2, PAYMENT WILL BE DELAYED UNTIL SUCH TIME AS BEDS ARE WEEDDED. Weed control may be by pulling or chemical control, however, if chemical control is used, the CONTRACTOR will be responsible for replacing any plant material, including sod, which is killed or damaged by careless application. If chemical control is used, any weeds over six (6) inches tall, or any weed or cluster of weeds over six (6) inch in diameter, must be removed, once dead. The CONTRACTOR accepts the condition of the planting beds, as is, and may not use the condition as a means of limiting or avoiding weed control.

**17. PRUNING**

Trees and shrubs will be pruned in the fall/winter to remove dead and diseased plant materials and to provide a neat and attractive appearance. Tree pruning under this provision is limited to cuts up to heights of ten (10) feet above the ground. Plant materials adjacent to walks and drives will be pruned in a manner that will prevent branches from covering the walks or drives. Shrubs growing in front of windows will be pruned in a manner, which will result in an unimpeded view from the window, except where mature growth has already exceeded window height. Care will be taken to reduce height as plant growth allows.

**Tree suckers will be removed continuously, as necessary, to maintain a neat appearance.**

The Initial pruning will be no later than April 1. The only exception to pruning will be flowering shrubs which have not yet bloomed or which are in mid-bloom at the time.

**18. LEAF REMOVAL**

One major leaf removal shall be done no later than the end of October. All turf areas and hard surfaces in the service area shall have leaf removal. Leaf removal is not necessary in areas identified as native except for hard surfaces, paths and walks going through native areas.

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8390 E. CRESCENT PARKWAY, STE 300  
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**19. AERATION**

All turf areas will be aerated in the spring of the year prior to May 15. The cost of one (1) aeration is included in this agreement. Care will be taken to avoid damage to the sprinkler system. In the event that additional aerations are requested, the cost will be \$ 500.00 per aeration.

**20. FERTILIZATION / WEED CONTROL APPLICATION / WINTER WATERING**

Chemical application of fertilizer, weed control, and insect control to the grounds and plant materials in accordance with the following specification:

**21. TURF AREAS – FERTILIZATION/WEED CONTROL**

From March through October the turf areas will be fertilized on the following schedule in order to keep the turf healthy and deep green in appearance. Any additional applications will be at the contractor's expense. All turf areas will receive application of weed control chemical at the time of application of fertilizer, or more frequently, as necessary, to control weeds and eliminate them from the turf. The contractor will visit the property periodically to assure that the chemical applied is appropriate for the weeds present in the turf.

Between April 1 and May 15 control	1 pound nitrogen/1,000 ft <sup>2</sup> plus weed
Between June 15 and June 30 control	1 pound nitrogen/1,000 ft <sup>2</sup> plus weed
Between August 1 and August 15	1 pound nitrogen/1,000 ft <sup>2</sup>
Between October 1 and October 15	2 pounds nitrogen/1,000 ft <sup>2</sup> g

**22. UNIFORM APPLICATION**

The CONTRACTOR will use extreme care to avoid "burning" and assure uniform application to avoid streaking.

**23. TREE/SHRUB FERTILIZATION**

Shall not be included in the base contract but will be authorized by DISTRICT and billed by CONTRACTOR on a Time and Material basis. All trees and shrubs will be fertilized twice each season, in May, and August/September. Application will be   X   root; or            foliage. Fertilizer will be applied in accordance with the manufacturer's recommendation.

**24. WINTER WATERING**

The CONTRACTOR will inform the Managing Agent if winter watering is recommended. It is expected that the CONTRACTOR will use good judgment in suggesting the need for winter watering of trees/shrubs/sod to maintain their health. Winter watering will be an extra charge requiring a firm quote of costs and must be approved by the Board.

**25. NOTICE**

The CONTRACTOR will notify the MANAGER in writing of the dates on which any chemical applications were performed and the identification of the chemicals used. FAILURE TO PROVIDE THIS INFORMATION WILL RESULT IN DELAY OF PAYMENT FOR THE MONTH IMMEDIATELY AFTER THE APPLICATION SHOULD HAVE BEEN PERFORMED.

**26. LICENSE**

The CONTRACTOR shall submit evidence that they and their applicators are licensed for application of the chemicals used.

**27. APPROVED CHEMICALS**

The CONTRACTOR shall not use chemicals, which are not approved by any government authority having jurisdiction.

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**28. WEATHER LIMITATIONS**

Chemicals will not be applied if weather conditions are detrimental to application, i.e. windy, raining, or snow on the ground.

**29. POSTING SIGNS**

The contractor will be responsible for posting signs in the community, notifying residents of any chemical applications (fertilizer and weed control), which are planned at least two days prior to the application being made. The posting of signs will be at mailbox areas if mailboxes are multiple uses and/or at all locations of streets entering the community from all directions. The signs will be sufficient in size (at least 1' by 3' and at least 4' above the ground) and readability to assure that residents can readily be aware of the pending chemical application. Within one (1) week after application, signs will be removed.

**30. VARIANCE DUE TO WEATHER CONDITIONS**

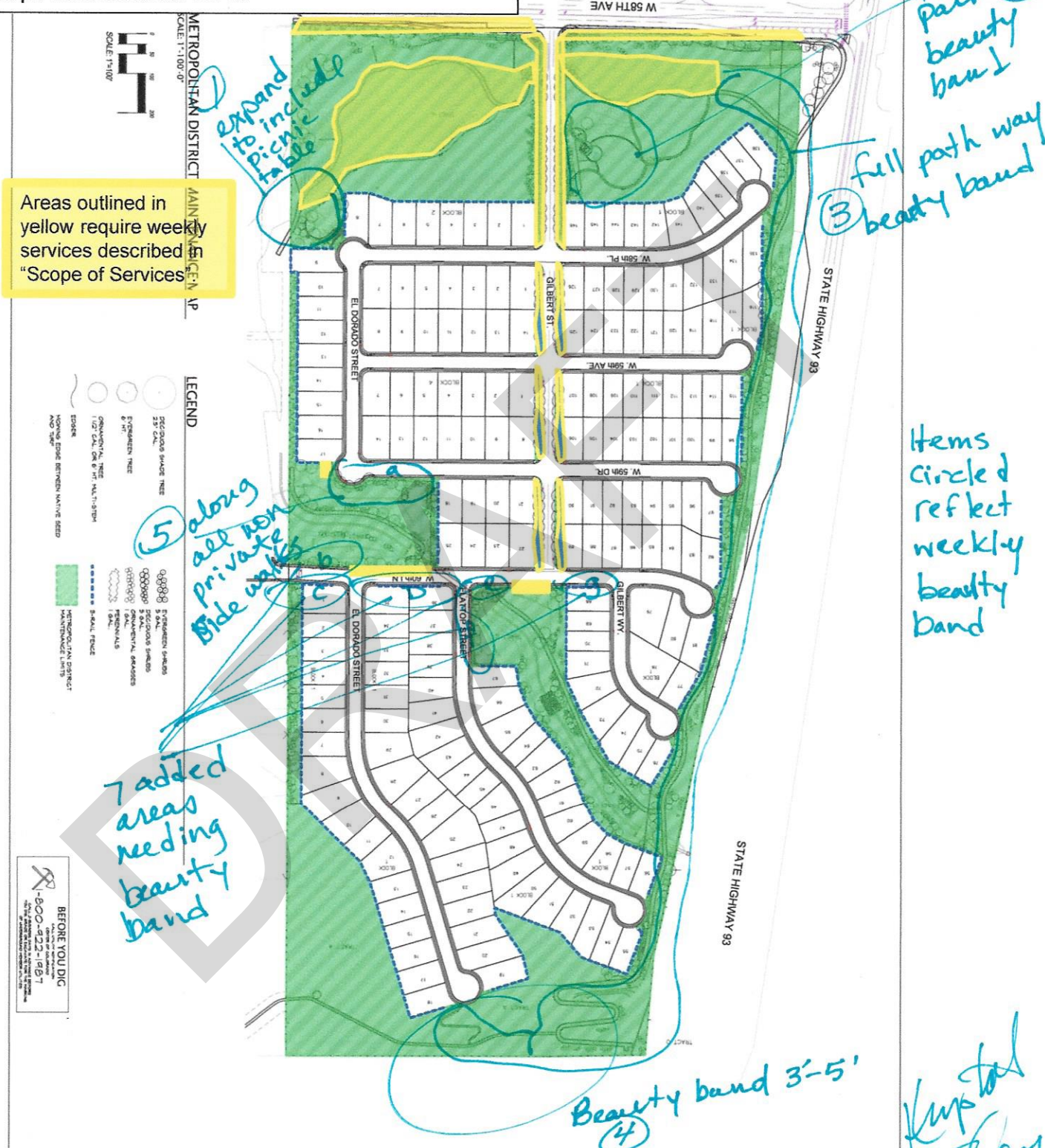
Contractor and DISTRICT agree that the necessity for certain services under the Agreement may vary depending on weather conditions. For example, in the event of drought conditions and mandatory watering restrictions, weekly mowing and trimming and monthly irrigation checks may not be required,

Contractor and DISTRICT agree that DISTRICT may reduce the frequency of weekly mowing as set forth in Sections 7 of the Agreement, upon three (3) days written notice. If the DISTRICT makes such request, Contractor shall credit DISTRICT in the amount of \$ N/A per week for each week that mowing and trimming is not performed. Other contractual services not rendered due to drought conditions and mandatory watering restrictions shall also be credited to the DISTRICT in an amount to be determined by the Contractor.



