



## The Purchasing Memo

**Date:** July 15, 2025

**To:** Governing Body, Finance Committee, and Public Works & Utilities Committee

**From:** P. Fred Heerbrandt, P.E. *P. Fred Heerbrandt, P.E.*

**Via:** Michael Dozier, Wastewater Division Director *[Signature]*

**Via:** Jesse Roach, Interim Public Utilities Director *[Signature]*

**Subject:** ITB 25159 On-Call Equipment Replacement Construction Contract FY26

**Vendor Name:** AnchorBuilt, Inc.

**Munis Vendor Number:** 9672

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### ITEM AND ISSUE:

The Public Utilities Department respectfully requests your review and approval of a construction contract in the total amount of \$2,163,750 per year for a total of \$8,665,000 including NMGRT over the four-year term for On-Call Construction Services with AnchorBuilt, Inc.

Request for Approval of a Budget Adjustment Resolution (BAR) in the Total Amount of \$2,163,750 from the Wastewater Enterprise Fund to WIP Construction.

### CONTRACT NUMBER:

The FY26 Munis contract number is 3260005

### BACKGROUND AND SUMMARY:

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Equipment Replacement, Repair, and Installation services by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities and processes throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

### PRIOR APPROVALS AND SUPPORTING INFORMATION:

#### FUNDING SOURCE:

**Fund Name/Number:** Wastewater Enterprise Fund/Fund 500

**Munis Org Name/Number:** Wastewater Capital Projects/5000375

**Munis Object Name/Number:** WIP Construction/572970

**Budget Officer / Designee:** Andy Hopkins **Date:** 07/30/2025

**Budget Officer Comment/Exceptions:** \_\_\_\_\_

**PROCUREMENT METHOD:**

The procurement method used was NMSA 1978, Section 13-1-102, ITB

ITB 25159 – On Call Equipment Replacement, Repair, and Installation Services, three awards.

**Chief Procurement Officer (CPO)/Designee:** [Signature] **Date:** 07/30/2025

**CPO Comment/Exceptions:** \_\_\_\_\_

**ASSOCIATED APPROVALS:**

**IT Components included?**  Yes |  No

**Approval:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Comment/Exceptions:** \_\_\_\_\_

**Treasury/Point of Sale Components included?**  Yes |  No

**Approval:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Comment/Exceptions:** \_\_\_\_\_

**Vehicles included?**  Yes |  No

**Approval:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Comment/Exceptions:** \_\_\_\_\_

**Construction to City Facilities, Furniture, and/or Fixtures included?**  Yes |  No

**Approval:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Comment/Exceptions:** \_\_\_\_\_

**Is this an externally funded purchase?**  Yes |  No

**If yes, what is the issuing agency:** \_\_\_\_\_

**Approval:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Comment/Exceptions:** \_\_\_\_\_

**Is this a Capital Asset or Project?**  Yes |  No

**Project Ledger Number:** \_\_\_\_\_

**Approval:** \_\_\_\_\_ **Title:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Comment/Exceptions:** \_\_\_\_\_

**ATTACHMENTS:**

CPO Service Determination Email

Vendor's Bid

Certificate of Liability Insurance (COI)

Construction Contract

BAR

CITY OF SANTA FE  
CONSTRUCTION CONTRACT

**ON-CALL EQUIPMENT REPLACEMENT CONSTRUCTION SERVICES**

THIS CONTRACT is made and entered into by and between the City of Santa Fe, New Mexico, hereinafter referred to as the “City,” and **AnchorBuilt, Inc.** hereinafter referred to as the “Contractor,” and is effective as of the date set forth below upon which it is executed by the Parties.

**RECITALS**

**WHEREAS**, the City, through its Governing Body, is authorized to enter into a construction Contract for the project; and

**WHEREAS**, the City has procured this Contract according to the established State and Local Purchasing procedures for contracts of the type and amount; and

The City and the Contractor hereby agree as follows:

**1. Scope of Work**

A.

The City of Santa Fe, Public Utilities Department, Wastewater Management Division (Division) wishes to establish a Price Agreement for On-Call Equipment Replacement, Repair, and Installation services by New Mexico licensed contractors to provide miscellaneous repairs, upgrades, improvements, replacements, new construction services and material for facilities and processes throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote pumping facilities.

The Division shall provide, at a minimum, a detailed scope of work and/or drawings, generally defining the construction work required for the project. The Contractor shall be responsible for verifications of all existing conditions, measurements, and dimensions for bidding.

The award of this Price Agreement is without assurance of quantity or dollar amount of work to be performed.

Contractors shall have the technical staff to perform diagnostic services and provide professionally prepared, stamped drawings, if needed, to obtain installation or construction permits. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits including, but not limited to, the City of Santa Fe's Stormwater Pollution Prevention Program and Stormwater BMPs.

The City of Santa Fe Wastewater Management Division shall be able to utilize this On-Call Contract as needed and as funding is available.

**Term:**

The term of this Price Agreement shall be for four (4) years from date of award. This Price Agreement shall not exceed four (4) years.

**Insurance:**

The Contractor shall provide all insurance necessary for its employees on the project, including, but not limited to, Workman's Compensation Insurance. The Contractor agrees to comply with City and State laws and rules pertaining to Worker's Compensation Insurance coverage for its employees. If the Contractor fails to comply with the Worker's Compensation Act and applicable rules, when required to do so, this Price Agreement will be cancelled immediately.

This Price Agreement is not intended to create a third party beneficiary or to authorize anyone not a party to the Price Agreement to maintain a suit for wrongful death, bodily and/or personal injury to persons, damage to properties and/or other claims whatsoever pursuant to the provisions of this Price Agreement.

**Wage Rates:**

All work covered by this Invitation to Bid shall be in accordance with applicable City and State laws and is subject to the minimum wage rate determination issued by the Department of Workforce Solutions (DWS), if applicable.

A wage rate decision is required by the Public Works minimum Wage Act for construction, demolition or renovation purposes on projects costing sixty thousand dollars (\$60,000) or more. The Contractor agrees to comply with the current prevailing wage rate schedule when applicable. For current wage rates or for additional information, visit: <http://www.dws.state.nm.us> . The Division will request a wage rate determination from the DWS for each project that is \$60,000 or more.

When submitting a quote for a specific project valued at more than sixty thousand dollars (\$60,000) for any portion of a public works project that is subject to the New Mexico Public Works Act, the Contractor is required to be registered with the Labor and Industrial Division of the Department of Workforce Solutions prior to submitting its quote. The Division may reject any quote that fails to provide a Public Works registration number for the prime Contractor and all other listed Contractors or subcontractors.

**Bonding:**

A one hundred percent (100%) performance bond and a one hundred percent (100%) payment and material bond executed by a surety company authorized to do business in the State of New Mexico will be required of the Contractor prior to each project over twenty-five thousand dollars (\$25,000). Said bonds must be provided to the Division. Failure to comply shall result in the order being issued to another vendor and the difference in the cost being charged back to the awarded Contractor.

**Other:**

All work shall be in accordance with applicable City and state laws, the International Building Code (IBC) and the New Mexico building codes. The Contractor shall be responsible for all permits associated with this work as required by the governmental Authority Having Jurisdiction (AHJ).

All work shall be in strict compliance with the national and state building mechanical, plumbing and electrical codes including Sheet Metal and Air Conditioning Contractor's National Association( SMACNA), and the American Society of Heating, Refrigeration, and Air-Conditioning Engineers (ASHRAE) standards.

Contractors shall be capable of providing all coordination, supervision and services required for comprehensive general construction, equipment replacement, upgrade and improvement projects and to provide new construction services including incidental design. The scope of an individual project may include equipment and fixtures whether attached or not to the building. It can include, but not be limited to, site and utility work, mechanical work, pavement restoration, building repair, renovation, painting, stucco, backfill services, digging, ditching, rock stabilization, concrete, and pour in place and form place finish. The utility work shall include building power systems such as solar panels, piping, pumping systems, and waste treatment systems. It may also include demolition and abatement projects.

All material shall be new and of the highest quality available for the type of work being performed. The purchase of major equipment or material must be preceded by submission of submittal data on the proposed equipment or material and shall be reviewed and approved by the Division. If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications. The Contractor may NOT add markups for the materials purchased.

The requesting entity reserves the right to purchase materials or specialty services directly from existing Statewide Price Agreements and other sources, and to provide these materials to the Contractor. The Contractor shall provide an itemized, quantifiable list of materials required for the project. Specialty services provided from Statewide Price Agreements and other sources shall be coordinated by the Contractor.

If the Contractor is requesting reimbursement for materials used on the work, copies of the invoices for the materials must be included when submitting invoices/pay applications. The Contractor may NOT add markups for the materials purchased.

The Division reserves the right to obtain quotes from multiple vendors covered under this Price Agreement and award a project to a contractor based on the quotes.

The Division reserves the right to provide an escort and/or full-time supervision of the Contractor and its employees during any or all phases of a project, should the Division feel it is in its best interest to provide these extraordinary security services.

The Division reserves the right to escort any or all employees of the Contractor off its property, for any inappropriate conduct or actions that jeopardize the safety, security, or wellbeing of the facility or any individual. Inappropriate behavior by the Contractor, its employees or subcontractors may be grounds for immediate removal from this Price Agreement. Any employee of the Contractor found in violation of any law, while on City property, will be prosecuted.

**Contractor:**

No person shall act as a Contractor without a license issued by the Construction Industries Division (CID), classified to cover the type of work to be performed. No bid on a contract shall be submitted unless

the Contractor has a valid Contractor's license issued by the CID to bid and to perform the type of work to be undertaken, as set forth in NMSA 1978, §60-13-12.

Safety shall be of main concern and enforced by the Contractor on site. The Contractor shall comply with all local, state and federal laws governing safety, health and sanitation. The on-site superintendent shall always have a minimum OSHA 10 and preferably OSHA 30 card with them when on the jobsite. The Division shall not in any way be responsible for any fines set forth for such violations of codes, OSHA standards or any other governing agency having jurisdiction at the work site. The Contractor shall provide all needed safeguards, safety devices, protective equipment and take any actions necessary to protect the life and health of employees on the job; the safety of the public and to protect the property of the Division in connection with the performance of the work covered by this price Agreement.

All personnel working on the project and providing these services shall be experienced and certified in all areas related to this work and required by this Price Agreement. Journeymen level personnel shall have the ability and necessary skills to diagnose problems and to make the appropriate decisions needed to provide these services.

The Contractor shall follow the Occupational Safety and Health Act (OSHA) 29 CFR 1910.147 Standard pertaining to "Lockout/Tagout" procedures for hazardous energy.

The Contractor shall agree to provide required labor within 24 hours for emergency situations.

Contractor's price shall include labor costs, permits, overhead, profit, insurance, equipment, tools and any other fees required to successfully complete the work requested. The Contractor shall be capable of providing a work force with supervision, adequate to perform work for a forty (40) hour work week during normal working hours with the option of working non normal or overtime hours if required. The Contractor shall be responsible for all permits, fees, and State and/or City inspections associated with their work.

Replacement systems and related equipment shall meet current minimum "Energy Star" energy conservation standards.

Subcontracting of work is allowed and shall have prior approval by the Division. Subcontractors shall have the appropriate current valid Contractor's licenses for their work. Proof of licenses shall be furnished upon request.

There will be NO markups allowed for adding subcontractor costs or to cover general conditions (administrative costs and other related expenses) allowed on any of the quotes issued pursuant to this Price Agreement. If a subcontractor is hired for the project the reimbursement must be at actual cost of the subcontractor's cost. The cost of the subcontractor will be added at time of invoicing as a separate item to be paid by the Department.

Furnishing of submittal data for any/all new equipment and materials as well as Operation & Maintenance Manuals' s is required. Training of site personnel for the proper operation of newly installed equipment/systems and its related controls will be required for completion. This training will be acceptable to the person in charge of the facility and/or the City's Project manager in charge of the project.

The Contractor shall provide all protective coverings necessary to protect existing, adjacent finishes while performing its work. If any damage is encountered during the contractor's work, the contractor will be held responsible for repairing any damage done by his employees, subcontractors, and vendors. The Contractor shall restore any damage to existing and/or adjacent finishes damaged while performing work and to make new work inconspicuous with the existing adjacent finishes.

