

STATE OF SOUTH CAROLINA)
COUNTY OF BEAUFORT)

TOWN OF BLUFFTON AGREEMENT
NUMBER 2026-43

THIS AGREEMENT FOR CONTRACTOR SERVICES (“Agreement”) is made the ____ of _____, 2026, (“Effective Date”) between Nix Construction Company, Inc. located at 2 Corpus Christi Place, Suite 203, Hilton Head Island, SC 29928 (hereinafter called “Contractor”) and the Town of Bluffton (hereinafter called “Town”), a municipal corporation organized and existing under the laws of the State of South Carolina; individually hereinafter “Party” and collectively the “Parties”.

WHEREAS, the Town desires to contract for the project identified as **New Riverside Barn Park Disc Golf** and as described in detail in the Contract Documents; hereinafter collectively referred to as the “Project”; and,

WHEREAS, Contractor responded to an Invitation for Bid, incorporated herein, and represented that its staff has the necessary licenses and is qualified to perform the Work and completed the Project as established in this Agreement in a professional and timely manner; and,

WHEREAS, the Parties have agreed to enter into this Agreement wherein the Contractor shall perform on the Scope of Work as described herein under the terms established in this Agreement.

NOW, THEREFORE, for and in consideration of the mutual promises, undertaking and covenants set forth herein, the receipt and sufficiency of which are acknowledged and affirmed by the Town and the Contractor, the Parties hereto agree as follows:

ARTICLE 1. RECITALS and INCORPORATION. The Recitals set forth above, the Contract Documents attached to this Agreement, and all exhibits are incorporated herein by reference as if set forth in their entirety herein.

ARTICLE 2. SCOPE OF WORK.

2.1 Contractor shall perform the Work as specified or indicated in the Contract Documents.

ARTICLE 3. ENGINEER.

3.1 The Project has been designed by Wood + Partners, a licensed landscape architect with the knowledge and qualifications necessary for the Project.

ARTICLE 4. CONTRACT TIME.

4.1 The Contract Time shall be **one hundred and twenty** consecutive calendar days from the commencement date as defined in the Notice to Proceed (“NTP”) to fully complete the Work herein contemplated.

4.2 Contractor agrees that the Work shall proceed at such rate of progress as will ensure full completion thereof within the Contract Time stated herein and pursuant to the terms and conditions set forth in the Contract Documents and in this Agreement. It is expressly understood and agreed by the Parties that the Contract Time is reasonable for the completion of the Work and that time is of the essence.

4.3 If Contractor is delayed in the progress of the Work due to circumstances including changes in the Work requested by the Town, by any separate contractor employed by the Town, or by labor disputes, severe weather, unavoidable casualties or other force majeure conditions beyond the Contractor’s control, avoidance or mitigation, and without the fault or negligence of the Contractor, then the Contract Time may be extended by a mutually signed Change Order in accordance with Article 6.

ARTICLE 5. CONTRACT PRICE.

5.1 Town will pay Contractor for performance of the Work in accordance with Contract Documents at the contract price agreed upon on the bid form attached to this Agreement which is not to exceed **Two Hundred and Eight Thousand, Five Hundred Thirty-One and 85/100 (\$208,531.85) Dollars** unless written approval is authorized by the Town.

ARTICLE 6. CHANGE ORDERS.

6.1 Changes to the scope of Work, changes to the Contract Time, or changes to the Contract Price necessitate a written Change Order signed by both Parties. No changes in the Work shall be done without a mutually signed Change Order.

6.2 Change Orders to extend the Contract Time must meet the criteria in Article 4. Contractor must request an extension to the Contract Time via written Change Order containing a detailed explanation for the request to extend the Contract Time and provided with adequate notice to the Town.

6.3 Contractor may submit Change Orders for additional Costs if additional scope is requested by the Town or if it is related to an extension of time requested in 6.1. Change orders for scope which should rightfully be covered by Contractor's contingency will not be permitted.

ARTICLE 7. APPLICATIONS FOR PAYMENT

7.1 Contractor shall send invoices via email simultaneously to invoice@townofbluffton.com and to the project's assigned Town Project Manager. Invoices may also be sent to the Town of Bluffton, PO Box 386 Bluffton, SC 29910, Attn: Accounts Payable if emailing is not possible. The invoice should reference the contract number. Approved invoices shall be paid within thirty (30) calendar days upon receipt of the invoice in the Town Finance Department.