Completed turf area for weekly mowing and landscape maintenance 2018

Areas in green require native area services outlined in "Scope of Services"



Items  
circled  
reflect  
weekly  
beauty  
band

Kup tal  
Kup

FINAL LANDSCAPE PLANS  
JEFFERSON COUNTY, COLORADO

FINAL LANDSCAPE PLANS  
METRO  
DISTRICT  
MAINTENANCE

DATE:	12.21.12
PROJECT #:	
DRAWN BY:	DH, MW
CHECKED BY:	CK
REVISIONS:	
DATE	ISSUE
07.25.2015	REV



**Consilium Design**  
LAND PLANNING AND  
LANDSCAPE ARCHITECTURE

7355 SOUTH ALTON WAY  
SUITE 115  
CENTENNIAL, CO 80112  
TEL 301.224.9520  
FAX 301.224.9524  
[www.consiliumpdesign.com](http://www.consiliumpdesign.com)

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HAWTHORN METROPOLITAN DISTRICT NO. 2  
8390 E. CRESCENT PARKWAY, STE 300  
GREENWOOD VILLAGE, CO 80111  
PHONE: 303-779-5710 FAX: 303-779-0348

Company Name: METCO LANDSCAPE  
Address: 2200 RIFLE ST.  
AURORA, CO 80011  
Contact: THOMAS BALDASARE/ ACCOUNT MANAGER  
JUSTIN MCWHORTER/ BRANCH MANAGER  
Phone: 720-788-6336  
Email: TOMB@METCOLANDSCAPE.COM

1. All bids must be made upon this form
2. Please include a rate sheet for Landscape Maintenance time and materials work. Identify the type of labor (i.e. Sprinkler Technician, General Labor, etc.) per each labor rate.
3. Base Landscape Maintenance contracts shall be billed in equal monthly installments from April through October 2018. CONTRACTOR may invoice on the first of the month for current months contract amount with payment terms of net 30.

Base Landscape Maintenance contract bid for Scope of Work: **\$25,900.00**

Monthly billing April to October: **\$3,700.00**

Landscape Maintenance hourly rates: Attach a separate sheet with labor category description

4. Please detail the hourly rates for Standard Snow Removal Services as listed in Exhibit D. Please detail any other labor or material rates not included in Exhibit D on the Breakdown of Special and Additional Snow Removal Services sheet provided in Exhibit E.
5. All bids must give the price proposed in United States currency, and must be signed by the Bidder, with full name and local services address
6. Please attach any additional information that may be necessary to evaluate submitted bid. Attach a separate sheet for comments, clarifications or exceptions if necessary.

The following individual is to submit a bid on behalf of Bidder's organization.

  
Signature of Duly Authorized Representative

10/15/18  
Date

Thomas Baldasare  
Name (Printed)

Account Manager  
Title

# METCO LANDSCAPE, INC.



## Exhibit "A" 2018-2019 Extra Work Rates

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\$44.00	Per hour, foreman with truck
\$40.00	Per hour, laborer, general labor.
\$51.00	Per hour, laborer with equipment.
\$89.00	Per hour, native area mowing.
\$65.00	Per hour, irrigation technician.
\$79.00	Per backflow plus applicable fees– backflow testing.
\$51.00	Per hour, irrigation helper.
\$89.00	Per hour, hand watering.
\$84.00	Per hour, emergency call. (2 Hour Minimum)
\$89.00	Per hour, chemical application
\$79.00	Per hour, landscape consultation.

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- One hour minimum charge per service provided. Billable time will be rounded to nearest ½ hour.
- Mobilization costs, portal to portal, will be included in the hourly services for each visit.
- Dump fees, material costs, and equipment fees will be added to invoices as applicable.
- A proposal for landscape projects is available upon request.
- Landscape consultation charges may be removed upon approved proposal.
- Emergency Calls should only be made to prevent damage to persons or property (including but not limited to continuously running water). An Emergency Call is defined as a call for service outside of normal business hours, Monday through Friday 8:00 am to 5:00 pm, and holidays.



# METCO LANDSCAPE, INC.



## Exhibit "A"

### 2018 – 2019 Snow Removal Rates

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\$102.00	Per hour, pick-up truck with 7.5 foot plow.
\$51.00	Per hour, per laborer, hand shoveling.
\$65.00	Per hour, snow blower.
\$80.00	Per hour, ATV w/blade.
\$120.00	Per hour, skid steer with bucket.
\$145.00	Per hour, Skid Steer with pusher/plow.
\$185.00	Per hour, front end loader.
\$235.00	Per hour, front end loader with pusher/box.
\$180.00	Per hour, dump truck 10 yard.
\$0.75	Per pound, ice melt plus \$49.00 per hour application.
\$210.00	Per ton, Ice Slicer plus \$102.00 per hour application.

#### **Additional services if requested by client:**

\$50.00	Per hour, obstacle identification service plus \$2.50 per stake
---------	---

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- One hour minimum charge per service and job site.
- Mobilization costs, portal to portal, will be included in the hourly services for each visit.
- Snow removal on Thanksgiving Day, Christmas Day, New Year's Day and Easter will be charged at 1.5 times the normal rates.

# METCO LANDSCAPE, INC.



## Exhibit "B"

### 2018 – 2019 Snow Removal Emergency Equipment Rates

For use in extreme snow/blizzard events, of 12 inches or greater accumulation in (1) 24 hour period

\$260.00	Per hour, mobilization time, portal to portal.
\$75.00	Per hour, fueling heavy equipment as necessary.
\$195.00	Per hour, rented skid steer.
\$250.00	Per hour, rented front-end loader, 3 yard.
\$190.00	Per hour, rented dump truck 10 yard.

- One hour minimum charge per service and job site.
- Rental Equipment will be contracted as available upon approval from Client. The Contractor will monitor weather to be prepared in the event of a large storm and have necessary resources available, however assumes no liability for the unavailability of rental equipment and operators.