The Contractor and its employees agree to cooperate with and to abide by the rules and requirements of the Division to not interfere with the daily operations of the Division or to jeopardize the health, safety or welfare of the employees or general public conducting business with the Division.

### **Clean Up and Storage:**

- A. The Contractor will provide off-site legal disposal of all waste products, trash, and debris. Division's trash receptacles will not be used by the Contractor. Sanitary facilities will "not" be available at the job site. Contractor shall be responsible for the provision and maintenance of portable toilets.
- B. The Contractor, on a daily basis, shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Agreement. At completion of the Work, the Contractor shall remove the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials and shall then thoroughly clean the premises and the site to the Division's satisfaction.
- C. Materials or equipment shall be delivered to the project in the manufacturer's original sealed, labeled containers and shall be adequately protected against moisture, dust, tampering or damage from improper handling or storage. Materials shall not be delivered to the site before they are needed.
- D. Storage of materials and construction equipment shall be coordinated with the Division.

**Task Order:**

The Contractor shall be required to provide On-Call Equipment Replacement, Repair, and Installation Services for any number of the activities listed under the Scope of Work upon the request of the Division. When a service is identified, the Division shall provide, at a minimum, a detailed scope of work and/or drawings defining work required. Each project will be individually described in a "Task Order". The Task Order will describe the scope of work, the duration of the project with the date of Substantial Completion and if there are liquidated damages for not meeting the date of substantial completion. The date of Substantial Completion is the date when the space can be occupied or the Work used/operated and is turned over to the User Agency. Final completion is the date when the project is totally complete, the punch list work complete and the Contractor's final pay application/invoice is approved. The terms and conditions of the Contractor's Price Agreement will apply to all Task Orders.

Upon receiving the City's Task Order, the Contractor shall promptly visit the site and compare the Division's scope of work and/or drawings to the existing conditions and provide all services called for in addition to the requirements set forth in this Price Agreement. The Contractor will be required to provide a written quote (based upon the rates submitted in the Bid Form) sub-contractors list (including subcontractor's CID licenses) and cost summary to include the work to be performed, sub-contractors costs and the amount of time required for the completion of the project and submit to the Division at no cost to the Division. Project schedules, negotiated price, and completion dates shall be determined on a project-by-project basis and dependent upon the urgency of that task.

If any equipment or system cannot be economically repaired or has reached the end of its life cycle, the Contractor shall justify with costs and other information they need for replacement. If replacement is recommended, the Contractor will provide written justification for system and/or the model, size, and type of unit recommended along with any applicable efficiency data. The Division's standards will be discussed and taken into consideration when proposing replacement units or systems. Any replacement unit shall be reviewed and approved by the requesting entity.

**Change Orders:**

Any change orders to the project scope will require an additional Task Order with backup materials and labor costs and shall be substantiated that there was no way of knowing the additional services were needed when the original quote was provided. Change orders shall be managed closely by the Division. Preventative measures shall be taken by both the contractor and the Division prior to issuing the Notice to

Proceed. Such measures may include, but are not limited to, soil tests (soil boring); clarification of ambiguity in the project plan, the scope of work, the Task Order, the drawings, etc.; the project scope should be completely defined and agreed upon before any work begins.

**Other Construction Related Terms and Conditions:**

**Mediation:**

Any controversy or claim arising between the parties shall be settled by mediation if the parties cannot reach a mutually agreeable solution. The parties shall endeavor to resolve their disagreement by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the procedures of the New Mexico Public Works Mediation Act (NMSA §13-4C-1 et seq.)

**Inspection of Work:**

If a Purchase Order is issued for the purchase of services, the following terms shall apply when applicable:

- A. Services include services performed, workmanship, and material furnished or utilized in the performance of services.
- B. The Contractor shall provide and maintain an inspection system acceptable to the Division covering the services under the Purchase Order. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Division during the term of performance of the Work and for as long thereafter as required.
- C. The Division has the right to inspect and test all services contemplated to the extent practicable at all times and places during the term of the Project. The Division shall perform inspections and tests in a manner that will not unduly delay or interfere with the Contractor's performance.
- D. If the Division performs inspections or tests on the premises of the Contractor or a subcontractor, the Contractor shall furnish, and shall require subcontractors to furnish, at no increase in Purchase Order price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.
- E. If any part of the services does not conform with the requirements, the Division may require the Contractor to re-perform the services in conformity with the requirements at no increase in Purchase Order amount. When the defects in services cannot be corrected by re-performance, the Division may:
  - (1) require the Contractor to take necessary action(s) to ensure that future performance conforms to the requirements; and
  - (2) reduce the Purchase Order price to reflect the reduced value of the services performed.
- F. If the Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements, the Division may:
  - (1) by Agreement or otherwise, perform the services and charge to the Contractor any cost incurred by the Division that is directly related to the performance of such service; or
  - (2) cancel the Purchase Order for default.

THE PROVISIONS OF THIS ARTICLE ARE NOT EXCLUSIVE AND DO NOT WAIVE THE REQUESTING ENTITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THE PURCHASE ORDER/PRICE AGREEMENT.

**Suspension, Delay or Interruption of Work:**

The Division may, without cause, order the Contractor, in writing, to suspend, delay or interrupt the Work in whole or in part for such period as the Division may determine. Upon receipt of such notice, Contractor shall leave the jobsite and any equipment in a safe condition prior to departing. Contractor must

assert rights to additional compensation within thirty (30) days after suspension of work is lifted and return to work is authorized.

If at any time there is a delay in the critical path of the Work due to postponement, due to the Contractor's efforts to justify an extension of the time or an increase in the Agreement Price beyond the deadlines or due to the Contractor's refusal to proceed with any of the approved Work, such delay and any Contractor costs resulting from it shall not serve as the basis for the extension of the Time for Completion or Agreement Completion Date or for an increase in the Contract Price.

**Permits and Fees:**

- A. IF APPLICABLE- The Contractor shall secure and pay for the Building Permit and other permits and governmental fees, licenses and inspections and Certificate of Occupancy necessary for proper execution and completion of the Work. Changes or modifications to the Work shall include all requirements of this paragraph.
- B. The Contractor shall comply with and give notices required by laws, ordinances, rules, regulations, and lawful orders of public authorities applicable to performance of the Work.
- C. IF APPLICABLE- Certificates of Inspection, use and occupancy will be delivered to the Division upon completion of the Work in sufficient time for occupation of the facility in accordance with the approved schedule for the Work. Contractor shall deliver a photocopy of the Building Permit to the Design Professional and requesting entity as soon as it is obtained.

**Schedule, Progress Meetings and Reports:**

- A. The Contractor, promptly after being awarded a Project and before the first payment application, shall prepare and submit for the Division's information a Critical Path Construction Schedule for the Work that indicates the intended start and completion of the various construction activities, which shall be implemented and adhered to by the Contractor, Subcontractors, material suppliers and equipment suppliers. At a minimum, the schedule shall be a Gantt type schedule and shall not exceed time limits allowed by the Task Order or Notice to Proceed with no fewer work breakdown events than line items of the Schedule of Values.
- B. The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Division.
- C. Progress meetings shall be scheduled on a regular basis. The purpose will be to review the upcoming activities, any open issues and current progress. The Contractor shall keep any meeting minutes as needed. Progress schedules shall be updated regularly. A three-week look-ahead schedule should be presented at every project meeting. A new schedule shall be presented with any change orders.
- D. The Contractor shall prepare a daily report each day the Contractor, subcontractors or any other entity are on the project. The daily reports shall be maintained at the site and be well organized. The Division may request copies at any time. The reports may include:
  - 1. report date and who prepared the report;
  - 2. weather conditions - low temp, visibility, humidity, wind, wind direction, cloud conditions, precipitation amount, other notes;
  - 3. companies present by name and their number of workers, work location, total man hours that day for each company;
  - 4. equipment-type, source, units of work done, location of work, hour meter reading;
  - 5. material brought to site-description, units, quantity, quality, location, time;
  - 6. visitors to site -name, company, time;
  - 7. safety concerns-company, contact, noticed by, work activity, safety issue, requirement, outcome: and
  - 8. quality assurance and control -company, description of issue, specification section, issued by.

**Close-out Requirements:**

The Contractor shall submit to the Division a separate and detailed Closeout Schedule indicating the date of Final Completion and all work to be completed before Final Completion including Close-Out requirements. The punch list of incomplete or inadequate work shall also be submitted when the work is substantially complete. Failure to include any item on the punch list does not alter the responsibility of the Contractor to complete all work in accordance with the Contract Documents.

Before final completion can be achieved, all Work must be complete and accepted including the following as applicable:

**Work associated with Punch List(s);**

- a. testing, balance or performance operations complete and in agreement that associated work is in compliance with the Contract Documents;
- b. one hard copy and one electronic copy in .pdf format of final approved test, balance or performance report(s) complete with directory of contents submitted to the Division;
- c. as-Built drawings delivered in AutoCAD or electronic format;
- d. written certification signed by the Division of delivery and stocking of extra material, equipment or components required by the Purchase Order at a location established by the Division;
- e. delivery of all warranties required by the Work;
- f. all keys, passes, codes, software or other methods or components of control or security which have been correctly and adequately accounted for and closed-out;
- g. Start-up of any new equipment and training of staff on all new equipment;
- h. Operations and Maintenance Manuals;
- i. a certified statement of Release of Liens (American Institute of Architects AIA Document G706A or approved form) and Consent of Surety.

**Warranty:**

The Contractor shall warrant its work (non-roofing and equipment), for materials and for workmanship furnished and performed under this Price Agreement for a period of one (1) year minimum from the date of acceptance or Substantial Completion. The Contractor shall warrant its work for repairs or restoration of existing systems and work for ninety (90) days from the date of acceptance or Substantial Completion. It is understood that some equipment is far beyond its normal life and a warranty cannot be extended/supplied. Contractor must pass on to the Division warranties of replaced roofs and equipment offered by the manufacturer.

**Bid Information:**

Hourly rates are requested for the three (3) levels of personnel.

**Superintendent:** a person with supervisory experience who maintains control of the work and work site. This person may or may not actually perform work on the project.

**Journeyman or Experienced Worker:** a person licensed by the State for work required and being performed or a person with many years of experience with a high rate of pay.

**Laborer:** a person with minimal experience, performing minor forms of labor.

The City of Santa Fe reserves the right to award this Price Agreement to multiple vendors. Bidders must include pricing for all items starting from item 001 through item 016 in order to allow for accurate comparisons. If a Bidder fails to include one or more of those items his Bid may be rejected.

## 2. Compensation

A. The total amount payable to the Contractor under this Contract, excluding gross receipts tax and expenses, shall not exceed two million dollars (\$2,163,750.00) per fiscal year, including NMGRT, for a total of four million dollars (\$8,655,000.00) for the four (4) year term of this Contract. The applicable gross receipts tax shall be shown as a separate amount on each billing or request for payment made under the contract, consistent with NMSA 1978, Section 13-1-108.

B. Payment in future fiscal years is subject to availability of funds pursuant to the Appropriations Paragraph set forth below and to any negotiations between the parties from year to year pursuant to Paragraph 1, Scope of Work, and to approval by the City. All invoices **MUST BE** received by the City no later than fifteen (15) days after the termination of the Fiscal Year in which the services were delivered. Invoices received after such date **WILL NOT BE PAID**.

C. Contractor must submit a detailed statement accounting for all services performed and expenses incurred. If the City finds that the services are not acceptable, within thirty days after the date of receipt of written notice from the Contractor that payment is requested, it shall provide the Contractor a letter of exception explaining the defect or objection to the services, and outlining steps the Contractor may take to provide remedial action. Upon certification by the City that the services have been received and accepted, payment shall be tendered to the Contractor within twenty-one days after the date of acceptance. If payment is made by mail, the payment shall be deemed tendered on the date it is postmarked.

D. If the City fails to pay the contractor within twenty-one days after receipt of an undisputed request for payment, the City shall pay interest to the contractor beginning on the twenty-second day after payment was due, computed at one and one-half percent of the undisputed amount per month or fraction of a month until the payment is issued. If the City receives an improperly completed invoice, the City shall notify the sender of the invoice within seven days of receipt in what way the invoice is improperly completed, and the owner has no further duty to pay on the improperly completed invoice until it is resubmitted as complete.