7.2 All progress payments shall be made on the basis of the progress of the Work. Town may consult with Project Engineer to validate that the progress represented on the Contractor invoice is accurately represented prior to payment.

7.3 There shall be a ten percent (10%) retainage withheld from each progress payment until the Contractor has achieved seventy-five percent (75%) completion of the Work by dollar value based on the Contract Price. At the option of the Town, the retainage will be reduced to five percent (5%) plus a reasonable amount for defective or non-conforming work and anticipated liquidated damages.

7.4 Upon final inspection and written acceptance of the Work, the Town will pay the remainder of the Contract Price.

ARTICLE 8. LIQUIDATED DAMAGES

8.1 There is no liquidated damages provision for this Agreement.

8.2 RESERVED.

ARTICLE 9. ASSURANCE

9.1 Contractor has familiarized itself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions, and Federal, State and local laws, ordinances, rules and regulations that in any manner may affect cost, progress, or performance of the Work. Contractor agrees to adhere to all applicable laws, ordinances, rules and regulations associated with the Work and the terms and condition of this Agreement.

9.2 Contractor has studied carefully all reports of investigations and tests of subsurface and latent physical conditions at the site, as applicable, or otherwise affecting costs, progress, or performance of the Work that were relied upon by Engineer in the preparation of the Drawings and Specifications and which have been identified in Contract Documents. Failure of Contractor to include costs in its bid as a result of any investigation or test shall not result in an increase cost to the Town.

9.3 Contractor has made or caused to be made examinations, investigations and tests and studies or such reports and related data in addition to those referenced above as Contractor deems necessary for performance of the Work at the Contract Price within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; no additional examinations, investigations, tests, reports, or similar data are or will be required for such purposes.

9.4 Contractor has had the opportunity to ask questions and clarifications during the bid process, has given the Town written notice of any conflict, error or discrepancy that Contractor has discovered in the Contract Documents, and agrees that the Contract Documents are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

ARTICLE 10. CONTRACT DOCUMENTS

10.1 Contractor agrees under the terms stated in the Contract Documents and at Contractor's own proper cost and expense, to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, bonds, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Solicitation Document, Instructions to Bidders, the Agreement, the Specifications, the plans including all maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof.

10.2 The Contract Documents that incorporated into this Agreement between the Parties are attached hereto and made a part hereof and consist of the following:

- 10.2.1 Solicitation Document.
- 10.2.2 Instructions to Bidders.
- 10.2.3 Bid Sheet.
- 10.2.4 Schedule.
- 10.2.5 This Agreement.
- 10.2.6 Performance and Payment Bonds.
- 10.2.7 Town of Bluffton Special Conditions.
- 10.2.9 Drawings dated 3/24/2026.
- 10.2.9 Addenda number 1 to 2, inclusive.
- 10.2.10 Any modification, including Change Orders, duly delivered after execution of the Agreement.

ARTICLE 11. WARRANTY

11.1 Contractor warrants and guarantees to Town that the Work will be in accordance with the Contract Documents and will not be defective. Contractor's warranty excludes defects or damage caused by abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible, or normal wear and tear under normal usage.

11.2 Within one (1) year after the date of Final Acceptance, if any Work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use is found to be defective, Contractor shall promptly repair or correct without cost to the Town.

ARTICLE 12. CURE

12.1 If Town or the Engineer determines that the Work is defective, the Town shall provide written notice to Contractor by email or letter. Within ten (10) days of receipt of such notice, Contractor shall correct all defective Work or respond to the Town in writing with a schedule to correct all defective work. All corrections shall be at the sole expense of Contractor.

12.2 If Contractor fails to correct defective work within time specified or agreed to, the Town may seek remedy from the Contractor's surety or by other means of correcting the defect or deficiency. Contractor will be responsible for all costs to cure, including the cost of any claims and reasonable attorney's fees sustained by the Town in exercising its rights and remedies.

ARTICLE 13. TERMINATION

13.1 The Town shall, at its sole option and discretion, have the right to terminate this Agreement for any reason whatsoever by providing Contractor with a notice of termination. Whenever the Contractor is terminated for convenience under this clause, the Contractor shall be entitled to the actual direct costs of all labor and material expended on the job prior to the effective date of the termination plus fifteen percent (15%). In no event shall the Contractor be entitled to anticipatory profit or damages for any termination under this clause.