**HAWTHORN METROPOLITAN DISTRICT NO. 2**  
**8390 E. CRESCENT PARKWAY, STE 300**  
**GREENWOOD VILLAGE, CO 80111**  
**PHONE: 303-779-5710 FAX: 303-779-0348**

*Breakdown of Standard Snow Removal Services*

<b>Service or Equipment</b>	<b>Billing Unit</b>	<b>Non-holiday Rate</b>	<b>Holiday Rate**</b>
4x4 Pick-up with Plow	Per hour	\$102.00	\$153.00
Stakebody with Plow	Per hour	\$102.00	\$153.00
Tandem with Plow	Per hour	N/A	N/A
Dump Truck	Per hour	\$180.00	\$270.00
Sand Truck	Per hour	\$102.00	\$153.00
Backhoe	Per hour	\$185.00	277.50
Loader/3YARD	Per hour	\$250.00	\$375.00
ATV/Tool Cat with Plow	Per hour	\$80.00	\$120.00
Skidsteer	Per hour	\$120.0	\$180.00
Skidsteer with Pusher	Per hour	\$145.00	\$217.50
Snow Blower	Per hour	\$65.00	\$97.50
Supervisor	Per hour	\$55.00	\$82.50
Laborer/Shoveling	Per hour	\$51.00	\$76.50
Staking of Snow Removal Areas	Per stake	\$2.50	N/A
Ice Slicer	Per Ton	\$210.00	N/A
Ice Melt	Per lbs	\$0.75	N/A
Liquid Magnesium	Per gallon	N/A	N/A
Standby Rate, Ice Watch Rate	Per hour	\$55.00	\$82.50

*\*\*Holiday time is applicable on the following days: Thanksgiving Day, Friday after Thanksgiving, Christmas Eve, Christmas Day, New Year's Eve, New Year's Day and Easter.*

**EXHIBIT B**  
**CONTRACTOR'S COMPLETED W-9**

DRAFT

**Request for Taxpayer  
Identification Number and Certification**

Give form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return) <b>Metco Landscape, Inc.</b>	
Business name, if different from above	
Check appropriate box: <input type="checkbox"/> Individual/Sole proprietor <input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ ..... <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶	
Address (number, street, and apt. or suite no.) <b>2200 Rifle Street</b>	Requester's name and address (optional)
City, state, and ZIP code <b>Aurora, Colorado 80011</b>	
List account number(s) here (optional)	

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number
or
Employer identification number <b>84 1467610</b>

**Part II Certification**

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

**Sign  
Here**

Signature of  
U.S. person ▶

Date ▶

*[Signature]* 10/15/12

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Purpose of Form**

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,



## EXHIBIT C

### INSURANCE REQUIREMENTS

NOTE: All insurance required and provided hereunder shall also comply with the provisions of Section 11 of the Agreement.

1. Standard Worker's Compensation and Employer's Liability Insurance covering all employees of Contractor involved with the performance of the Services, with policy amounts and coverage in compliance with the laws of the jurisdiction in which the Services will be performed.
2. Commercial General Liability Insurance with minimum limits of liability of not less than \$2,000,000 per occurrence for bodily injury and property damage liability; \$2,000,000 designated location, general aggregate; and \$1,000,000 umbrella. Such insurance will include coverage for contractual liability, personal injury and broad form property damage, and shall include all major divisions of coverage and be on a comprehensive basis including, but not limited to:
  - a. premises operations;
  - b. personal injury liability without employment exclusion;
  - c. limited contractual;
  - d. broad form property damages, including completed operations;
  - e. medical payments;
  - f. products and completed operations;
  - g. independent consultants coverage;
  - h. coverage inclusive of construction means, methods, techniques, sequences, and procedures, employed in the capacity of a construction consultant; and

**This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.**

3. Comprehensive Automobile Liability Insurance covering all owned, non-owned and hired automobiles used in connection with the performance of the Services, with limits of liability of not less than \$1,000,000 combined single limit bodily injury and property damage. **This policy must include coverage extensions to cover the indemnification obligations contained in this Agreement to the extent caused by or arising out of bodily injury or property damage.**
4. If applicable: Contractor shall secure and maintain a third party fidelity bond in favor of the District covering the Contractor and its employees and agents who may provide or be responsible for the provision of Services where such activities contemplate the responsibility for money or property of the District. Such bond shall protect the District against any fraudulent or dishonest act which may result in the loss of money, securities, or other property belonging to or in the possession of the District. Said bond shall be in an amount as determined by the District, from a surety acceptable to the District.
5. Any other insurance commonly used by contractors for services of the type to be performed pursuant to this Agreement.

6. Professional liability insurance in the amount of \$1,000,000.00 each occurrence.

DRAFT

**EXHIBIT C-1**  
CERTIFICATE(S) OF INSURANCE

DRAFT



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

02/01/2019

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> Moody Insurance Agency, Inc. 8055 East Tufts Avenue Suite 1000 Denver CO 80237	<b>CONTACT NAME:</b> Kara Smith, CRM, CRIS <b>PHONE (A/C, No, Ext):</b> (303) 824-6600 <b>FAX (A/C, No):</b> (303) 370-0118 <b>E-MAIL ADDRESS:</b> kara.smith@moodyins.com
<b>INSURED</b> Metco Landscape, LLC 2200 Rifle Street Aurora CO 80011	<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Firemen's Insurance Co of Washington D.C. <b>INSURER B:</b> Pinnacol Assurance <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>
	<b>NAIC #</b> 21784 41190

**COVERAGES****CERTIFICATE NUMBER:** 19-20 Master**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"/> <b>COMMERCIAL GENERAL LIABILITY</b> <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 OTHER:	Y	Y	CPA307967924	01/01/2019	01/01/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY <input checked="" type="checkbox"/> 19	Y	Y	CPA307967924	01/01/2019	01/01/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			CPA307967924	01/01/2019	01/01/2020	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
B	<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	N/A	Y	4110584	01/01/2019	01/01/2020 <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)

RE: Hawthorn Metropolitan District No. - W. 58th Ave. and Gilbert(or HWY 930) in Golden, CO 80403

**CERTIFICATE HOLDER****CANCELLATION**Hawthorn Metropolitan District No.  
8390 E. Crescent Parkway  
Suite 300  
Greenwood Village CO 80111

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

*Kara Smith*

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AGENCY CUSTOMER ID: \_\_\_\_\_

LOC #: \_\_\_\_\_



## ADDITIONAL REMARKS SCHEDULE

Page \_\_\_\_\_ of \_\_\_\_\_

<b>AGENCY</b> Moody Insurance Agency, Inc.		<b>NAMED INSURED</b> Metco Landscape, LLC	
<b>POLICY NUMBER</b>			
<b>CARRIER</b>	<b>NAIC CODE</b>	<b>EFFECTIVE DATE:</b>	

### ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**

**FORM NUMBER:** \_\_\_\_\_ **FORM TITLE:** : Notes

#### ADDITIONAL NAMED INSURED

Curb Appeal Site Services, Inc.  
 HET Leasing, LLC  
 Metco Landscape, Inc.  
 Metco Landscape Colorado Springs, LLC  
 Metco Landscape Fort Collins, LLC

#### LIMITED JOBSITE POLLUTION – PESTICIDE OR HERBICIDE APPLICATOR

Policy Number: CPA307967924  
 Policy Effective Dates: 1-1-2019 to 1-1-2020  
 Insurer: Firemen's Insurance Co. of Washington D.C. (NAIC #21784)  
 Per Occurrence Limit: \$100,000

#### POLLUTION LIABILITY

Policy Number: G27110538006  
 Policy Effective Dates: 1-1-2019 to 1-1-2020  
 Insurer: Westchester Surplus Lines Ins. (NAIC #10172)  
 Per Occurrence Limit: \$1,000,000  
 Aggregate Limit: \$1,000,000  
 Deductible: \$5,000

#### SCHEDULED CONTRACTOR'S EQUIPMENT POLICY

Policy Number: IH4A79661203  
 Policy Effective Dates: 1-1-2019 to 1-1-2020  
 Insurer: Hanover Insurance Co. (NAIC #22292)  
 Contractor's Equipment Value: \$5,371,906  
 Deductible: \$1,000

#### LEASED / RENTED EQUIPMENT POLICY

Policy Number: IH4A79661203  
 Policy Effective Dates: 1-1-2019 to 1-1-2020  
 Insurer: Hanover Insurance Co. (NAIC #22292)  
 Per Item Limit: \$200,000  
 Aggregate Limit: \$500,000

#### INSTALLATION FLOATER POLICY

Policy Number: IH4A79661203  
 Policy Effective Dates: 1-1-2019 to 1-1-2020  
 Insurer: Hanover Insurance Co. (NAIC #22292)  
 Jobsite Limit: \$300,000  
 Catastrophe Limit: \$300,000  
 Temporary Storage Limit: \$300,000  
 In Transit Limit: \$300,000  
 Deductible: \$1,000

#### CRIME POLICY

Policy Number: CPA307967924  
 Policy Effective Dates: 1-1-2019 to 1-1-2020  
 Insurer: Firemen's Insurance Co. of Washington D.C. (NAIC #21784)  
 Employee Theft including ERISA Limit: \$50,000

#### CONTRACTUAL LIABILITY APPLIES PER POLICY TERMS AND CONDITIONS

#### GENERAL LIABILITY

CLCG0059 09/16 form attached includes:  
 Blanket Additional Insured when required by a written contract.  
 Blanket Primary & Non-Contributory status applies when required by a written contract.  
 Blanket Additional Insured-Ongoing Operations status applies when required by a written contract.  
 Blanket Waiver of Subrogation status applies when required by written contract.  
 Per Project Aggregate applies to All Jobs.