E. **Notice of Extended Payment Provision for Grant Funded Contracts.** This contract allows the City to make payment within 45 days after submission of an undisputed request for payment for contracts funded by grant money consistent with NMSA 1978, sec. 57-28-5(B).

## 3. Term

THIS CONTRACT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE CITY. This contract shall terminate **four (4) years from the date of final signature**.

## 4. Termination

A. Grounds. The City may terminate this Contract for convenience or cause. For contracts within their authority, the City Manager or their designee is authorized to provide the notice of termination, otherwise such notice of termination shall be provided by the Mayor or their designee as authorized by the Governing Body. The Contractor may only terminate this Contract based upon the City's uncured, material breach of this Contract.

B. Notice; City Opportunity to Cure.

1) Except as otherwise provided in Paragraphs 7.A and 17, the City shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

2) Contractor shall give City written notice of termination at least thirty (30) days prior to the intended date of termination, which notice shall (i) identify all the City's material breaches of this Contract upon which the termination is based and (ii) state what the City must do to cure such material breaches. Contractor's notice of termination shall only be effective (i) if the City does not cure all material breaches within the thirty (30) day notice period or (ii) in the case of material breaches that cannot be cured within thirty (30) days, the City does not, within the thirty (30) day notice period, notify the Contractor of its intent to cure and begin with due diligence to cure the material breach.

3) Notwithstanding the foregoing, this Contract may be terminated immediately upon written notice to the Contractor (i) if the Contractor becomes unable to perform the services contracted for, as determined by the City; (ii) if, during the term of this Contract, the Contractor is suspended or debarred by the City; or (iii) the Contract is terminated pursuant to Paragraph 5, "Appropriations," of this Contract.

C. Liability. Except as otherwise expressly allowed or provided under this Contract, the City's sole liability upon termination shall be to pay for acceptable work performed prior to the Contractor's receipt or issuance of a notice of termination; provided, however, that a notice of termination shall not nullify or otherwise affect either party's liability for pre-termination defaults under or breaches of this Contract. The Contractor shall submit an invoice for such work within thirty (30) days of receiving or sending the notice of termination. THIS PROVISION IS NOT EXCLUSIVE AND DOES NOT WAIVE THE CITY'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY THE CONTRACTOR'S DEFAULT/BREACH OF THIS CONTRACT.

## **5. Appropriations**

The terms of this Contract are contingent upon sufficient appropriations and authorization being made by the Governing Body for the performance of this Contract. If sufficient appropriations and authorization are not made by the Governing Body, this Contract shall terminate immediately upon written notice being given by the City to the Contractor. The City's decision as to whether sufficient appropriations are available shall be accepted by the Contractor and shall be final. If the City proposes an amendment to the Contract to unilaterally reduce funding, the Contractor shall have the option to terminate the Contract or to agree to the reduced funding, within thirty (30) days of receipt of the proposed amendment.

## **6. Status of Contractor**

The Contractor and its agents and employees are independent contractors performing construction services for the City and are not employees of the City. The Contractor and its agents and employees shall not accrue leave, retirement, insurance, bonding, use of City vehicles, or any other benefits afforded to employees of the City as a result of this Contract. The Contractor acknowledges that all sums received hereunder are reportable by the Contractor for tax purposes, including without limitation, self-employment and business income tax. The Contractor agrees not to purport to bind the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

## **7. Construction Contract Performance and Payment Bond**

A. When a construction Task Order is approved in excess of twenty-five thousand dollars (\$25,000), the following bonds or security shall be delivered to the City and shall become binding on the parties upon the approval of the Task Order. If the Contractor fails to deliver the required performance and payment bonds, the Contractor's bid shall be rejected, its bid security shall be enforced to the extent of actual

damages. Approval of a task order shall be made pursuant to the Procurement Code in the following manner:

- (1) a performance bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order; and
- (2) a payment bond satisfactory to the City, executed by a surety company authorized to do business in this state and said surety to be approved in federal circular 570 as published by the United States treasury department or the state board of finance or the local governing authority, in an amount equal to one hundred percent of the price specified in the Task Order, for the protection of all persons supplying labor and material to the contractor or its subcontractors for the performance of the work provided for in the Task Order.

B. A subcontractor shall provide a performance and payment bond on a public works building project if the subcontractor's contract for work to be performed on a project is one hundred twenty-five thousand dollars (\$125,000) or more.

#### **8. Assignment**

The Contractor shall not assign or transfer any interest in this Contract or assign any claims for money due or to become due under this Contract without the prior written approval of the City.

#### **9. Subcontracting**

The Contractor shall not subcontract any portion of the services to be performed under this Contract without the prior written approval of the City. No such subcontract shall relieve the primary Contractor from its obligations and liabilities under this Contract, nor shall any subcontract obligate direct payment from the City.

#### **10. Release**

Final payment of the amounts due under this Contract shall operate as a release of the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Contract.

#### **11. Confidentiality**

Any confidential information provided to or developed by the Contractor in the performance of this Contract shall be kept confidential and shall not be made available to any individual or organization by the Contractor without the prior written approval of the City.

#### **12. Product of Service -- Copyright**

All materials developed or acquired by the Contractor under this Contract shall become the property of the City and shall be delivered to the City no later than the termination date of this Contract. Nothing developed or produced, in whole or in part, by the Contractor under this Contract shall be the subject of an application for copyright or other claim of ownership by or on behalf of the Contractor.

#### **13. Conflict of Interest; Governmental Conduct Act**

A. The Contractor represents and warrants that it presently has no interest and, during the term of this Contract, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Contract.

B. The Contractor further represents and warrants that it has complied with, and, during the term of this Contract, will continue to comply with, and that this Contract complies with all applicable provisions of the Governmental Conduct Act, Chapter 10, Article 16 NMSA 1978.

C. Contractor's representations and warranties in Paragraphs A and B of this Article 12 are material representations of fact upon which the City relied when this Contract was entered into by the parties. Contractor shall provide immediate written notice to the City if, at any time during the term of this Contract, Contractor learns that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances. If it is later determined that Contractor's representations and warranties in Paragraphs A and B of this Article 12 were erroneous on the effective date of this Contract or have become erroneous by reason of new or changed circumstances, in addition to other remedies available to the City and notwithstanding anything in the Contract to the contrary, the City may immediately terminate the Contract.

D. All terms defined in the Governmental Conduct Act have the same meaning in this section.

#### **14. Amendment**

A. This Contract shall not be altered, changed or amended except by instrument in writing executed by the parties hereto and all other required signatories.

B. If the City proposes an amendment to the Contract to unilaterally reduce funding due to budget or other considerations, the Contractor shall, within thirty (30) days of receipt of the proposed Amendment, have the option to terminate the Contract, pursuant to the termination provisions as set forth in Article 4 herein, or to agree to the reduced funding.

#### **15. Change Orders**

A. Changes. The Contractor may only make changes or revisions within the Task Order as defined by Article 1 and/or Exhibit 1 after receipt of written approval by the Project Manager, P. Fred Heerbrandt, P.E., or his/her designee. Such change may only be made to Tasks or Sub-Task as defined in the Scope of Work. Under no circumstance shall such change affect the:

- 1) Deliverable requirements, as outlined in the Task Order;
- 2) Due date of any Deliverable, as outlined in the Task Order;
- 3) Compensation of any Deliverable, as outlined in the Task Order;
- 4) Contract compensation, as outlined in Article 2; or
- 5) Contract termination, as outlined in Article 4.

B. Change Request Process. In the event that circumstances warrant a change to accomplish the Task Order as described above, a Change Request shall be submitted that meets the following criteria:

- 1) The Contractor shall draft a written Change Request for review and approval by the Project Manager to include:
  - (a) the name of the person requesting the change;
  - (b) a summary of the required change;
  - (c) the start date for the change;
  - (d) the reason and necessity for change;
  - (e) the elements to be altered; and

- (f) the impact of the change.
2. The Project Manager shall provide a written decision on the Change Request to the Contractor within a maximum of ten (10) Business Days of receipt of the Change Request. All decisions made by the Project Manager are final. Change Requests, once approved, become a part of the Task Order, and become binding as a part of the original Task Order.

#### **16. Merger**

This Contract incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written contract.

All terms and conditions of the **ITB #25159 – On-Call Equipment Replacement Construction Services**, and the Contractor’s response to such document(s) are incorporated herein by reference and is included in the order of precedence.

No prior Agreement or understanding, oral or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Contract.

#### **17. Penalties for violation of law**

NMSA 1978, sections 13-1-28 through 13-1-199, imposes civil and criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for illegal bribes, gratuities and kickbacks.

#### **18. Equal Opportunity Compliance**

The Contractor agrees to abide by all federal and state laws and rules and regulations, and Santa Fe City Code, pertaining to equal employment opportunity. In accordance with all such laws of the State of New Mexico, the Contractor assures that no person in the United States shall, on the grounds of race, religion, color, national origin, ancestry, sex, age, physical or mental handicap, or serious medical condition, spousal affiliation, sexual orientation or gender identity, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed under this Contract. If Contractor is found not to be in compliance with these requirements during the life of this Contract, Contractor agrees to take appropriate steps to correct these deficiencies.

#### **19. Applicable Law**

The laws of the State of New Mexico shall govern this Contract, without giving effect to its choice of law provisions. Venue shall be proper only in a New Mexico court of competent jurisdiction in accordance with NMSA 1978, section 38-3-2. By execution of this Contract, Contractor acknowledges and agrees to the jurisdiction of the courts of the State of New Mexico over any and all lawsuits arising under or out of any term of this Contract.

#### **20. Workers Compensation**

The Contractor agrees to comply with state laws and rules applicable to workers compensation benefits for its employees. If the Contractor fails to comply with the Workers Compensation Act and applicable rules when required to do so, this Contract may be terminated by the City.

#### **21. Other Insurance**

If the services contemplated under this Contract will be performed on or in City facilities or property, Contractor shall maintain in force during the entire term of this Contract, the following insurance coverage(s), naming the City as additional insured.

A. **Commercial General Liability** insurance shall be written on an occurrence basis and be a broad as ISO Form CG 00 01 with limits not less than \$2,000,000 per occurrence and \$2,000,000 in the aggregate for claims against bodily injury, personal and advertising injury, and property damage. Said policy shall include broad form Contractual Liability coverage and be endorsed to name the City of Santa Fe their officials, officers, employees, and agents as additional insureds.

B. **Broader Coverage and Limits.** The insurance requirements under this Contract shall be the greater of (1) the minimum coverage and limits specified in this Contract, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured. It is agreed that these insurance requirements shall not in any way act to reduce coverage that is broader or that includes higher limits than the minimums required herein. No representation is made that the minimum insurance requirements of this Contract are sufficient to cover the obligations of Contractor hereunder.

C. Contractor shall maintain the above insurance for the term of this Contract and name the City as an additional insured and provide for 30 days cancellation notice on any Certificate of Insurance form furnished by Contractor. Such certificate shall also specifically state the coverage provided under the policy is primary over any other valid and collectible insurance and provide a waiver of subrogation.

## **22. Records and Financial Audit**

The Contractor shall maintain detailed time and expenditure records that indicate the date; time, nature and cost of services rendered during the Contract's term and effect and retain them for a period of three (3) years from the date of final payment under this Contract. The records shall be subject to inspection by the City. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive or illegal payments

## **23. Indemnification**

The Contractor shall defend, indemnify and hold harmless the City from all actions, proceeding, claims, demands, costs, damages, attorneys' fees and all other liabilities and expenses of any kind from any source which may arise out of the performance of this Contract, caused by the negligent act or failure to act of the Contractor, its officers, employees, servants, subcontractors or agents, or if caused by the actions of any client of the Contractor resulting in injury or damage to persons or property during the time when the Contractor or any officer, agent, employee, servant or subcontractor thereof has or is performing services pursuant to this Contract. In the event that any action, suit or proceeding related to the services performed by the Contractor or any officer, agent, employee, servant or subcontractor under this Contract is brought against the Contractor, the Contractor shall, as soon as practicable but no later than two (2) days after it receives notice thereof, notify the legal counsel of the City.