13.2 A Party shall be considered in default of its obligations under this Agreement if such party should fail to observe, comply with, or perform any term, condition or covenant contained in this Agreement or any Exhibit hereto.

In the event of default and failure to cure said default pursuant to Article 12, the non-defaulting party may terminate this Agreement immediately upon written notice to the defaulting party and pursue any remedies provided by law or under this Agreement.

ARTICLE 14. SUBCONTRACTORS AND ASSIGNMENT

14.1 Contractor shall provide the Town with a list of all Subcontractors and immediately notify the Town of any changes. The Town reserves the right to approve any or all Subcontractors. It is the responsibility of Contractor to ensure that all Subcontractors are appropriately licensed, including with a Town of Bluffton business license. Use of non-licensed Subcontractors may be grounds for termination.

14.2 The Contractor may not assign this Agreement without the prior written approval of the Town.

ARTICLE 15. INDEMNIFICATION

15.1 The Contractor shall defend, indemnify, and hold harmless the Town, its officers, directors, agents, and employees from and against any and all actions, costs, claims, losses, expenses, and/or damages, including attorney's fees, whether incurred prior to the institution of litigation, during litigation, or an appeal arising out of or resulting from the conduct of any activity hereby authorized or the performance of any requirement imposed pursuant by this Agreement, however caused or occasioned, unless caused by the willful misconduct or gross negligence of the Town.

ARTICLE 16. INSURANCE

16.1 The Contractor shall maintain the appropriate amounts and coverages of insurance as identified below for the entire length of the Agreement. Except as to Worker's Compensation and Employer's Liability, the Contractor must provide the Town with a Certificate of Insurance for each that names the Town as an **additional insured** on their policy with the following endorsement:

The Town of Bluffton, a municipality of the State of South Carolina, its officers, agents and employees as additional insured.

16.2 The Contractor is required to immediately contact the Town should any change to these policies occur during the course of the performance of this Agreement. Failure to maintain these policies is grounds for termination. Coverages are:

Workers Compensation – Contractor shall maintain Worker's Compensation Insurance & Employers Liability in accordance with the State of South Carolina Code.

Business Auto Policy – Contractor shall maintain Business Automobile Liability at a limit of liability not less than \$500,000 each occurrence for all owned, non-owned and hired automobiles.

Builder's Risk – for construction projects, carry Builder's Risk coverage in the amount of 5% of the total contract value.

Commercial General Liability – Commercial General Liability for public liability during the lifetime of a contract shall have minimum limits of \$1,000,000 per claim, \$2,000,000 per occurrence for Personal Injury, Bodily Injury, and Property Damage Liability. Coverage shall include Premises and/or Operations, Independent Contractors, Products and/or Complete Operations, Contractual Liability and Broad Form Property Damage Endorsements. Coverage shall not contain an exclusion or limitation endorsement for Contractual Liability or Cross Liability. Coverage for the hazards of explosion, collapse and underground property damage (XCU) must also be included when applicable to the work to be performed. All insurance policies shall be issued from a company or companies duly licensed by the State of South Carolina. Specific endorsements will be requested depending upon the type and scope of work to be performed.

ARTICLE 17. NOTICE.

17.1 Whenever notice is required or permitted under the terms of this Agreement, it shall be in writing and delivered or sent by either: (a) United States mail, certified, return receipt requested, in which case notice shall be

deemed given on the certified date of delivery or rejection of delivery, (b) by any national express delivery service which provides evidence of delivery, (c) or by electronic mail evidenced with an electronic return receipt as proof of delivery. All notices shall be addressed to the following address (or at such other address as may hereafter be substituted by notice in writing):

<i>The Contractor:</i>	Nix Construction Company, Inc. Attn: Aaron Thielemier, Manager 2 Corpus Christi Place, Suite 203 Hilton Head Island, SC 29928 Phone: 843-341-2330 Email: aaron@nixconstruction.com	<i>The Town:</i>	Town of Bluffton Attn: Stephen Steese, <i>Town Manager</i> 20 Bridge Street Bluffton, SC 29910 Phone: 843-706-4500 Email: ssteese@townofbluffton.com
<i>With Copy to:</i>	Name Insert Address Phone: Email:	<i>With Copy to:</i>	Attn: Felicia Roth, <i>Director of Contracts</i> 20 Bridge Street Bluffton, SC 29910 Phone: 843.540.5723 Email: froth@townofbluffton.com

ARTICLE 19. CONFLICTING TERMS

19.1 If any provision, term or condition of this Agreement is determined to contradict or conflict with any other provision, term or condition contained in the Contract Documents or Invitation for Bid, then the order of control is first this Agreement, then Solicitation Documents, and then drawings and specifications.