#### CLCG2062 09/16 form attached includes:

Blanket Additional Insured-Completed Operations status applies when required by a written contract.



AGENCY CUSTOMER ID: \_\_\_\_\_

LOC #: \_\_\_\_\_

**ADDITIONAL REMARKS SCHEDULE**

Page \_\_\_\_ of \_\_\_\_

<b>AGENCY</b> Moody Insurance Agency, Inc.		<b>NAMED INSURED</b> Metco Landscape, LLC	
<b>POLICY NUMBER</b>			
<b>CARRIER</b>	<b>NAIC CODE</b>	<b>EFFECTIVE DATE:</b>	

**ADDITIONAL REMARKS****THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,****FORM NUMBER:** \_\_\_\_\_ **FORM TITLE:** : Notes**AUTO LIABILITY**

CW3468 02/15 form attached includes:

Blanket Additional Insured status applies when required by a written contract.

Blanket Primary &amp; Non-Contributory status applies when required by a written contract.

Blanket Waiver of Subrogation status applies when required by written contract.

**WORKER'S COMPENSATION**

Form attached includes:

Blanket Waiver of Subrogation status applies when required by written contract.

**UMBRELLA POLICY**

Umbrella Policy is on a follow form basis for underlying insurance coverages: General Liability, Automobile Liability, and Employers Liability. Additional Insured status, including Primary and Non-Contributory status, will follow form when required by written contract.

**POLLUTION LIABILITY**

ENV3100 08/04 form attached includes:

Blanket Additional Insured when required by a written contract.

ENV3101 08/04 form attached includes:

Blanket Primary &amp; Non-Contributory status applies when required by a written contract.

ENV3143 03/05 form attached includes:

Blanket Waiver of Subrogation status applies when required by written contract.

**\*\*PLEASE NOTE:** Hard copies of endorsements will not be mailed. ALL endorsements will only be sent electronically via email. Please send your email address and endorsement request to [certrequest@moodyins.com](mailto:certrequest@moodyins.com) for forms and future emailings\*\*

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS: AUTOMATIC STATUS

This endorsement modifies insurance provided under the following:

### COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### A. Additional Insured(s)

1. **Section II – Who Is An Insured** is amended to include as an additional insured any person or organization for whom you have agreed to add as an additional insured on your policy in a written contract or written agreement, but only with respect to liability for “bodily injury” or “property damage” caused, in whole or in part, by “your work” performed for that additional insured and included in the “products-completed operations hazard”.
2. The insurance afforded to such additional insured(s) described in Paragraph 1. above is subject to each of the following additional provisions:
  - a. The coverage provided to the additional insured by this endorsement does not apply to “bodily injury” or “property damage” beyond:
    - (1) The period of time required by the written contract or written agreement described in Paragraph 1. above, or 10 years from the date of the completion of “your work” described in Paragraph 1. above, whichever is less; or
    - (2) Two years from the date of the completion of “your work” described in Paragraph 1. above, if the written contract or written agreement does not specify the period of time.
  - b. The insurance afforded to the additional insured(s) only applies to the extent permitted by law.

- c. The written contract or written agreement must have been executed prior to when the “bodily injury” or “property damage” occurs.

#### d. The following is added to **Section III – Limits Of Insurance**:

The most we will pay on behalf of the additional insured(s) is the amount of insurance:

- (1) Required by the written contract or written agreement described in Paragraph 1. above; or
- (2) Available under the applicable Limits of Insurance shown in the Declarations of this policy or coverage part;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations of this policy or coverage part.

#### B. Professional Liability Exclusion

With respect to coverage provided by this endorsement, the following exclusion is added to Paragraph 2. **Exclusions of Section I – Coverage A – Bodily Injury And Property Damage Liability**:

This insurance does not apply to “bodily injury” or “property damage” arising out of:

## Professional Liability

Having rendered or having failed to render any professional architectural, engineering or surveying services, including:

1. The preparation, approval, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
2. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in having supervised, hired, employed, trained or monitored others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage" involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

## C. Duties In Event Of Occurrence, Claim Or Suit

With respect to the coverage provided by this endorsement, the following replaces Paragraphs 2.a. and 2.b. of **Section IV – Commercial General Liability Conditions**:

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

- (1) How, when and where the "occurrence" took place;
- (2) The names and addresses of any injured persons and witnesses; and
- (3) The nature and location of any injury or damage arising out of the "occurrence".

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

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

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



NCCI #: WC000313B  
Policy #: 4110584

Metco Landscape LLC  
2200 Rifle St  
Aurora, CO 80011

Moody Insurance Agency Inc  
8055 E. Tufts Ave  
Ste 1000  
Denver, CO 80237  
(303) 824-6600

**ENDORSEMENT: Blanket Waiver of Subrogation**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

**SCHEDULE**

To any person or organization when agreed to under a written contract or agreement, as defined above and with the insured, which is in effect and executed prior to any loss.

Effective Date: December 27, 2018

Expires on: January 1, 2020

Pinnacol Assurance has issued this endorsement December 27, 2018

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## CONTRACTORS' COMMERCIAL GENERAL LIABILITY ENHANCEMENT ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### SUMMARY OF COVERAGE EXTENSIONS

Provision	Name Of Coverage Extension	Included or Limit of Insurance
A.	Medical Payments	\$10,000
B.	Legal Liability – Damage To Premises Rented To You (Fire, Lightning, Explosion, Smoke, Or Leakage From Automatic Fire Protective Systems)	\$300,000
C.	Non-Owned Watercraft (Increased to maximum length of less than 51 feet)	Included
D.	Supplementary Payments – Increased Limits 1. Bail Bonds 2. Loss Of Earnings	\$ 3,000 \$ 1,000
E.	Miscellaneous Additional Insureds	Included
F.	Property Damage to Borrowed Equipment	\$15,000
G.	Broadened Named Insured	Included
H.	Construction Project General Aggregate Limit	Included
I.	Knowledge of Occurrence	Included
J.	Unintentional Omissions or Error in Disclosure	Included
K.	Waiver Of Transfer Of Rights Of Recovery Against Others	Included
L.	Limited Job Site Pollution	\$100,000

#### A. MEDICAL PAYMENTS

If **SECTION I – COVERAGE C MEDICAL PAYMENTS** is not otherwise excluded from this Coverage Part:

1. The Medical Expense Limit provided by this policy, subject to the terms of **SECTION III - LIMITS OF INSURANCE**, shall be the greater of:
  - a. \$10,000; or
  - b. The Medical Expense Limit shown in the Declarations of this Coverage Part.

#### B. LEGAL LIABILITY – DAMAGE TO PREMISES RENTED TO YOU (Fire, Lightning, Explosion, Smoke, Leakage from Automatic Fire Protective Systems)

If damage to premises rented to you is not otherwise excluded from this policy or coverage part, then the following provisions apply:

1. Under **Section I – Coverage A – Bodily Injury And Property Damage Liability**, the last paragraph (after the exclusions) is deleted and replaced by the following:

Exclusions **c.** through **n.** do not apply to damage by fire, lightning, explosion, "smoke" or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with the permission of the owner. A separate limit of insurance applies to this coverage as described in **Section III – Limits Of Insurance**.

2. The paragraph immediately after Subparagraph **j.(6)** of Paragraph **2. Exclusions of Section I - Coverage A-Bodily Injury And Property Damage Liability** is deleted and replaced by the following:

Paragraphs **(1), (3) and (4)** of this exclusion do not apply to "property damage" (other than damage by fire, lightning, explosion, "smoke" and leakage from automatic fire protective systems) to premises, including the contents of such premises, rented to you for a period of seven or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III – Limits Of Insurance.**

3. Paragraph **6.** of **Section III – Limits Of Insurance** is deleted and replaced by the following:

6. Subject to Paragraph **5.** above, the greater of:

- a. \$300,000; or
- b. The Damage To Premises Rented To You Limit shown in the Declarations,

is the most we will pay under **Coverage A** for damages because of "property damage" to premises while rented to you, or in the case of damage by fire, lightning, explosion, "smoke" or leakage from automatic fire protective systems, while rented to you or temporarily occupied by you with permission of the owner.