## **24. New Mexico Tort Claims Act**

Any liability incurred by the City of Santa Fe in connection with this Contract is subject to the immunities and limitations of the New Mexico Tort Claims Act, Section 41-4-1, et. seq. NMSA 1978, as amended. The City and its "public employees" as defined in the New Mexico Tort Claims Act, do not waive sovereign immunity, do

not waive any defense and do not waive any limitation of liability pursuant to law. No provision in this Contract modifies or waives any provision of the New Mexico Tort Claims Act.

**25. Invalid Term or Condition**

If any term or condition of this Contract shall be held invalid or unenforceable, the remainder of this Contract shall not be affected and shall be valid and enforceable.

**26. Enforcement of Contract**

A party's failure to require strict performance of any provision of this Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision. No waiver by a party of any of its rights under this Contract shall be effective unless express and in writing, and no effective waiver by a party of any of its rights shall be effective to waive any other rights.

**27. Notices**

Any notice required to be given to either party by this Contract shall be in writing and shall be delivered in person, by courier service or by U.S. mail, either first class or certified, return receipt requested, postage prepaid, as follows:

To the City: P. Fred Heerbrandt, P.E.  
[pfheerbrandt@santafenm.gov](mailto:pfheerbrandt@santafenm.gov)  
73 Paseo Real  
Santa Fe, NM 87507

To the Contractor:  
Raymond Zamora  
AnchorBuilt, Inc.  
104 Sin Nombre Court, NE  
Albuquerque, NM 87113

**28. Authority**

If Contractor is other than a natural person, the individual(s) signing this Contract on behalf of Contractor represents and warrants that he or she has the power and authority to bind Contractor, and that no further action, resolution, or approval from Contractor is necessary to enter into a binding contract.

**29. Progress Payments**

Based upon Application for Payment submitted to the City by the Contractor and Certificates for Payment issued by the City, the City shall make progress payments on account of the Contract sum to the Contractor as provided in the Contract documents for the period ending the last day of the month as follows:

Not later than twenty-one (21) days following the end of the period covered by the Application for Payment, one hundred percent (100%) of the portion of the Contract Sum properly allocable to labor, materials, and equipment incorporated in the work and one hundred percent (100%) of the portion of the Contract sum properly allocable to materials and equipment suitably stored at the site or some other location agreed upon in writing for the period covered by the Application for Payment, less the aggregate of previous payments made by the City; and upon substantial completion of the entire work, a sum sufficient to increase the total payments to

one hundred percent (100%) of the Contract sum, less such amounts as the City shall determine for all incomplete work and unsettled claims as provided in the Contract documents.

### **30. Final Payment**

Final payment, constituting the entire unpaid balance of the Task Order sum, unless it is a disputed payment, shall be paid by the City to the Contractor within twenty-one (21) calendar days, after all deficiencies to the Contract document that were noted during the Substantial Completion Inspection and listed on the attachment to the Certificate of Substantial Completion have been corrected, and provided the Task Order has been fully performed and a final Certificate for Payment has been issued by the City. In addition, the Contractor shall provide to the City a certified statement of Release of Lien (AIA Document G706A or approved form), Consent of Surety, Warranty from Prime Contractor, Warranties from Suppliers and Manufacturers, training sessions, equipment/operating manuals, and as-built drawings.

### **31. General and Special Provisions**

A. Terms used in this Contract which are defined in the Conditions of the Contract shall have the meanings designated in those Conditions.

B. An enumeration of the Contractor's General Comprehensive Liability Insurance requirements appears in the General Conditions of the Contract for construction. Insurance requirements are also described in the Instructions to the Bidder section of the Project Manual. Contractor shall maintain adequate insurance in at least the maximum amounts, which the City could be liable under the New Mexico Tort Claims Act and shall provide proof of such insurance coverage to the City. It is the sole responsibility of the Contractor to comply with the law.

C. This Contract shall not become effective until: (1) approved by the Governing Body; and (2) signed by all parties required to sign this Contract.

D. The Contractor shall maintain detailed time records which indicate the date, time and nature of services rendered. These records shall be subject to inspection by the City, the Department of Finance and Administration and the State Auditor. The City shall have the right to audit billings both before and after payment. Payment under this Contract shall not foreclose the right of the City to recover excessive illegal payments.

E. The Contractor warrants that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under this Contract.

F. The Contractor hereby warrants that the Contractor complies with the Americans with Disabilities Act, 29 CFR 1630.

G. Gender, Singular/Plural. Words of any gender used in this Contract shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

H. Captions and Section Headings. The captions and section headings contained in this Contract are for convenience of reference only, and in no way limit, define, or enlarge the terms, scope, and conditions of this Contract.

I. Certificates and Documents Incorporated. All certificates and documentation required by the provisions of the Contract shall be attached to this Contract at the time of execution and are hereby incorporated by reference as though set forth in full in this Contract to the extent they are consistent with its conditions and terms.

J. Separability. If any clause or provision of this Contract is illegal, invalid or unenforceable under present or future laws effective during the term of this Contract, then and in that event, it is the intention of the parties hereto that the remainder of this Contract shall not be affected thereby.

K. Words and Phrases. Words, phrases, and abbreviations, which have well-known technical or trade meanings used in the Contract documents shall be used according to such recognized meaning. In the event of a conflict, the more stringent meaning shall govern.

L. Relationship of Contract Documents. The Contract Documents are complementary, and any requirement of one Contract Document shall be as binding as if required by all.

M. Pursuant to NMSA 1978, section 13-1-191, reference is hereby made to the Criminal Laws of New Mexico (including NMSA 1978, sections 30-14-1, 30-24-2, and 30-41-1 through 30-41-3) which prohibit bribes, kickbacks, and gratuities, violation of which constitutes a felony. Further, the Procurement Code (NMSA 1978, sections 13-1-28 through 13-1-199) imposes civil and criminal penalties for its violation.

N. Pursuant to NMSA 1978, section 13-4-11. Reference is hereby made to the Minimum Wage on Public Works; weekly payments; posting wage scale; withholding funds.

IN WITNESS WHEREOF, the Parties have executed this Contract as of the date of the signature by the required approval authorities below.

CITY OF SANTA FE:

CONTRACTOR:

\_\_\_\_\_  
Alan Webber, Mayor

*Raymond Zamora*  
\_\_\_\_\_  
Raymond Zamora, President

DATE: \_\_\_\_\_

DATE: 07/10/2025

NMBTIN#: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
ANDRÉA SALAZAR, CITY CLERK

CITY ATTORNEY’S OFFICE:

*Marcos Martinez*  
Marcos Martinez (Jul 10, 2025 16:46 MDT)  
\_\_\_\_\_  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

*Emily K. Oster*  
\_\_\_\_\_  
EMILY OSTER, FINANCE DIRECTOR

EXHIBIT A

Item	Approx. Qty.	UOM	Article and Description	Unit Price	Comments
			<b>Wage Rates for Projects Under \$60,000</b>		
1	1	HR	Superintendent - Regular Hourly Rate	\$ 85.00	
2	1	HR	Superintendant - Overtime Hourly Rate	\$ 85.00	
3	1	HR	Journeyman or Experienced Worker - Regular Hourly Rate	\$ 65.00	
4	1	HR	Journeyman or Experienced Worker - Overtime Hourly Rate	\$ 97.50	
5	1	HR	Laborer - Regular Hourly Rate	\$ 45.00	
6	1	HR	Laborer - Overtime Hourly Rate	\$ 67.50	
			<b>Wage Rates for Projects Over \$60,000</b>		
7	1	HR	Superintendent - Regular Hourly Rate	85.00	
8	1	HR	Superintendant - Overtime Hourly Rate	\$ 85.00	
9	1	HR	Journeyman or Experienced Worker - Regular Hourly Rate	\$ 75.00	
10	1	HR	Journeyman or Experienced Worker - Overtime Hourly Rate	\$ 112.50	
11	1	HR	Laborer - Regular Hourly Rate	\$ 48.00	
12	1	HR	Laborer - Overtime Hourly Rate	\$ 72.00	
			<b>Misc. Rates</b>		
13	1	Disc.	Discount off all materials. Enter zero if no discount is offered	0	
14	1	Daily	Temporary Site office trailer, rental rate	\$ 16.50	
15	1	Daily	Temporary fencing, rental rate	\$ 16.75	
16	1	Dialy	Sanitary/toilet facilities, rental rates	\$ 6.75	

**From:** [DUTTON-LEYDA, TRAVIS K.](#)  
**To:** [GABALDON, RACHEL D.](#); [HEERBRANDT, PAUL F.](#); [MACALLISTER, LINDA M. \(Contractor\)](#)  
**Subject:** Fw: Contract Review Request Form - Denise Gabaldon  
**Date:** Thursday, December 12, 2024 10:54:22 AM

---

Fred, please see below. Do you want to argue this or do you want to move forward with a construction ITB?

Thank you.

Regards,

Travis Dutton-Leyda  
Chief Procurement Officer  
City of Santa Fe  
200 Lincoln Avenue  
Santa Fe, NM 87501  
505-629-8351  
[tkduttonleyda@santafenm.gov](mailto:tkduttonleyda@santafenm.gov)

<https://santafenm.gov/finance-2/purchasing-1>

Internal Link: [https://intranet.santafenm.gov/finance\\_1](https://intranet.santafenm.gov/finance_1)



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**From:** MARTINEZ, MARCOS D. <mdmartinez@santafenm.gov>  
**Sent:** Thursday, December 12, 2024 10:47 AM  
**To:** DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>  
**Cc:** GABALDON, RACHEL D. <rdgabaldon@santafenm.gov>  
**Subject:** Re: Contract Review Request Form - Denise Gabaldon

**Dear Travis:**

**I point to the scope of work:**

The Contractor shall perform On-Call Equipment Replacement, **Repair**, and **Installation** services to **provide miscellaneous repairs, upgrades, improvements, replacements, new construction services** and materials for facilities and processes throughout the Paseo Real Wastewater Reclamation Facility, the Sanitary Sewer Collection System, and other remote locations.

The Division shall provide, at a minimum, a detailed scope of work and/or drawings, generally **defining the construction work** required for the project. The Contractor shall be responsible for verifications of all existing conditions, measurements, and dimensions for completing the work.

Contractors shall have the technical staff to perform diagnostic services and provide the correct agencies

**[REDACTED]**

with professionally prepared, stamped drawings in order to obtain installation or construction permits when needed. The Contractor is responsible for obtaining all required licenses, fees and permits required to perform the work. Contractor shall be responsible for any applicable Local, County, State and Federal requirements and permits including, but not limited to, the City of Santa Fe's Stormwater Pollution Prevention Program and Stormwater Best Management Practices.

**Further, the definition of construction is quite broad in the procurement code:**

A. "Construction" means building, altering, repairing, installing or demolishing in the ordinary course of business any:

...

(6) sewage or water treatment facility, power generating plant, pump station, natural gas compressing station or similar facility;

(7) sewage, water, gas or other pipeline;

...

(10) water, oil or other storage tank;

...

(12) electrical wiring, plumbing or plumbing fixture, gas piping, gas appliances or water conditioners;

NMSA 1978, sec. 13-1-40.

The services in the scope of work clearly fall into the definition of construction under the code.

Marcos Martínez



This message may be subject to the attorney client privilege. 11-503 NMRA. If you have received this message in error, please delete it and alert the sender. 16-404(B) NMRA.

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**From:** DUTTON-LEYDA, TRAVIS K. <tkduttonleyda@santafenm.gov>

**Sent:** Thursday, December 12, 2024 10:30 AM

**To:** MARTINEZ, MARCOS D. <mdmartinez@santafenm.gov>

**Cc:** GABALDON, RACHEL D. <rdgabaldon@santafenm.gov>

**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Marcos, more and more I'm thinking this should be general services. The awarded vendors are just going to be replacing existing equipment and won't modify the buildings in any way.

Thank you.