ARTICLE 19. ADDITIONAL TERMS AND CONDITIONS

19.1 *Deliverables.* All deliverables, whether goods, services, supplies, or other, shall become the property of the Town. Any deliverables that may be provided in hard copy and electronic form, such as drawings, plans, specifications, reports, or other, shall be provided in such formats and orientations as required by the Town.

19.2 *Time of the Essence.* Time is of the essence of this Agreement, although a request for additional time should not be unreasonably withheld when the additional time is needed by a Party to receive the approval and authority required by either local or state law and pursuant to the terms and conditions of this Agreement.

19.3 *Compliance with Laws.* Contractor shall comply with the most current Federal and State of South Carolina Laws and Regulations, including but not limited to, Fair Labor Standards Act and Occupational Safety and Health Administration guidelines.

19.4 *Severability.* Should any part of this Agreement be rendered void, invalid or unenforceable by a court of law, such a determination shall not render void, invalid or unenforceable any other part of this Agreement.

19.5 *Governing Law.* This Agreement has been made and entered into in the State of South Carolina, and the laws of South Carolina shall govern the validity and interpretation of this Agreement in the performance due hereunder.

19.6 *Fees and Costs.* In the event the Town must proceed to litigation to protect or enforce its rights, the Town shall be entitled to recover its reasonable attorney fees and costs.

19.7 *Counterparts.* This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument.

19.8 *Waiver.* No provision, condition or covenant of this Agreement shall be waived by either Party hereto except in writing, delivered to the other Party and signed by the Party consenting thereto. If the Town fails to enforce any provision of this Agreement, that failure does not waive the provision or Town's right to enforce it.

19.9 *Successors and Assigns.* All provisions of this Agreement shall be binding on and inure to the benefit of each Party and each Party's respective heirs, executors, legal representatives, successors, successors in title and assigns. The Parties understand and agree that Contractor may neither assign nor transfer any rights or obligations

under this Agreement without providing written notice to the Town and obtaining written approval of the assignment from the Town, where the Parties agree that said approval shall not be unreasonably withheld.

19.10 *Relationship of the Parties.* The Parties hereto intend that no master/servant, employer/employee, or principal/agent relationship will be created by the Agreement. Nothing contained herein creates any relationship between the Parties other than that which is expressly stated herein. The Town is interested only in the results to be achieved under this Agreement. The conduct and control of the Contractor's agents and employees and methods utilized in fulfilling its obligations hereunder shall lay solely and exclusively with the Contractor. The Contractor's agents or employees shall not be considered employees of the Town for any purpose. No person employed by the Contractor shall have any benefits, status, or right of employment with the Town.

19.11 *Non-Discrimination.* The Parties certifies that in the performance of this Agreement, no Party will discriminate any person, client, or subcontractor on account of race, color, sex, age, religion, handicap, or national origin. It is the policy of the Town and County to comply with Title VI of the 1964 Civil Rights Act (Title VI) and its related statutes. To this end, the Town and County gives notice to all vendors or businesses that the Town and County assures full compliance with Title VI and its related statutes in all programs, activities, and contracts. It is the policy of the Town and County that no person shall be excluded from participation in, denied the benefit of, or subjected to discrimination under any of its programs, activities, or contracts based on race, color, national origin, age, sex, disability, religion, or language. Pursuant to Title VI requirements, any entity that enters into a contract or agreement with the Town including, but not limited to vendors or businesses, may not discriminate based on race, color, national origin, age, sex, disability, religion, or language.

IN WITNESS WHEREOF, the Parties hereto affixed their signatures hereto as of the Effective Date.

NIX CONSTRUCTION COMPANY, INC.