This limit will apply to all damage proximately caused by the same event, whether such damage results from fire, lightning, explosion, "smoke", leakage from automatic fire protective systems, or other covered causes of loss or any combination thereof.

4. Subparagraph **b.(1)(a)(ii)** of Paragraph **4. Other Insurance of Section IV- Commercial General Liability Conditions** is deleted and replaced by the following:

- (ii) That is fire, lightning, explosion, "smoke" or leakage from automatic fire protective systems insurance for premises rented to

you or temporarily occupied by you with permission of the owner;

5. Subparagraph **a.** of definition **9.** "insured contract" of **Section V – Definitions** is deleted and replaced by the following:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning, explosion, "smoke" or leakage from automatic fire protective systems to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract".

6. As used in the Paragraph **D. Legal Liability – Damage To Premises Rented To You:**

"Smoke" does not include smoke from agricultural smudging, industrial operations or "hostile fire".

**C. NON-OWNED WATERCRAFT**

Subparagraph **(2)** of **Exclusion 2.g. Aircraft, Auto Or Watercraft of Section I – Coverage A-Bodily Injury And Property Damage Liability** is deleted and replaced by the following:

- (2) A watercraft you do not own that is:

- (a) Less than 51 feet long; and
- (b) Not used to carry persons or property for a charge.

**D. SUPPLEMENTARY PAYMENTS**  
**SECTION I – SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- 1. The limit of insurance in paragraph **1.b.** for the cost of bail bonds is increased from \$250 to \$3,000; and
- 2. The limit of insurance in paragraph **1.d.** for loss of earnings because of time off from work is increased from \$250 to \$1,000.

**E. MISCELLANEOUS ADDITIONAL INSURED**

**Section II – Who Is An Insured** is amended to include as an insured any person or organization (referred to as an additional insured below) described in Paragraphs **E.3.a.** through **E.3.f.** below when you have agreed in a written contract or written agreement that such person or organization be added as an additional insured on your policy, provided that:

1. The written contract or written agreement is:

- (a) Currently in effect or becoming effective during the term of this policy; and
- (b) Fully executed by you prior to the "bodily injury", "property damage" or "personal and advertising injury".

2. The insurance afforded by this provision does not apply to any person or organization included as an additional insured by a separate endorsement issued by us and made a part of this policy or coverage part.

3. Only the following persons or organizations are additional insureds under this provision, with coverage for such additional insureds limited as provided herein:

**a. Managers Or Lessors Of Premises**

A manager or lessor of premises but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**b. Mortgagee, Assignee or Receiver**

A mortgagee, assignee, or receiver and arising out of the ownership, maintenance, or use of the premises.

This insurance does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**c. Owners Or Other Interests From Whom Land Has Been Leased**

An owner or other interest from whom land has been leased to you but only with respect to liability arising out of the ownership, maintenance or use of that part of the land leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to lease that land.

- (2) Structural alterations, new construction or demolition operations performed by or on behalf of such additional insured.

**d. Lessor Of Leased Equipment**

Any person(s) or organization(s) from whom you lease equipment but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person(s) or organization(s).

A person's or organization's status as an additional insured under this endorsement ends when their written contract or written agreement with you for such leased equipment ends.

This insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

**e. State Or Governmental Agency Or Subdivision Or Political Subdivision – Permits Or Authorizations Relating To Premises**

Any state or governmental agency or subdivision or political subdivision subject to the following additional provision:

- (1) This insurance applies only with respect to:

- (a) The following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

- (i) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures; or

(ii) The construction, erection or removal of elevators; or

(iii) The ownership, maintenance or use of any elevators covered by this insurance.

(b) Operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

(2) This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the state or governmental agency or subdivision or political subdivision.

**f. Additional Insured – Owners, Lessees Or Contractors – Automatic Status**

**(1) SECTION II – WHO IS AN INSURED**

is amended to include as an additional insured any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy. Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

(a) Your acts or omissions; or

(b) The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an additional insured under this policy ends when your operations for that additional insured are completed.

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to:

(a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural,

engineering or surveying services, including:

(i) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or

(ii) Supervisory, inspection, architectural or engineering activities.

(b) "Bodily injury" or "property damage" occurring after:

(i) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or

(ii) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

(3) The insurance provided by this endorsement is primary insurance and we will not seek contribution under any insurance policy under which such additional insured is a named insured, if such policy was procured and paid for by such additional insured, or a parent or related entity of such additional insured.

(4) With respect to the insurance afforded to these additional insureds, **SECTION III – LIMITS OF INSURANCE** is amended as follows:

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

**F. PROPERTY DAMAGE TO BORROWED EQUIPMENT**

1. Paragraph 2.j. of **SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** is amended as follows:  
Paragraphs (3) and (4) of this exclusion do not apply to tools or equipment loaned to you, provided they are not being used to perform operations at the time of loss.
2. **SECTION III – LIMITS OF INSURANCE** is deleted and replaced by the following:

The most we will pay in any one "occurrence" for "property damage" to borrowed equipment is \$15,000. This limit of insurance is the most we will pay regardless of the number of:

- a. Insureds;
- b. Claims made or "suits" brought; or
- c. Persons or organizations making claims or bringing "suits".

**3. Deductible**

- a. Our obligation to pay damages on behalf of the insured applies only to the amount of damages in excess of \$250 as applicable to "property damage" as the result of any one "occurrence", regardless of the number of persons or organizations who sustain damages because of that "occurrence".
- b. The terms of this insurance, including those with respect to our right and duty to defend the insured against any "suits" seeking those damages; and your duties in the event of an "occurrence", claim, or "suit" apply irrespective of the application of the deductible amount.
- c. We may pay any part or all of the deductible amount to effect settlement of any claim or suit and, upon notification of the action taken; you shall promptly reimburse us for such part of the deductible amount as we have paid.

**G. BROADENED NAMED INSURED**

Paragraph 3. of **SECTION II - WHO IS AN INSURED** is deleted and replaced by the following:

Any organization, other than a joint venture, over which you maintain ownership or majority interest of more than 50% will be a Named Insured if there is no other similar insurance available to that organization. However:

- a. Coverage under this provision is afforded only until the next anniversary date of this policy's effective date after you acquire or form the organization.
- b. **COVERAGE A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization.
- c. **COVERAGE B** does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.

**H. CONSTRUCTION PROJECT GENERAL AGGREGATE LIMIT**

1. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which can be attributed only to ongoing operations at a single construction project away from premises owned by or rented to the insured:

- a. A Single Construction Project General Aggregate Limit applies to each construction project away from premises owned by or rented to the insured, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.

- b. The Single Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under **COVERAGE A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under **COVERAGE C** regardless of the number of:

(1) Insureds;

(2) Claims made or "suits" brought; or

(3) Persons or organizations making claims or bringing "suits".

- c. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the Single Construction Project General Aggregate Limit for that construction project away from premises owned by or rented to the insured. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Single Construction Project General Aggregate Limit for any other separate construction project away



from premises owned by or rented to the insured.

- d. The limits shown in the Declarations for Each Occurrence, Fire Damage and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Single Construction Project General Aggregate Limit.
2. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under **COVERAGE A (SECTION I)**, and for all medical expenses caused by accidents under **COVERAGE C (SECTION I)**, which cannot be attributed only to ongoing operations at a single designated construction project away from premises owned by or rented to the insured:
  - a. Any payments made under **COVERAGE A** for damages or under **COVERAGE C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
  - b. Such payments shall not reduce any Single Construction Project General Aggregate Limit.
3. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-Completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Single Construction Project General Aggregate Limit.
4. If the applicable construction project away from premises owned by or rented to the insured has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
5. The provisions of **LIMITS OF INSURANCE (SECTION III)** not otherwise modified by this endorsement shall continue to apply as stipulated.

#### I. KNOWLEDGE OF OCCURRENCE

The following is added to paragraph 2. **Duties In The Event Of Occurrence, Offense, Claim Or Suit of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

- e. A report of an "occurrence", offense, claim or "suit" to:

- (1) You, if you are an individual,
- (2) A partner, if you are a partnership,
- (3) An executive officer or the "employee" designated by you to give such notice, if you are a corporation, or
- (4) A manager, if you are a limited liability company;

is considered knowledge and requires you to notify us of the "occurrence", offense, claim, or "suit" as soon as practicable.