Regards,

Travis Dutton-Leyda  
Chief Procurement Officer  
City of Santa Fe  
200 Lincoln Avenue  
Santa Fe, NM 87501

505-629-8351

[tkduttonleyda@santafenm.gov](mailto:tkduttonleyda@santafenm.gov)

<https://santafenm.gov/finance-2/purchasing-1>

Vendor Registration and Current Procurement Opportunities:

<https://cityofsantafenmvendors.munisselfservice.com/Vendors/VBids/SearchResults.aspx>

Internal Link: [https://intranet.santafenm.gov/finance\\_1](https://intranet.santafenm.gov/finance_1)



CITY OF SANTA FE  
**FINANCE**

More Procurement, less drama ~ John Blair

---

**From:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>

**Sent:** Tuesday, December 10, 2024 2:19 PM

**To:** DUTTON-LEYDA, TRAVIS K. <[tkduttonleyda@santafenm.gov](mailto:tkduttonleyda@santafenm.gov)>

**Subject:** FW: Contract Review Request Form - Denise Gabaldon

Forwarding this for review! Per Amy's email below, Marcos thinks this should be a construction contract.

Thanks,

Denise Gabaldon, CPO

---

**From:** GABALDON, RACHEL D.

**Sent:** Monday, December 9, 2024 2:19 PM

**To:** DUTTON-LEYDA, TRAVIS K. <[tkduttonleyda@santafenm.gov](mailto:tkduttonleyda@santafenm.gov)>

**Cc:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>

**Subject:** FW: Contract Review Request Form - Denise Gabaldon

Hey Travis,

One more thing to look at when you have a chance! This is the contract that will go with the On-Call Equipment replacement, repair and installation, it was originally determined to be General Services but Marcos is strongly leaning towards this being a construction contract. Can you review?

Thanks,

Denise Gabaldon, CPO

---

**From:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>

**Sent:** Wednesday, December 4, 2024 9:30 AM

**To:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>

**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Denise,

We do need Travis to look at this again for the determination. Marcos is still questioning the classification of "construction" (see his comments). Is there anyone who makes determinations while Travis is out? Or we may want to wait for him to return. Unless you heard back from him before he left last week.

Let's stay in touch and sorry I don't have a definitive answer.

Thanks!  
Amy

---

**From:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Sent:** Monday, December 2, 2024 10:38 AM  
**To:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Thank you!

Thanks,

Denise Gabaldon, CPO

---

**From:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Sent:** Monday, December 2, 2024 10:35 AM  
**To:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Good morning! I will follow up on this one too.

Thank you!

---

**From:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Sent:** Monday, November 25, 2024 2:08 PM  
**To:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Good afternoon Amy,

I have attached the ITB contract for On-call equipment replacements with answers/comments from the department.

About it being a construction contract, the department has specified that this contract is to buy and install the equipment so there are construction components but it is not solely for construction. Travis has not commented on it in Teams yet.

Thanks,

Denise Gabaldon, CPO

**From:** GABALDON, RACHEL D.  
**Sent:** Friday, November 22, 2024 3:55 PM  
**To:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Thank you, I will double check with Travis and let the department know!

Thanks,

Denise Gabaldon, CPO

**From:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Sent:** Friday, November 22, 2024 3:09 PM  
**To:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Hi Denise! I just got this back from Marcos and his biggest concern is this seems like a construction contract. Can you confirm with Travis this is correct and reply to the other comments as well.

Thank you,  
Amy

**From:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Sent:** Thursday, November 21, 2024 3:06 PM  
**To:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Hello Amy!

Any word from Marcos on this?

Thanks,

Denise Gabaldon, CPO

**From:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Sent:** Wednesday, November 20, 2024 8:21 AM  
**To:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

You too, thank you!

**From:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Sent:** Wednesday, November 20, 2024 8:20 AM

**To:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Awesome, thank you!

Have a good day,

Denise Gabaldon, CPO

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**From:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Sent:** Wednesday, November 20, 2024 8:19 AM  
**To:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Morning! It is with Marcos for review. Let me follow up with him today about it.

---

**From:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Sent:** Wednesday, November 20, 2024 8:10 AM  
**To:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Subject:** FW: Contract Review Request Form - Denise Gabaldon

Good morning Amy,

I hope all is well! Can I get an update on the review of this contract for an ITB when you get a chance?

Thanks,

Denise Gabaldon, CPO

---

**From:** GABALDON, RACHEL D.  
**Sent:** Thursday, November 14, 2024 9:20 AM  
**To:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Good morning Amy,

I have attached the dept's edits.

Have a good day

Denise Gabaldon, CPO

**From:** CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Sent:** Wednesday, November 13, 2024 11:49 AM  
**To:** GABALDON, RACHEL D. <[rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)>  
**Subject:** RE: Contract Review Request Form - Denise Gabaldon

Morning Denise!

In beginning the review of this ITB, I noticed the SOW includes much more than the scope of work.

Can you remove all of the details in the SOW that aren't actually part of it. For example, compensation, term, insurance requirements as all of these are already in the body of the template. If there are details in each of those paragraphs that the department wants to edit from the template, please make the redlines in the actual paragraphs, not in the SOW.

Also, all of the ITB language that talks about the bidder, etc, should not also be in the SOW.

Please update and reply here with an updated version of the ITB with the directives above in mind.

Thank you much,  
Amy

**From:** Jotform <[noreply@jotform.com](mailto:noreply@jotform.com)>  
**Sent:** Thursday, November 7, 2024 9:10 AM  
**To:** KENNY, JULIE C. <[jckenny@santafenm.gov](mailto:jckenny@santafenm.gov)>; MARTINEZ, MARCOS D. <[mdmartinez@santafenm.gov](mailto:mdmartinez@santafenm.gov)>; CAWTHON, AMY M. <[amcawthon@santafenm.gov](mailto:amcawthon@santafenm.gov)>  
**Subject:** Re: Contract Review Request Form - Denise Gabaldon

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



## Contract Review Request Form

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Vendor/Contractor Name ITB 25066 On-Call Equip Repair & Installation

Your Name Denise Gabaldon

Your Email [rdgabaldon@santafenm.gov](mailto:rdgabaldon@santafenm.gov)

Your Phone Number (505) 231-5003

City Department/Division Finance

If this is a contract to procure goods or services, what is the procurement method?

Invitation to Bid (ITB)

Upload Purchasing Determination and Exhibits mentioned in the Contract or Amendment.

[RE\\_On-Call Equipment Replacement, Repair, and Installation Services \(1\).PDF](#)  
[Horizons Of New Mexico List \(1\).pdf](#)

Is the Department proposing to use a City contract form, an external contract form, or is the Department requesting a custom contract or amendment?

City Contract Form

Please upload draft contract in Word. If this is an amendment, please also upload a pdf of the original approved contract and previous amendments if applicable.

[GS Contract On-Call Equip Replace DG 11 6 24\\_3202.docx](#)

The full name of the Vendor/Contractor's signatory. This will be added to the signature page.

Unknown

The Vendor/Contractor signatory's title.

Unknown

Are there special requests, or is this an emergency, such that a delay could harm the City's employees, the public, City property, or City finances?

Good morning, this is for an ITB so there is not any vendor information just yet. Thank you!

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You can [edit this submission](#) and [view all your submissions](#) easily.

Log # {Finance use <u>only</u> }:	
Journal # {Finance use <u>only</u> }:	

## City of Santa Fe, New Mexico BUDGET AMENDMENT RESOLUTION (BAR)

DEPARTMENT / DIVISION NAME Public Utilities/Wastewater				DATE 7/11/2025	
ITEM DESCRIPTION	ORG	OBJECT	PROJECT	INCREASE	DECREASE
<b>EXPENDITURES</b>				<i>{enter as <u>positive</u> #}</i>	<i>{enter as <u>negative</u> #}</i>
WW Capital Projects/WIP Construction	5000375	572970		\$ 2,163,750	
<b>REVENUES</b>				<i>{enter as <u>negative</u> #}</i>	<i>{enter as <u>positive</u> #}</i>
<b>JUSTIFICATION:</b> <i>(use additional page if needed)</i> --Attach supporting documentation/memo				\$ 2,163,750	\$ -
To increase account 572970 for Anchorbuilt. Please see memo for detail and please add <b>Anch 3260003</b> for posting of BAR (FY26)				<i>{Complete section below if BAR results in a net change to ANY Fund}</i>	
				Fund Balance	
				Fund(s) Affected	Increase/(Decrease)
				500	(2,163,750)
				<b>TOTAL:</b>	<b>(2,163,750)</b>
Linda MacAllister	7/11/2025	<i>{Use this form for Finance Committee/ City Council agenda items ONLY}</i>			
Prepared By <i>{print name}</i>	Date	<b>CITY COUNCIL APPROVAL</b>		Budget Officer	Date
		City Council			
Division Director Signature <i>{optional}</i>	Date	Approval Date		Finance Director <i>{≤ \$5,000}</i>	Date
		Agenda Item #:			
Department Director Signature	Date			City Manager <i>{≤ \$60,000}</i>	Date



## DESCRIPTIONS (Continued from Page 1)

that provides Additional Insured status to the Certificate Holder, only when there is a written contract or written agreement between the named insured and the certificate holder and with regard to work performed by or on behalf of the named insured. The General Liability and Automobile Liability policies contain a special endorsement with "Primary and Noncontributory" wording, when required by written contract. The General Liability, Automobile Liability, and Workers' Compensation policies provide a Blanket Waiver of Subrogation in favor of the same, when required by written contract. Aggregate limits apply per project. The General Liability, Automobile Liability, and Workers Compensation are in the underlying schedule of the Umbrella policy.

**Contractors' General Liability Extension Endorsement****1. ADDITIONAL INSUREDS**

- a. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization described in paragraphs **A.** through **H.** below whom a **Named Insured** is required to add as an additional insured on this **Coverage Part** under a written contract or written agreement, provided such contract or agreement:

(1) is currently in effect or becomes effective during the term of this **Coverage Part**; and

(2) was executed prior to:

(a) the **bodily injury** or **property damage**; or

(b) the offense that caused the **personal and advertising injury**,

for which such additional insured seeks coverage.

- b. However, subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:

(1) a higher limit of insurance than required by such contract or agreement; or

(2) coverage broader than required by such contract or agreement, and in no event broader than that described by the applicable paragraph **A.** through **H.** below.

Any coverage granted by this endorsement shall apply only to the extent permissible by law.

**A. Controlling Interest**

Any person or organization with a controlling interest in a **Named Insured**, but only with respect to such person or organization's liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of:

1. such person or organization's financial control of a **Named Insured**; or

2. premises such person or organization owns, maintains or controls while a **Named Insured** leases or occupies such premises;

provided that the coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**B. Co-owner of Insured Premises**

A co-owner of a premises co-owned by a **Named Insured** and covered under this insurance but only with respect to such co-owner's liability for **bodily injury**, **property damage** or **personal and advertising injury** as co-owner of such premises.

**C. Lessor of Equipment**

Any person or organization from whom a **Named Insured** leases equipment, but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** caused, in whole or in part, by the **Named Insured's** maintenance, operation or use of such equipment, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease.

**D. Lessor of Land**

Any person or organization from whom a **Named Insured** leases land but only with respect to liability for **bodily injury**, **property damage** or **personal and advertising injury** arising out of the ownership, maintenance or use of such land, provided that the **occurrence** giving rise to such **bodily injury**, **property damage** or the offense giving rise to such **personal and advertising injury** takes place prior to the termination of such lease. The

**Contractors' General Liability Extension Endorsement**

coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**E. Lessor of Premises**

An owner or lessor of premises leased to the **Named Insured**, or such owner or lessor's real estate manager, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of the ownership, maintenance or use of such part of the premises leased to the **Named Insured**, and provided that the **occurrence** giving rise to such **bodily injury or property damage**, or the offense giving rise to such **personal and advertising injury**, takes place prior to the termination of such lease. The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**F. Mortgagee, Assignee or Receiver**

A mortgagee, assignee or receiver of premises but only with respect to such mortgagee, assignee or receiver's liability for **bodily injury, property damage or personal and advertising injury** arising out of the **Named Insured's** ownership, maintenance, or use of a premises by a **Named Insured**.

The coverage granted by this paragraph does not apply to structural alterations, new construction or demolition operations performed by, on behalf of, or for such additional insured.