TOWN OF BLUFFTON

Date: _____

Date: _____

By: _____

By: _____

Print Name: _____

Print Name: _____

Position: _____

Position: _____

Witnesses: _____

Witnesses: _____

Attachments:

1. Bid Sheet
2. Schedule

ATTACHMENT 1

BID SHEET

**New Riverside Barn Park - Disc Golf Course: Unit Price Schedule - ADDENDUM #2 - 4/30/2026 /
VE REVISION 5/22/2026 (REMOVAL OF ITEMS DGC: 7-11, 13-15; LNDSCP: 1-4 ; CONT. ITEMS: 3)**

NOTES	
1)	It is the intent that bidders have included within each unit price the completion of all specified work per the project requirements. The Contractor is to provide all services, testing, labor, materials, necessary tools & equipment, freight, taxes, insurance, warranties, bonding, overhead and profit to provide a complete project item as described.
2)	Unit price amounts proposed by bidders and stated on this form are per unit of measure for addition or deletion of work from the Contract Sum. Quantities are provided for Contractor's convenience only. Contractor shall notify the architect of any discrepancies during project bidding phase.

Clearing / Demo / Site Preparation						
Item	Document Reference	Description	Quantity	Units	Unit Price	Total
1	L-101 / L-102 / L-103	Removal of tree trunks (stump grinding)	20	LS	\$ 420.00	\$ 8,400.00
2	L-101 / L-102 / L-103	Limbing up / limb and vine removal up to 25'	1	LS	\$ 3,500.00	\$ 3,500.00
3	L-101 / L-102 / L-103	Grading within the fairways to remove dirt mounds / holes.	1	LS	\$ 14,450.00	\$ 14,450.00
4	L-101 / L-102 / L-103	Mulching within the fairways 3" thick (Confirmed Double Milled Hardwood - Not Dyed or Altered)	33,000	SF	\$ 0.68	\$ 22,440.00
Clearing / Demo / Site Preparation Sub-Total						\$ 48,790.00

Disc Golf Course						
Item	Document Reference	Description	Quantity	Units	Unit Price	Total
1	L-101/L-102/L-103/L-300	Tee Boxes	18	EA	\$ 2,143.89	\$ 38,590.02
2	L-101/L-102/L-103/L-300	Disc Golf Baskets (Installed by contractor / Provided by town of bluffton)	19	EA	\$ 413.00	\$ 7,847.00
3	L-101/L-102/L-103/L-300	Golf Course Layout Sign	1	EA	\$ 1,825.00	\$ 1,825.00
4	L-101/L-102/L-103/L-300	Tee Box Sign	18	EA	\$ 645.00	\$ 11,610.00
5	L-101 / L-102 / L-300	Disc Golf Attention Sign	4	EA	\$ 740.00	\$ 2,960.00
6	L-102 / L-301	Removable Bollard	1	EA	\$ 745.00	\$ 745.00
12	L-102 / L-301	Pedestrian Opening - Existing Fence modifications / opening creation / extensions	1	EA	\$ 1,244.83	\$ 1,244.83
16	L-102 / L-103 / L-301	Beware of Alligator Signs	6	EA	\$ 110.00	\$ 660.00
17		Fill dirt needed at stairs for grading adjustments.	48	CY	\$ 120.00	\$ 5,760.00
Disc Golf Course Sub-Total						\$ 71,241.85

Contractor Items						
Item	Document Reference	Description	Quantity	Units	Unit Price	Total
1		General Conditions	1	LS	\$ 47,000.00	\$ 47,000.00
2		Contractor Fee	1	LS	\$ 41,500.00	\$ 41,500.00
Contractor Items Sub-Total						\$ 88,500.00

Project Total : \$						208,531.85
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ATTACHMENT 2

SCHEDULE

Tentative Project Implementation Schedule as of May 13, 2026

Activity #	Activity	Start Date	End Date
0	Permitting of All Structures as Directed by Building Department	6/15/2026	7/15/2026
1	Mobilization/Secure Area	7/15/2026	7/19/2026
2	Commence Clearing/Demo/Site Prep	7/22/2026	8/10/2026
3	Install Plantings & Mulch at Plantings & Commence Watering Schedule	7/22/2026	10/13/2026
4	Installation of Timber Features including Retaining Wall, Stairs, Elevated Structure	7/29/2026	8/30/2026
5	Installation of Fencing	9/3/2026	9/14/2026
6	Form, Pour, Installation of Tee Boxes	9/14/2026	9/28/2026
7	Stage and Install Mulch at All Holes	9/23/2026	9/30/2026
8	Demobilize & Final Cleanup	10/1/2026	10/13/2026
TOTAL CALENDAR DAYS			120