- f. We are considered on notice of an "occurrence", offense, claim or "suit" that is reported to your Workers' Compensation insurer for an event which later develops into an "occurrence", offense, claim or "suit" for which there is coverage under this policy. However, we will only be considered on notice if you notify us as soon as you know the claim should be addressed by this policy rather than your Workers' Compensation policy.

#### J. UNINTENTIONAL OMISSIONS OR ERROR IN DISCLOSURE

The following is added to paragraph 6. **Representations of SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS:**

However, the unintentional omission of, or unintentional error in, any information given or provided by you shall not prejudice your rights under this insurance.

This provision does not affect our right to collect additional premium or to exercise our right of cancellation or non-renewal.

#### K. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS

Paragraph 8. **Transfer Of Rights Of Recovery Against Others To Us** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended by the addition of the following:

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" and included in the "products-completed operations hazard" when you have agreed in a written contract or written agreement that any right of recovery is waived for such person or organization. This waiver applies only to the person(s) or organization(s) agreed to in the

written contract or written agreement and is subject to those provisions.

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

However, if any person or organization is separately scheduled on a separate waiver of transfer of rights of recovery which is attached to this policy, then this waiver does not apply.

## L. LIMITED JOB SITE POLLUTION

1. Exclusion f. under **SECTION I – COVERAGE**  
A is replaced by the following:

### 2. Exclusions

This insurance does not apply to:

#### f. Pollution

- (1) "Bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
- (a) At or from any premises, site or location on which any insured or any contractors or subcontractors working directly or indirectly on any insured's behalf are performing operations if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) At or from a storage tank or other container, ducts or piping which is below or partially below the surface of the ground or water or which, at any time, has been buried under the surface of the ground or water and then subsequently exposed by erosion, excavation or any other means if the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" arises at or from any premises, site or location which any insured or any contractors or subcontractors

working directly or indirectly on any insured's behalf are performing operations if the "pollutants" are brought on or to the premises, site or location in connection with such operations by such insured, contractor or subcontractor.

Subparagraph (b) does not apply to "bodily injury" or "property damage" arising out of heat, smoke or fumes from a "hostile fire".

- (2) Any loss, cost or expense arising out of any:

- (a) Request, demand, order or statutory or regulatory requirement issued or made pursuant to any environmental protection or environmental liability statutes or regulations that any insured test for, monitor, clean up, remove, contain, treat, detoxify or neutralize, or in any way respond to, or assess the effects of, "pollutants"; or
- (b) Claim or suit by or on behalf of a governmental authority for damages because of testing for, monitoring, cleaning up, removing, containing, treating, detoxifying or neutralizing or in any way responding to or assessing the effects of, "pollutants".

However, this paragraph does not apply to liability for those sums the insured becomes legally obligated to pay as damages because of "property damage" that the insured would have in the absence of such request, demand, order or statutory or regulatory requirement, or such claim or "suit" by or on behalf of a governmental authority.

2. With respect to "bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants":
- a. The "Each Occurrence Limit" shown in the Declarations does not apply.



- b. Paragraph 7. of **LIMITS OF INSURANCE (SECTION III)** does not apply.

- c. Paragraph 1. of **SECTION III – LIMITS OF INSURANCE** is replaced by the following:

The Limits Of Insurance shown in this endorsement, or in the Declarations and the rules below fix the most we will pay regardless of the number of:

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

- d. The following are added to **SECTION III – LIMITS OF INSURANCE**:

8. Subject to 2. or 3. above, whichever applies, the most we will pay for the sum of:

- a. Damages under **COVERAGE A**; and

- b. Medical expenses under **COVERAGE C**

because of "bodily injury" or "property damage" arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants" is \$100,000.

9. Subject to 8. above, the Medical Expense Limit is the most we will pay under **COVERAGE C** for all medical expenses because of "bodily injury" sustained by any one person arising out of the actual, alleged or threatened discharge, dispersal, seepage, migration, release or escape of "pollutants".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## COMMERCIAL AUTOMOBILE EXPANSION ENDORSEMENT - PLATINUM

This endorsement modifies insurance provided under the following:

### BUSINESS AUTO COVERAGE FORM

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

#### A. NEWLY ACQUIRED OR FORMED ORGANIZATIONS

The following is added to Paragraph **A.1. Who Is An Insured** of Section **II – Covered Autos Liability Coverage**:

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company or any organization excluded either by this Coverage Part or by endorsement, and over which you maintain ownership or majority interest of more than 50 percent will qualify as a Named Insured. However:

1. This insurance does not apply to any newly acquired or formed organization that is an "insured" under any other automobile policy or would be an "insured" under such policy but for its termination or the exhaustion of its Limit of Insurance.
2. Coverage under this provision does not apply to "bodily injury", "property damage", expense or "loss" that occurred before you acquired or formed the organization.
3. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

#### B. ADDITIONAL INSURED BY CONTRACT OR AGREEMENT

The following is added to Paragraph **A.1. Who Is An Insured** of Section **II – Covered Autos Liability Coverage**:

When you have agreed in a written contract or agreement to include a person or organization as an additional "insured", such person or organization is included as an "insured" subject to the following:

1. Such person or organization is an additional "insured" only to the extent such person or organization is liable for "bodily injury" or "property damage" because of the conduct of an "insured" under Paragraphs **a.** or **b.** under Paragraph **A.1. Who Is An Insured** of Section **II – Covered Autos Liability Coverage**, caused

by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

3. The written contract or agreement described above must have been executed prior to the "accident" that caused the "bodily injury" or "property damage" and be in effect at the time of such "accident".
4. The insurance afforded to any such additional "insured" does not apply to any "accident" beyond the period of time required by the written contract or agreement described above.
5. The most we will pay on behalf of such additional "insured(s)" is the lesser of:
  - a. The Limits of Insurance specified in the written contract or agreement described above; or
  - b. The Limits of Insurance shown in the Declarations.

This provision shall not increase the Limit of Insurance shown in the Declarations in this policy or coverage part.

6. The following changes are made to Paragraph **5. Other Insurance** of **B. General Conditions** under Section **IV – Business Auto Conditions**:

- a. The following is added to Paragraph **5.a.**:

If required by the written contract or agreement described above, the insurance afforded to the additional insured under this provision will be primary to, and will not seek contribution from, the additional insured's own insurance.

- b. Paragraph **5.c.** is deleted in its entirety.

7. Paragraph **A.1.c.** under Section **II – Covered Autos Liability Coverage** is deleted in its entirety.

8. The definition of "insured contract" under Section **V – Definitions** is amended to add the following:

An "insured contract" does not include that part of any contract or agreement:

That pertains to the ownership, maintenance or use of an "auto" and which indemnifies a person or organization for other than the vicarious liability of such person or organization for "bodily injury" or "property damage" caused by your operation or use of a covered "auto".

However, a person or organization is an additional "insured" under this provision only to the extent such person or organization is not named as an "insured" by separate endorsement to this policy.

#### **C. EMPLOYEES AS INSURED**

The following is added to Paragraph **A.1. Who Is An Insured** of Section **II – Covered Autos Liability Coverage**:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

#### **D. INCREASED COVERAGE - BAIL BONDS**

The Supplementary Payments Coverage Extension of Section **II – Covered Autos Liability Coverage** is amended as follows:

The Limit of Insurance in paragraph **A.2.a.(2)** is increased to \$5,000.

#### **E. INCREASED COVERAGE - LOSS OF EARNINGS**

The Supplementary Payments Coverage Extension of Section **II – Covered Autos Liability Coverage** is amended as follows:

The Limit of Insurance in paragraph **A.2.a.(4)** is increased to \$1,000.

#### **F. FELLOW EMPLOYEE COVERAGE**

The Fellow Employee Exclusion contained in Section **II – Covered Autos Liability Coverage** does not apply. This coverage is excess over any other collectable insurance.

#### **G. COVERAGE EXTENSION – TRANSPORTATION EXPENSES**

Paragraph **A.4.a. Transportation Expenses** of Section **III – Physical Damage Coverage** is amended as follows:

1. The Limits of Insurance are increased to \$75 per day to a maximum of \$2,500.
2. We will also pay reasonable and necessary expenses to facilitate the return of the stolen "auto" to you.
3. It is agreed and understood and it is our stated intent that expenses incurred by you under the Transportation Expenses Coverage Extension will not also be covered or paid under the Rental Reimbursement Coverage provided by this endorsement or any rental reimbursement coverage added by separate endorsement to this policy.