**G. State or Governmental Agency or Subdivision or Political Subdivisions – Permits**

A state or governmental agency or subdivision or political subdivision that has issued a permit or authorization but only with respect to such state or governmental agency or subdivision or political subdivision's liability for **bodily injury, property damage or personal and advertising injury** arising out of:

1. the following hazards in connection with premises a **Named Insured** owns, rents, or controls and to which this insurance applies:
  - a. the existence, maintenance, repair, construction, erection, or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoistaway openings, sidewalk vaults, street banners, or decorations and similar exposures; or
  - b. the construction, erection, or removal of elevators; or
  - c. the ownership, maintenance or use of any elevators covered by this insurance; or
2. the permitted or authorized operations performed by a **Named Insured** or on a **Named Insured's** behalf.

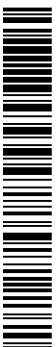
The coverage granted by this paragraph does not apply to:

- a. **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; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

With respect to this provision's requirement that additional insured status must be requested under a written contract or agreement, the Insurer will treat as a written contract any governmental permit that requires the **Named Insured** to add the governmental entity as an additional insured.

**H. Trade Show Event Lessor**

1. With respect to a **Named Insured's** participation in a trade show event as an exhibitor, presenter or displayer, any person or organization whom the **Named Insured** is required to include as an additional insured, but only with respect to such person or organization's liability for **bodily injury, property damage or personal and advertising injury** caused by:



**Contractors' General Liability Extension Endorsement**

- a. the **Named Insured's** acts or omissions; or
  - b. the acts or omissions of those acting on the **Named Insured's** behalf,
- in the performance of the **Named Insured's** ongoing operations at the trade show event premises during the trade show event.
2. The coverage granted by this paragraph does not apply to **bodily injury** or **property damage** included within the **products-completed operations hazard**.

**2. ADDITIONAL INSURED - PRIMARY AND NON-CONTRIBUTORY TO ADDITIONAL INSURED'S INSURANCE**

The **Other Insurance** Condition in the **COMMERCIAL GENERAL LIABILITY CONDITIONS** Section is amended to add the following paragraph:

If the **Named Insured** has agreed in writing in a contract or agreement that this insurance is primary and non-contributory relative to an additional insured's own insurance, then this insurance is primary, and the Insurer will not seek contribution from that other insurance. For the purpose of this Provision **2.**, the additional insured's own insurance means insurance on which the additional insured is a named insured. Otherwise, and notwithstanding anything to the contrary elsewhere in this Condition, the insurance provided to such person or organization is excess of any other insurance available to such person or organization.

**3. BODILY INJURY – EXPANDED DEFINITION**

Under **DEFINITIONS**, the definition of **bodily injury** is deleted and replaced by the following:

**Bodily injury** means physical injury, sickness or disease sustained by a person, including death, humiliation, shock, mental anguish or mental injury sustained by that person at any time which results as a consequence of the physical injury, sickness or disease.

**4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE**

Under **CONDITIONS**, the condition entitled **Duties in The Event of Occurrence, Offense, Claim or Suit** is amended to add the following provisions:

**A. BROAD KNOWLEDGE OF OCCURRENCE**

The **Named Insured** must give the Insurer or the Insurer's authorized representative notice of an **occurrence**, offense or **claim** only when the **occurrence**, offense or **claim** is known to a natural person **Named Insured**, to a partner, executive officer, manager or member of a **Named Insured**, or an **employee** designated by any of the above to give such notice.

**B. NOTICE OF OCCURRENCE**

The **Named Insured's** rights under this **Coverage Part** will not be prejudiced if the **Named Insured** fails to give the Insurer notice of an **occurrence**, offense or **claim** and that failure is solely due to the **Named Insured's** reasonable belief that the **bodily injury** or **property damage** is not covered under this **Coverage Part**. However, the **Named Insured** shall give written notice of such **occurrence**, offense or **claim** to the Insurer as soon as the **Named Insured** is aware that this insurance may apply to such **occurrence**, offense or **claim**.

**5. BROAD NAMED INSURED**

**WHO IS AN INSURED** is amended to delete its Paragraph **3.** in its entirety and replace it with the following:

3. Pursuant to the limitations described in Paragraph **4.** below, any organization in which a **Named Insured** has management control:
  - a. on the effective date of this **Coverage Part**; or

**Contractors' General Liability Extension Endorsement**

b. by reason of a **Named Insured** creating or acquiring the organization during the **policy period**,

qualifies as a **Named Insured**, provided that there is no other similar liability insurance, whether primary, contributory, excess, contingent or otherwise, which provides coverage to such organization, or which would have provided coverage but for the exhaustion of its limit, and without regard to whether its coverage is broader or narrower than that provided by this insurance.

But this **BROAD NAMED INSURED** provision does not apply to:

(a) any partnership, limited liability company or joint venture; or

(b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or

B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.

4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:

a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor

b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.

5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

**6. BROADENED LIABILITY COVERAGE FOR DAMAGE TO YOUR PRODUCT AND YOUR WORK**

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusions **k.** and **l.** and replace them with the following:

This insurance does not apply to:

**k. Damage to Your Product**

**Property damage to your product** arising out of it, or any part of it except when caused by or resulting from:

- (1) fire;
- (2) smoke;
- (3) collapse; or
- (4) explosion.

**l. Damage to Your Work**

**Property damage to your work** arising out of it, or any part of it and included in the **products-completed operations hazard**.

This exclusion does not apply:

- (1) If the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor; or

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**Contractors' General Liability Extension Endorsement**

(2) If the cause of loss to the damaged work arises as a result of:

- (a) fire;
- (b) smoke;
- (c) collapse; or
- (d) explosion.

**B.** The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, \$100,000 is the most the Insurer will pay under **Coverage A** for the sum of **damages** arising out of any one **occurrence** because of **property damage to your product** and **your work** that is caused by fire, smoke, collapse or explosion and is included within the **product-completed operations hazard**. This sublimit does not apply to **property damage to your work** if the damaged work, or the work out of which the damage arises, was performed on the **Named Insured's** behalf by a subcontractor.

**C.** This **Broadened Liability Coverage For Damage To Your Product And Your Work** Provision does not apply if an endorsement of the same name is attached to this policy.

## **7. CONTRACTUAL LIABILITY – RAILROADS**

With respect to operations performed within 50 feet of railroad property, the definition of **insured contract** is replaced by the following:

**Insured Contract** means:

- 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 to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner is not an **insured contract**;
- b. A sidetrack agreement;
- c. Any easement or license agreement;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to the **Named Insured's** business (including an indemnification of a municipality in connection with work performed for a municipality) under which the **Named Insured** assumes the tort liability of another party to pay for **bodily injury** or **property damage** to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph **f.** does not include that part of any contract or agreement:

- (1) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage;
- (2) Under which the **Insured**, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (1) above and supervisory, inspection, architectural or engineering activities.

## **8. ELECTRONIC DATA LIABILITY**

CNA74705XX (1-15)

Page 6 of 17

CONTINENTAL CASUALTY COMPANY

Insured Name: ANCHOR BUILT, INC.

Policy No: 6080684959

Endorsement No: 4

Effective Date: 03/10/2025

**Contractors' General Liability Extension Endorsement**

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion **p. Electronic Data** and replace it with the following:

This insurance does not apply to:

**p. Access Or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information, health information or any other type of nonpublic information; or
- (2) the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate **electronic data** that does not result from physical injury to tangible property.

However, unless Paragraph (1) above applies, this exclusion does not apply to **damages** because of **bodily injury**.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relation expenses or any other loss, cost or expense incurred by the **Named Insured** or others arising out of that which is described in Paragraph (1) or (2) above.

- B. The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to 5. above, \$100,000 is the most the Insurer will pay under **Coverage A** for all **damages** arising out of any one **occurrence** because of **property damage** that results from physical injury to tangible property and arises out of **electronic data**.

- C. The following definition is added to **DEFINITIONS**:

**Electronic data** means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software (including systems and applications software), hard or floppy disks, CD-ROMS, tapes, drives, cells, data processing devices or any other media which are used with electronically controlled equipment.

- D. For the purpose of the coverage provided by this **ELECTRONIC DATA LIABILITY** Provision, the definition of **property damage** in **DEFINITIONS** is replaced by the following:

**Property damage** means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it;
- b. Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the **occurrence** that caused it; or
- c. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate **electronic data**, resulting from physical injury to tangible property. All such loss of **electronic data** shall be deemed to occur at the time of the **occurrence** that caused it.

For the purposes of this insurance, **electronic data** is not tangible property.

- E. If Electronic Data Liability is provided at a higher limit by another endorsement attached to this policy, then the \$100,000 limit provided by this **ELECTRONIC DATA LIABILITY** Provision is part of, and not in addition to, that higher limit.

**9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES**

The estates, heirs, legal representatives and **spouses** of any natural person **Insured** shall also be insured under this policy; provided, however, coverage is afforded to such estates, heirs, legal representatives, and **spouses** only for



**Contractors' General Liability Extension Endorsement**

**claims** arising solely out of their capacity or status as such and, in the case of a **spouse**, where such **claim** seeks **damages** from marital community property, jointly held property or property transferred from such natural person **Insured** to such **spouse**. No coverage is provided for any act, error or omission of an estate, heir, legal representative, or **spouse** outside the scope of such person's capacity or status as such, provided however that the **spouse** of a natural person **Named Insured** and the **spouses** of members or partners of joint venture or partnership **Named Insureds** are **Insureds** with respect to such **spouses'** acts, errors or omissions in the conduct of the **Named Insured's** business.

**10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Expected or Intended Injury** and replace it with the following:

This insurance does not apply to:

**Expected or Intended Injury**

**Bodily injury** or **property damage** expected or intended from the standpoint of the **Insured**. This exclusion does not apply to **bodily injury** or **property damage** resulting from the use of reasonable force to protect persons or property.

**11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT**

**A.** For each construction project away from premises the **Named Insured** owns or rents, a separate Construction Project General Aggregate Limit, equal to the amount of the General Aggregate Limit shown in the Declarations, is the most the Insurer will pay for the sum of:

1. All **damages** under **Coverage A**, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
2. All medical expenses under **Coverage C**,

that arise from **occurrences** or accidents which can be attributed solely to ongoing operations at that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations, nor the Construction Project General Aggregate Limit of any other construction project.

**B.** All:

1. **Damages** under **Coverage B**, regardless of the number of locations or construction projects involved;
2. **Damages** under **Coverage A**, caused by **occurrences** which cannot be attributed solely to ongoing operations at a single construction project, except **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard**; and
3. Medical expenses under **Coverage C** caused by accidents which cannot be attributed solely to ongoing operations at a single construction project,

will reduce the General Aggregate Limit shown in the Declarations.

**C.** The limits shown in the Declarations for Each Occurrence, for Damage To Premises Rented To You and for Medical Expense continue to apply, but will be subject to either the Construction Project General Aggregate Limit or the General Aggregate Limit shown in the Declarations, depending on whether the **occurrence** can be attributed solely to ongoing operations at a particular construction project.

**D.** 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 shown in the Declarations, regardless of the number of projects involved.

**Contractors' General Liability Extension Endorsement**

- E. If a single construction project away from premises owned by or rented to the **Insured** has been 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.
- F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

**12. IN REM ACTIONS**

A quasi in rem action against any vessel owned or operated by or for the **Named Insured**, or chartered by or for the **Named Insured**, will be treated in the same manner as though the action were in personam against the **Named Insured**.

**13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE**

Solely with respect to **bodily injury** that arises out of a **health care incident**:

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:

b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:

- (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
- (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and

B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:

i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).

ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

**Contractual Liability**

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.

iii. add the following additional exclusions:

This insurance does not apply to:

**Discrimination**

any actual or alleged discrimination, humiliation or harassment, including but not limited to **claims** based on an individual's race, creed, color, age, gender, national origin, religion, disability, marital status or sexual orientation.

**Dishonesty or Crime**

Any actual or alleged dishonest, criminal or malicious act, error or omission.

**Medicare/Medicaid Fraud**

**Contractors' General Liability Extension Endorsement**

any actual or alleged violation of law with respect to Medicare, Medicaid, Tricare or any similar federal, state or local governmental program.

**Services Excluded by Endorsement**

Any **health care incident** for which coverage is excluded by endorsement.

**C. DEFINITIONS** is amended to:**i.** add the following definitions:

**Health care incident** means an act, error or omission by the **Named Insured's employees** or **volunteer workers** in the rendering of:

- a. professional health care services** on behalf of the **Named Insured** or
- b. Good Samaritan services** rendered in an emergency and for which no payment is demanded or received.

**Professional health care services** means any health care services or the related furnishing of food, beverages, medical supplies or appliances by the following providers in their capacity as such but solely to the extent they are duly licensed as required:

- a. Physician;**
- b. Nurse;**
- c. Nurse practitioner;**
- d. Emergency medical technician;**
- e. Paramedic;**
- f. Dentist;**
- g. Physical therapist;**
- h. Psychologist;**
- i. Speech therapist;**
- j. Other allied health professional; or**

**Professional health care services** does not include any services rendered in connection with human clinical trials or product testing.

**ii.** delete the definition of **occurrence** and replace it with the following:

**Occurrence** means a **health care incident**. All acts, errors or omissions that are logically connected by any common fact, circumstance, situation, transaction, event, advice or decision will be considered to constitute a single **occurrence**;

**iii.** amend the definition of **Insured** to:**a.** add the following:

the **Named Insured's employees** are **Insureds** with respect to:

- (1) bodily injury** to a **co-employee** while in the course of the **co-employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business; and

**Contractors' General Liability Extension Endorsement**

(2) **bodily injury** to a **volunteer worker** while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

the **Named Insured's volunteer workers** are **Insureds** with respect to:

(1) **bodily injury** to a **co-volunteer worker** while performing duties related to the conduct of the **Named Insured's** business; and

(2) **bodily injury** to an **employee** while in the course of the **employee's** employment by the **Named Insured** or while performing duties related to the conduct of the **Named Insured's** business;

when such **bodily injury** arises out of a **health care incident**.

b. delete Subparagraphs (a), (b), (c) and (d) of Paragraph 2.a.(1) of **WHO IS AN INSURED**.

D. The **Other Insurance** condition is amended to delete Paragraph b.(1) in its entirety and replace it with the following:

**Other Insurance**

b. **Excess Insurance**

(1) To the extent this insurance applies, it is excess over any other insurance, self insurance or risk transfer instrument, whether primary, excess, contingent or on any other basis, except for insurance purchased specifically by the **Named Insured** to be excess of this coverage.

**14. JOINT VENTURES / PARTNERSHIP / LIMITED LIABILITY COMPANIES**

**WHO IS AN INSURED** is amended to delete its last paragraph and replace it with the following:

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, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

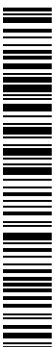
- a. any offense giving rise to **personal and advertising injury** occurred prior to such termination date, and the **personal and advertising injury** arising out of such offense first occurred after such termination date;
- b. the **bodily injury** or **property damage** first occurred after such termination date; and
- c. there is no other valid and collectible insurance purchased specifically to insure the partnership, joint venture or limited liability company; and

If the joint venture, partnership or limited liability company is or was insured under a **consolidated (wrap-up) insurance program**, then such insurance will always be considered valid and collectible for the purpose of paragraph c. above. But this provision will not serve to exclude **bodily injury**, **property damage** or **personal and advertising injury** that would otherwise be covered under the **Contractors General Liability Extension Endorsement** provision entitled **WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**. Please see that provision for the definition of **consolidated (wrap-up) insurance program**.

**15. LEGAL LIABILITY – DAMAGE TO PREMISES / ALIENATED PREMISES / PROPERTY IN THE NAMED INSURED'S CARE, CUSTODY OR CONTROL**

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete exclusion j. **Damage to Property** in its entirety and replace it with the following:

This insurance does not apply to:



**Contractors' General Liability Extension Endorsement****j. Damage to Property****Property damage to:**

- (1) Property the **Named Insured** owns, rents, or occupies, including any costs or expenses incurred by you, or any other person, organization or entity, for repair, replacement, enhancement, restoration or maintenance of such property for any reason, including prevention of injury to a person or damage to another's property;
- (2) Premises the **Named Insured** sells, gives away or abandons, if the **property damage** arises out of any part of those premises;
- (3) Property loaned to the **Named Insured**;
- (4) Personal property in the care, custody or control of the **Insured**;
- (5) That particular part of real property on which the **Named Insured** or any contractors or subcontractors working directly or indirectly on the **Named Insured's** behalf are performing operations, if the **property damage** arises out of those operations; or
- (6) That particular part of any property that must be restored, repaired or replaced because **your work** was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to **property damage** (other than damage by fire) to premises rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, nor to the contents of premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **LIMITS OF INSURANCE**.

Paragraph (2) of this exclusion does not apply if the premises are **your work**.

Paragraphs (3), (4), (5) and (6) of this exclusion do not apply to liability assumed under a sidetrack agreement.

Paragraph (6) of this exclusion does not apply to **property damage** included in the **products-completed operations hazard**.

Paragraphs (3) and (4) of this exclusion do not apply to **property damage** to:

- i. tools, or equipment the **Named Insured** borrows from others, nor
- ii. other personal property of others in the **Named Insured's** care, custody or control while being used in the **Named Insured's** operations away from any **Named Insured's** premises.

However, the coverage granted by this exception to Paragraphs (3) and (4) does not apply to:

- a. property at a job site awaiting or during such property's installation, fabrication, or erection;
- b. property that is **mobile equipment** leased by an **Insured**;
- c. property that is an **auto**, aircraft or watercraft;
- d. property in transit; or
- e. any portion of **property damage** for which the **Insured** has available other valid and collectible insurance, or would have such insurance but for exhaustion of its limits, or but for application of one of its exclusions.

A separate limit of insurance and deductible apply to such property of others. See **LIMITS OF INSURANCE** as amended below.

**Contractors' General Liability Extension Endorsement**

- B.** Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete its last paragraph and replace it with the following:

Exclusions **c.** through **n.** do not apply to damage by fire to premises while rented to a **Named Insured** or temporarily occupied by a **Named Insured** with permission of the owner, nor to damage to the contents of premises rented to a **Named Insured** for a period of 7 or fewer consecutive days.

A separate limit of insurance applies to this coverage as described in **LIMITS OF INSURANCE**.

- C.** The following paragraph is added to **LIMITS OF INSURANCE**:

Subject to **5.** above, \$25,000 is the most the Insurer will pay under **Coverage A** for **damages** arising out of any one **occurrence** because of the sum of all **property damage** to borrowed tools or equipment, and to other personal property of others in the **Named Insured's** care, custody or control, while being used in the **Named Insured's** operations away from any **Named Insured's** premises. The Insurer's obligation to pay such **property damage** does not apply until the amount of such **property damage** exceeds \$1,000. The Insurer has the right but not the duty to pay any portion of this \$1,000 in order to effect settlement. If the Insurer exercises that right, the **Named Insured** will promptly reimburse the Insurer for any such amount.

- D.** Paragraph **6.**, Damage To Premises Rented To You Limit, of **LIMITS OF INSURANCE** is deleted and replaced by the following:

**6.** Subject to Paragraph **5.** above, (the Each Occurrence Limit), the Damage To Premises Rented To You Limit is the most the Insurer will pay under **Coverage A** for **damages** because of **property damage** to any one premises while rented to the **Named Insured** or temporarily occupied by the **Named Insured** with the permission of the owner, including contents of such premises rented to the **Named Insured** for a period of 7 or fewer consecutive days. The Damage To Premises Rented To You Limit is the greater of:

- a.** \$500,000; or
- b.** The Damage To Premises Rented To You Limit shown in the Declarations.

- E.** Paragraph **4.b.(1)(a)(ii)** of the **Other Insurance** Condition is deleted and replaced by the following:

**(ii)** That is property insurance for premises rented to the **Named Insured**, for premises temporarily occupied by the **Named Insured** with the permission of the owner; or for personal property of others in the **Named Insured's** care, custody or control;

**16. LIQUOR LIABILITY**

Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Liquor Liability**.

This **LIQUOR LIABILITY** provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

**17. MEDICAL PAYMENTS**

- A. LIMITS OF INSURANCE** is amended to delete Paragraph **7.** (the Medical Expense Limit) and replace it with the following:

**7.** Subject to Paragraph **5.** above (the Each Occurrence Limit), the Medical Expense Limit is the most the Insurer will pay under **Coverage C – Medical Payments** for all medical expenses because of **bodily injury** sustained by any one person. The Medical Expense Limit is the greater of:

- (1)** \$15,000 unless a different amount is shown here: \$N,NNN,NNN,NNN; or
- (2)** the amount shown in the Declarations for Medical Expense Limit.



**Contractors' General Liability Extension Endorsement**

B. Under **COVERAGES**, the **Insuring Agreement** of **Coverage C – Medical Payments** is amended to replace Paragraph **1.a.(3)(b)** with the following:

(b) The expenses are incurred and reported to the Insurer within three years of the date of the accident; and

**18. NON-OWNED AIRCRAFT**

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended as follows:

The exclusion entitled **Aircraft, Auto or Watercraft** is amended to add the following:

This exclusion does not apply to an aircraft not owned by any **Named Insured**, provided that:

1. the pilot in command holds a currently effective certificate issued by the duly constituted authority of the United States of America or Canada, designating that person as a commercial or airline transport pilot;
2. the aircraft is rented with a trained, paid crew to the **Named Insured**; and
3. the aircraft is not being used to carry persons or property for a charge.

**19. NON-OWNED WATERCRAFT**

Under **COVERAGES**, **Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to delete subparagraph **(2)** of the exclusion entitled **Aircraft, Auto or Watercraft**, and replace it with the following.

This exclusion does not apply to:

**(2)** a watercraft that is not owned by any **Named Insured**, provided the watercraft is:

- (a) less than 75 feet long; and
- (b) not being used to carry persons or property for a charge.

**20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION**

A. Under **DEFINITIONS**, the definition of **personal and advertising injury** is amended to add the following tort:

Discrimination or humiliation that results in injury to the feelings or reputation of a natural person.

B. Under **COVERAGES**, **Coverage B – Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to:

1. delete the Exclusion entitled **Knowing Violation Of Rights Of Another** and replace it with the following:

This insurance does not apply to:

**Knowing Violation of Rights of Another**

**Personal and advertising injury** caused by or at the direction of the **Insured** with the knowledge that the act would violate the rights of another and would inflict **personal and advertising injury**. This exclusion shall not apply to discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is not done intentionally by or at the direction of:

- (a) the **Named Insured**; or
  - (b) any **executive officer**, director, stockholder, partner, member or manager (if the **Named Insured** is a limited liability company) of the **Named Insured**.
2. add the following exclusions:

**Contractors' General Liability Extension Endorsement**

This insurance does not apply to:

**Employment Related Discrimination**

Discrimination or humiliation directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person by any **Insured**.

**Premises Related Discrimination**

**discrimination or humiliation** arising out of the sale, rental, lease or sub-lease or prospective sale, rental, lease or sub-lease of any room, dwelling or premises by or at the direction of any **Insured**.

Notwithstanding the above, there is no coverage for fines or penalties levied or imposed by a governmental entity because of discrimination.

The coverage provided by this **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization whose status as an **Insured** derives solely from

Provision 1. **ADDITIONAL INSURED** of this endorsement; or

attachment of an additional insured endorsement to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

**21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY**

A. Under **COVERAGES, Coverage B –Personal and Advertising Injury Liability**, the paragraph entitled **Exclusions** is amended to delete the exclusion entitled **Contractual Liability**.

B. Solely for the purpose of the coverage provided by this **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** provision, the following changes are made to the section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B**:

1. Paragraph **2.d.** is replaced by the following:

d. The allegations in the **suit** and the information the Insurer knows about the offense alleged in such **suit** are such that no conflict appears to exist between the interests of the **Insured** and the interests of the indemnitee;

2. The first unnumbered paragraph beneath Paragraph **2.f.(2)(b)** is deleted and replaced by the following:

So long as the above conditions are met, attorneys fees incurred by the Insurer in the defense of that indemnitee, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the indemnitee at the Insurer's request will be paid as **defense costs**. Such payments will not be deemed to be **damages** for **personal and advertising injury** and will not reduce the limits of insurance.