#### **H. EXTENDED COVERAGE - AIRBAGS**

The following is added to Exclusion **B.3.a.** of Section **III – Physical Damage Coverage**:

However, this exclusion does not apply to the unintended discharge of an airbag. This coverage is excess over any other collectible insurance or warranty providing such airbag coverage.

#### **I. AUTO LOAN/LEASE GAP COVERAGE**

The following is added to Section **III – Physical Damage Coverage**:

In the event of a total "loss" to a covered "auto", we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

1. The amount paid under the Physical Damage Coverage section of the policy; and
2. Any:
  - a. Overdue lease/loan payments at the time of the "loss";
  - b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear or high mileage;
  - c. Security deposits not returned by the lessor;
  - d. Costs for extended warranties, Credit Life Insurance, Health, Accident or Disability Insurance purchased with the loan or lease; and
  - e. Carry-over balances from previous loans or leases.

However, this provision does not apply to the extent loan/lease gap coverage has been provided by separate endorsement to this policy.

#### **J. GLASS REPAIR – NO DEDUCTIBLE**

The following is added to Paragraph **D. Deductible** of Section **III – Physical Damage Coverage**:

Any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" to glass when you elect to patch or repair rather than replace the glass.

#### **K. INCREASED COVERAGE - ELECTRONIC EQUIPMENT**

The \$1,000 limit indicated in Paragraph **C.1.b.** under Section **III – Physical Damage Coverage** is increased to \$2,500.

#### **L. EXTENDED COVERAGE - PERSONAL PROPERTY**

The following is added to Paragraph **A.4. Coverage Extensions** of Section **III – Physical Damage Coverage**:

Physical Damage Coverage on a covered "auto" may be extended to "loss" to your personal property or, if you are an individual, the personal property of a family member that is in the covered "auto" at the time of "loss"; and caused by an "accident" and resulting from the ownership, maintenance or use of a covered "auto".

The insurance provided by this coverage extension is excess over any other collectible insurance. The most we will pay for any one "loss" under this coverage extension is \$500. However, our payment for "loss" to personal property will only be for the account of the owner of the property.

Under this provision personal property does not include and we will not pay for "loss" of: currency, coins, securities or contraband.

No deductible applies to this coverage extension.

#### **M. TOWING**

Paragraph **A.2.** Towing of Section **III** – Physical Damage Coverage is replaced by the following:

We will pay up to \$200 for towing and labor costs incurred each time a covered "auto" is disabled. However, the labor must be performed at the place of disablement.

#### **N. FIRE EXTINGUISHER RECHARGE**

The following is added to Paragraph **A.4.** Coverage Extensions of Section **IV** – Physical Damage Coverage:

When fire extinguishers are kept in your covered "auto" and any are discharged in an attempt to extinguish a fire, we will pay the lesser of the actual cost of recharging or replacing such fire extinguisher(s).

No deductible applies to this coverage.

#### **O. HIRED AUTO PHYSICAL DAMAGE COVERAGE**

The following is added to Paragraph **A.4.** Coverage Extensions of Section **III** – Physical Damage Coverage:

If hired "autos" are covered "autos" for Covered Autos Liability Coverage and if Physical Damage Coverage is provided for any "auto" you own, then the Physical Damage coverages provided are extended to "autos" you lease, rent, hire or borrow from someone other than your "employees", partners or members of their households subject to the following:

1. The most we will pay in any one "loss" is the lesser of:
  - a. The actual cash value of the "auto";
  - b. The cost to repair or replace the "auto"; or
  - c. \$100,000.

2. Paragraph **1.** above is subject to a deductible. The deductible shall be equal to the amount of the highest deductible applicable for that coverage to any owned "auto".

No deductible will apply to "loss" caused by fire or lightning.

3. Hired Auto Physical Damage Coverage is subject to the following:
  - a. If symbol 8 is shown in the Covered Auto section of the Declarations page for any of the Physical Damage coverages, then the Hired Auto Physical Damage coverage described in this endorsement does not apply.
  - b. Other than indicated in Paragraphs **a.** directly above, coverage provided under this provision will be excess over any other collectible insurance or coverage.

4. In addition to the limit set forth in Paragraph **1.** above, we will pay up to \$500 per day, to a maximum of \$3,500 per "loss" for:

- a. Any costs or fees associated with the "loss" to a hired "auto"; and
- b. Loss of use of the hired "auto", provided it is the consequence of an "accident" for which you are legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.

However, Paragraph **A.4.b.** Loss of Use Expenses under Section **III** – Physical Damage Coverage of the Business Auto Coverage Form does not apply.

#### **P. RENTAL REIMBURSEMENT COVERAGE**

We will pay for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto", subject to the following provisions:

1. Payment applies in addition to the otherwise applicable amount of each coverage you have on a covered "auto".
2. No deductible applies to this coverage.
3. We will pay only for those expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the expiration date of the policy, with the lesser of the following number of days:
  - a. The number of days when the covered "auto" has been repaired or replaced; or
  - b. 45 days.
4. Our payment is limited to the lesser of the following amounts:
  - a. Necessary and actual expenses incurred.
  - b. The maximum rental expenses indicated below:
    - (1) \$75 for any one day;
    - (2) \$3,375 because of "loss" to any one covered "auto"; or
    - (3) \$15,000 because of all "loss" to all covered "autos" in any one policy period.
5. We will pay up to an additional \$300 for the reasonable and necessary expenses you incur to remove your materials and equipment from the covered "auto" and replace such materials and equipment on the rental "auto".
6. This coverage does not apply while there are spare or reserve "autos" available to you for your operations.
7. If "loss" results from the total theft of a covered "auto" of the "private passenger type", we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided for under the Physical Damage Coverage Extension of the Business Auto Coverage Form or any endorsements thereto.

However, this provision does not apply to the extent rental reimbursement coverage is provided by separate endorsement to this policy.

#### **Q. DRIVE OTHER CAR COVERAGE**

**1. The following is added to Section II – Covered Autos Liability Coverage:**

**a.** Any "auto" you don't own, hire or borrow is a covered "auto" for Liability Coverage while being used by:

- (1)** You, if you are designated in the Declarations as an individual;
- (2)** Your partners or members, if you are designated in the Declarations as a partnership or joint venture;
- (3)** Your members or managers, if you are designated in the Declarations as a limited liability company;
- (4)** Your executive officers, if you are designated in the Declarations as an organization other than an individual, partnership, joint venture or limited liability company; and
- (5)** The spouse of any person named in Paragraphs **1.a.(1)** through **1.a.(4)** directly above, while a resident of the same household;

Except:

- (a)** Any "auto" owned by that individual or by any member of his or her household; or
- (b)** Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

**2. Changes In Auto Medical Payments And Uninsured And Underinsured Motorists Coverages**

The following is added to **Who Is An Insured:**

Any individual named in Paragraph **1.a.** above and his or her "family members" are "insureds" while "occupying" or while a pedestrian when being struck by any "auto" you don't own except:

Any "auto" owned by that individual or by any "family member".

**3. Changes In Physical Damage Coverage**

Any private passenger type "auto" you don't own, hire or borrow is a covered "auto" while in the care, custody or control of any individual named in Paragraph **1.a.** above or his or her spouse while a resident of the same household except:

- a.** Any "auto" owned by that individual or by any member of his or her household; or
- b.** Any "auto" used by that individual or his or her spouse while working in a business of selling, servicing, repairing or parking "autos".

**4. The most we will pay for the total of all damages under Covered Autos Liability Coverage, Auto Medical Payments, Uninsured**

**Motorist Coverage and Underinsured Motorists Coverage** is the Limit Of Insurance shown in the Declarations as applicable to owned "autos".

- 5. Our obligation to pay for, repair, return or replace damaged or stolen property under Physical Damage Coverage, will be reduced by a deductible equal to the amount of the highest deductible shown for any owned private passenger type "auto" applicable to that coverage. If there are no owned private passenger type "autos", the deductible shall be \$250 for Comprehensive Coverage and \$500 for Collision Coverage. No deductible will apply to "loss" caused by fire or lightning.**

**6. Additional Definition**

As used in this Drive Other Car Provision:

"Family member" means a person related to the individual named in Paragraph **1.a.** by blood, marriage or adoption who is a resident of the individual's household, including a ward or foster child.