C. This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply if **Coverage B –Personal and Advertising Injury Liability** is excluded by another endorsement attached to this **Coverage Part**.

This **PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY** Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this **Coverage Part**.

**22. PROPERTY DAMAGE – ELEVATORS**

A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended such that the **Damage to Your Product** Exclusion and subparagraphs **(3), (4)** and **(6)** of the **Damage to Property** Exclusion do not apply to **property damage** that results from the use of elevators.



**Contractors' General Liability Extension Endorsement**

- B. Solely for the purpose of the coverage provided by this **PROPERTY DAMAGE – ELEVATORS** Provision, the **Other Insurance** conditions is amended to add the following paragraph:

This insurance is excess over any of the other insurance, whether primary, excess, contingent or on any other basis that is Property insurance covering property of others damaged from the use of elevators.

**23. SUPPLEMENTARY PAYMENTS**

The section entitled **SUPPLEMENTARY PAYMENTS – COVERAGES A AND B** is amended as follows:

- A. Paragraph **1.b.** is amended to delete the \$250 limit shown for the cost of bail bonds and replace it with a \$5,000. limit; and
- B. Paragraph **1.d.** is amended to delete the limit of \$250 shown for daily loss of earnings and replace it with a \$1,000. limit.

**24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS**

If the **Named Insured** unintentionally fails to disclose all existing hazards at the inception date of the **Named Insured's Coverage Part**, the Insurer will not deny coverage under this **Coverage Part** because of such failure.

**25. WAIVER OF SUBROGATION - BLANKET**

Under **CONDITIONS**, the condition entitled **Transfer Of Rights Of Recovery Against Others To Us** is amended to add the following:

The Insurer waives any right of recovery the Insurer may have against any person or organization because of payments the Insurer makes for injury or damage arising out of:

1. the **Named Insured's** ongoing operations; or
2. **your work** included in the **products-completed operations hazard**.

However, this waiver applies only when the **Named Insured** has agreed in writing to waive such rights of recovery in a written contract or written agreement, and only if such contract or agreement:

1. is in effect or becomes effective during the term of this **Coverage Part**; and
2. was executed prior to the **bodily injury, property damage** or **personal and advertising injury** giving rise to the **claim**.

**26. WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS**

**Note:** The following provision does not apply to any public construction project in the state of Oklahoma, nor to any construction project in the state of Alaska, that is not permitted to be insured under a **consolidated (wrap-up) insurance program** by applicable state statute or regulation.

If the endorsement **EXCLUSION – CONSTRUCTION WRAP-UP** is attached to this policy, or another exclusionary endorsement pertaining to Owner Controlled Insurance Programs (O.C.I.P.) or Contractor Controlled Insurance Programs (C.C.I.P.) is attached, then the following changes apply:

- A. The following wording is added to the above-referenced endorsement:

With respect to a **consolidated (wrap-up) insurance program** project in which the **Named Insured** is or was involved, this exclusion does not apply to those sums the **Named Insured** become legally obligated to pay as **damages** because of:

1. **Bodily injury, property damage, or personal or advertising injury** that occurs during the **Named Insured's** ongoing operations at the project, or during such operations of anyone acting on the **Named Insured's** behalf; nor



**Blanket Additional Insured - Owners, Lessees or Contractors -  
with Products-Completed Operations Coverage Endorsement**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

It is understood and agreed as follows:

- I. **WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:
  - A. In the performance of your ongoing operations subject to such **written contract**; or
  - B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
    - 1. The **written contract** requires you to provide the additional insured such coverage; and
    - 2. This **Coverage Part** provides such coverage; and
  - C. Subject always to the terms and conditions of this policy, including the limits of insurance, the Insurer will not provide such additional insured with:
    - 1. Coverage broader than what you are required to provide by the **written contract**; or
    - 2. A higher limit of insurance than what you are required to provide by the **written contract**.

Any coverage granted by this Paragraph I. shall apply solely to the extent permissible by law.

- II. If the written contract requires additional insured coverage under the 07-04 edition of CG2010 or CG2037, then paragraph I. above is deleted in its entirety and replaced by the following:

**WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** caused in whole or in part by your acts or omissions, or the acts or omissions of those acting on your behalf:

- A. In the performance of your ongoing operations subject to such **written contract**; or
- B. In the performance of **your work** subject to such **written contract**, but only with respect to **bodily injury or property damage** included in the **products-completed operations hazard**, and only if:
  - 1. The **written contract** requires you to provide the additional insured such coverage; and
  - 2. This **Coverage Part** provides such coverage.

- III. But if the **written contract** requires:

- A. Additional insured coverage under the 11-85 edition, 10-93 edition, or 10-01 edition of CG2010, or under the 10-01 edition of CG2037; or
- B. Additional insured coverage with "arising out of" language;

then paragraph I. above is deleted in its entirety and replaced by the following:

**WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

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**Blanket Additional Insured - Owners, Lessees or Contractors -  
with Products-Completed Operations Coverage Endorsement**

IV. But if the **written contract** requires additional insured coverage to the greatest extent permissible by law, then paragraph I. above is deleted in its entirety and replaced by the following:

**WHO IS AN INSURED** is amended to include as an **Insured** any person or organization whom you are required by **written contract** to add as an additional insured on this **Coverage Part**, but only with respect to liability for **bodily injury, property damage or personal and advertising injury** arising out of **your work** that is subject to such **written contract**.

V. The insurance granted by this endorsement to the additional insured does not apply to **bodily injury, property damage, or personal and advertising injury** arising out of:

A. The rendering of, or the failure to render, any professional architectural, engineering, or surveying services, including:

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

B. Any premises or work for which the additional insured is specifically listed as an additional insured on another endorsement attached to this **Coverage Part**.

VI. Under **COMMERCIAL GENERAL LIABILITY CONDITIONS**, the Condition entitled **Other Insurance** is amended to add the following, which supersedes any provision to the contrary in this Condition or elsewhere in this **Coverage Part**:

**Primary and Noncontributory Insurance**

With respect to other insurance available to the additional insured under which the additional insured is a named insured, this insurance is primary to and will not seek contribution from such other insurance, provided that a **written contract** requires the insurance provided by this policy to be:

1. Primary and non-contributing with other insurance available to the additional insured; or
2. Primary and to not seek contribution from any other insurance available to the additional insured.

But except as specified above, this insurance will be excess of all other insurance available to the additional insured.

VII. Solely with respect to the insurance granted by this endorsement, the section entitled **COMMERCIAL GENERAL LIABILITY CONDITIONS** is amended as follows:

The Condition entitled **Duties In The Event of Occurrence, Offense, Claim or Suit** is amended with the addition of the following:

Any additional insured pursuant to this endorsement will as soon as practicable:

1. Give the Insurer written notice of any **claim**, or any **occurrence** or offense which may result in a **claim**;
2. Send the Insurer copies of all legal papers received, and otherwise cooperate with the Insurer in the investigation, defense, or settlement of the **claim**; and
3. Make available any other insurance, and endeavor to tender the defense and indemnity of any **claim** to any other insurer or self-insurer, whose policy or program applies to a loss that the Insurer covers under this **coverage part**. However, if the **written contract** requires this insurance to be primary and non-contributory, this paragraph 3. does not apply to other insurance under which the additional insured is a named insured.

The Insurer has no duty to defend or indemnify an additional insured under this endorsement until the Insurer receives written notice of a **claim** from the additional insured.



**Blanket Additional Insured - Owners, Lessees or Contractors -  
with Products-Completed Operations Coverage Endorsement**

VIII. Solely with respect to the insurance granted by this endorsement, the section entitled **DEFINITIONS** is amended to add the following definition:

**Written contract** means a written contract or written agreement that requires you to make a person or organization an additional insured on this **Coverage Part**, provided the contract or agreement:

- A. Was executed prior to:
  - 1. The **bodily injury or property damage**; or
  - 2. The offense that caused the **personal and advertising injury**;for which the additional insured seeks coverage; and
- B. Is still in effect at the time of the **bodily injury or property damage occurrence or personal and advertising injury** offense.

All other terms and conditions of the Policy remain unchanged.

This endorsement, which forms a part of and is for attachment to the Policy issued by the designated Insurers, takes effect on the effective date of said Policy at the hour stated in said Policy, unless another effective date is shown below, and expires concurrently with said Policy.

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CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS

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

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

**I. LIABILITY COVERAGE**

**A. Who Is An Insured**

The following is added to **Section II, Paragraph A.1., Who Is An Insured:**

1. a. Any incorporated entity of which the Named Insured owns a majority of the voting stock on the date of inception of this Coverage Form; provided that,
  - b. The insurance afforded by this provision **A.1.** does not apply to any such entity that is an **insured** under any other liability "policy" providing **auto** coverage.
2. Any organization you newly acquire or form, other than a limited liability company, partnership or joint venture, and over which you maintain majority ownership interest.

The insurance afforded by this provision **A.2.:**

- a. Is effective on the acquisition or formation date, and is afforded only until the end of the policy period of this Coverage Form, or the next anniversary of its inception date, whichever is earlier.
- b. Does not apply to:
  - (1) **Bodily injury or property damage** caused by an **accident** that occurred before you acquired or formed the organization; or
  - (2) Any such organization that is an **insured** under any other liability "policy" providing **auto** coverage.
3. Any person or organization that you are required by a written contract to name as an additional insured is an **insured** but only with respect to their legal liability for acts or omissions of a person, who qualifies as an **insured** under **SECTION II – WHO IS AN INSURED** and for whom Liability Coverage is afforded under this policy. If required by written contract, this insurance will be primary and non-contributory to insurance on which the additional insured is a Named Insured.
4. An **employee** of yours is an **insured** while operating an **auto** hired or rented under a contract or agreement in that **employee's** name, with your permission, while performing duties related to the conduct of your business.

"Policy", as used in this provision **A. Who Is An Insured**, includes those policies that were in force on the inception date of this Coverage Form but:

1. Which are no longer in force; or
2. Whose limits have been exhausted.

**B. Bail Bonds and Loss of Earnings**

**Section II, Paragraphs A.2. (2) and A.2. (4)** are revised as follows:

1. In **a.(2)**, the limit for the cost of bail bonds is changed from \$2,000 to \$5,000; and
2. In **a.(4)**, the limit for the loss of earnings is changed from \$250 to \$500 a day.

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- (4) Your **employees** may know of an **accident** or **loss**. This will not mean that you have such knowledge, unless such **accident** or **loss** is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

The following is added to **Section IV, Paragraph A.2.b.:**

- (6) Your **employees** may know of documents received concerning a claim or **suit**. This will not mean that you have such knowledge, unless receipt of such documents is known to you or if you are not an individual, to any of your executive officers or partners or your insurance manager.

**B. Transfer Of Rights Of Recovery Against Others To Us**

The following is added to **Section IV, Paragraph A.5. Transfer Of Rights Of Recovery Against Others To Us:**

We waive any right of recovery we may have, because of payments we make for injury or damage, against any person or organization for whom or which you are required by written contract or agreement to obtain this waiver from us.

This injury or damage must arise out of your activities under a contract with that person or organization.

You must agree to that requirement prior to an **accident** or **loss**.

**C. Concealment, Misrepresentation or Fraud**

The following is added to **Section IV, Paragraph B.2.:**

Your failure to disclose all hazards existing on the date of inception of this Coverage Form shall not prejudice you with respect to the coverage afforded provided such failure or omission is not intentional.

**D. Other Insurance**

The following is added to **Section IV, Paragraph B.5.:**

Regardless of the provisions of Paragraphs **5.a.** and **5.d.** above, the coverage provided by this policy shall be on a primary non-contributory basis. This provision is applicable only when required by a written contract.

That written contract must have been entered into prior to **Accident** or **Loss**.

**E. Policy Period, Coverage Territory**

**Section IV, Paragraph B. 7.(5).(a).** is revised to provide:

- a. 45 days of coverage in lieu of 30 days.

**V. DEFINITIONS**

**Section V. paragraph C.** is deleted and replaced by the following:

**Bodily injury** means bodily injury, sickness or disease sustained by a person, including mental anguish, mental injury or death resulting from any of these.

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