However, this provision does not apply to the extent drive other car coverage is provided by separate endorsement to this policy.

**R. KNOWLEDGE OF AN ACCIDENT, CLAIM, SUIT OR LOSS**

The following is added to Paragraph **A.2.** Section **IV** – Business Auto Conditions:

Your obligation to provide prompt notice of an "accident", claim, "suit" or "loss" is satisfied if you or a person designated by you to be responsible for insurance matters is notified of, or in any manner made aware of an "accident", claim, "suit" or "loss" and provides us such notice as soon as practicable.

**S. WAIVER OF SUBROGATION BY CONTRACT OR AGREEMENT**

The following is added to Paragraph **A.5.** of Section **IV** - Business Auto Conditions:

We waive any right of recovery we may have against a person or organization because of payments we make for "bodily injury" or "property damage" when you and such person or organization have agreed in writing in a contract or agreement to waive such right of recovery, provided:

- 1. Such written contract or agreement was:**
  - a.** Made prior to the "accident" or "loss" resulting in the covered "bodily injury" or "property damage"; and
  - b.** Was in effect at the time of the covered "bodily injury" or "property damage".
- 2. The covered "bodily injury" or "property damage" must arise out of the operations specified in such written contract or agreement.**
- 3. At our request you must provide us with a copy of the aforementioned written contract or agreement.**

#### **T. UNINTENTIONAL OMISSIONS**

The following is added Paragraph **B.2.** of Section **IV** - Business Auto Conditions:

If you unintentionally fail to disclose any hazards existing at the inception of this policy, such failure will not prejudice the coverage provided to you. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or nonrenewal.

#### **U. LIBERALIZATION**

If we revise this endorsement to provide greater coverage without additional premium charge, we will automatically provide the additional coverage to all endorsement holders as of the day the revision is effective in your state.

DRAFT

**EXHIBIT D**  
**CERTIFICATE OF GOOD STANDING WITH COLORADO SECRETARY OF STATE**

DRAFT

OFFICE OF THE SECRETARY OF STATE  
OF THE STATE OF COLORADO

**CERTIFICATE OF FACT OF GOOD STANDING**

I, Wayne W. Williams, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

METCO LANDSCAPE, LLC

is a

Limited Liability Company

formed or registered on 06/29/1998 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 19981118798 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 12/17/2018 that have been posted, and by documents delivered to this office electronically through 12/18/2018 @ 13:22:04 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 12/18/2018 @ 13:22:04 in accordance with applicable law. This certificate is assigned Confirmation Number 11283682 .



A handwritten signature in blue ink, reading 'Wayne W. Williams', is positioned above a horizontal line.

Secretary of State of the State of Colorado

\*\*\*\*\*End of Certificate\*\*\*\*\*

*Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."*



## Memorandum

**Date:** February 25, 2019

**To:** Hawthorn Metropolitan District No. 2 Board of Directors

**From:** Denise Denslow, District Manager  
Pat Shannon, Assistant District Manager

**RE:** District Manager's Report for March 4, 2019

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1. District Newsletter – The First Quarter District Newsletter was completed and mailed to residents at the end of January.
2. Park Trash Removal – Going forward, Metco will be emptying the trash receptacle in the park.
3. Tree Removal and Replacement – CLA has requested bids from Bailey Tree and Davey Tree to remove and replace dead and dying trees throughout the District. The bids were not received in time for the packet but will be distributed at the Board Meeting.
4. Website – The District website has been updated to include the 2019 budget, 2019 meeting schedules, trash/recycling schedules and the 2019 Q1 newsletter.
5. Architectural Review Requests - The architectural review request form has been updated on the District's website to show Susie's contact information as she is now coordinating ARR requests with the committee.





Search for a place or address

3D

Information icon

Navigation icon

Compass icon

1 Dead Oak Tree

3 Dead Trees w/ stakes

12 Dead & Declining Ash Trees



W 57th Cir

W 58th Ave

W 58th Ave

W 58th Ave

W 58th Ave

W 58th Pl

W 58th Pl



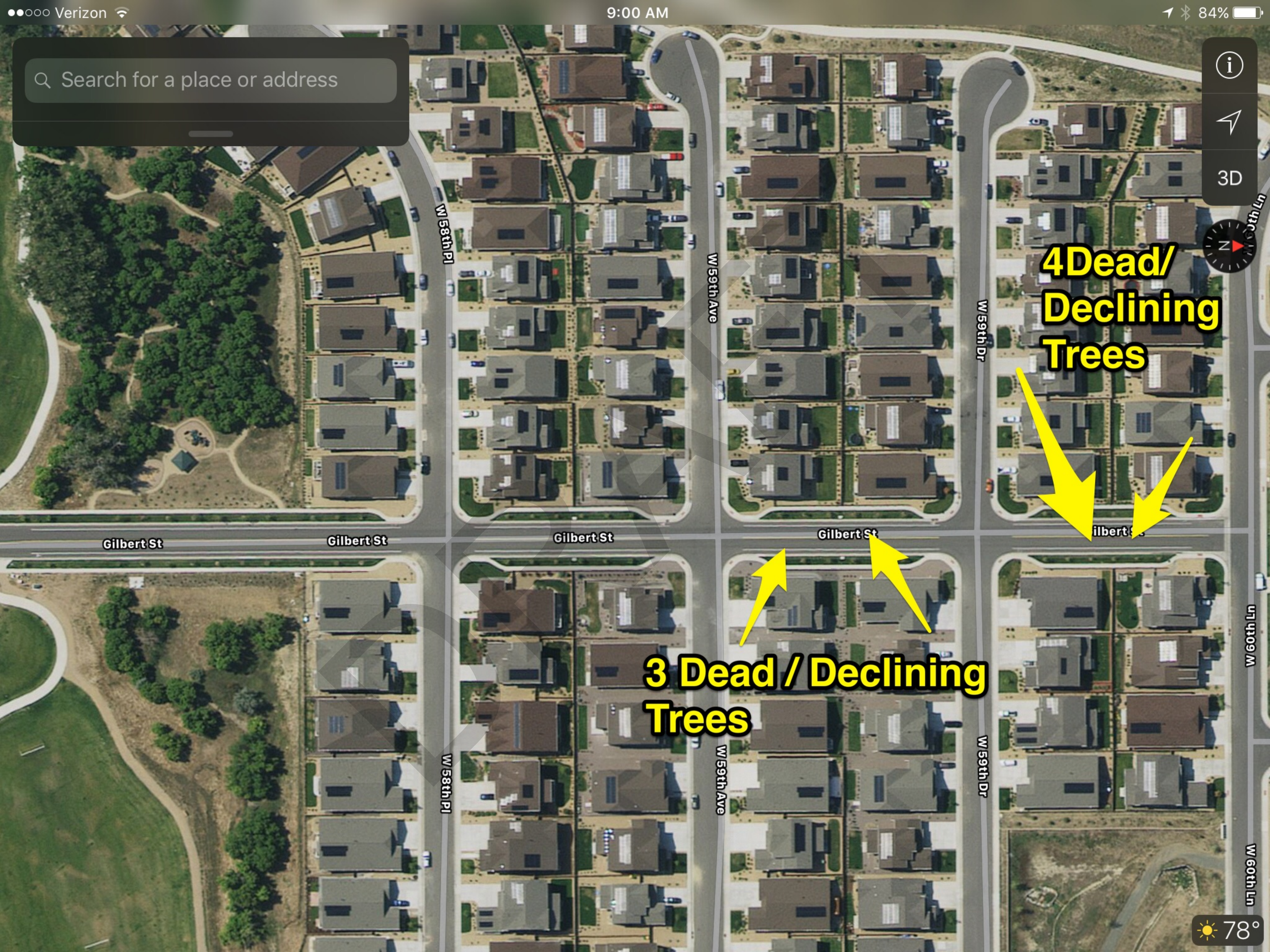
Search for a place or address

Navigation controls including an information icon, a compass, a 3D view toggle, and a compass rose.

**4 Dead/  
Declining  
Trees**



**3 Dead / Declining  
Trees**





Search for a place or address

Information, Navigation, 3D view controls

1 Dead Pine Tree

2 Dead Pine Trees

3 Dead Pine Trees

2 Dead Tree/Shrub

1 Dead Pine Tree

