

**Date:** March 27, 2026  
**To:** Buckman Direct Diversion Board  
**Via:** Bradley Prada, BDD Facility Manager  
**From:** Kurt Traverse, BDD Accounting Support  
**Re:** Request for Approval of a General Services Agreement with Andritz Separation, Inc. in the amount of \$104,905.00 plus NMGRT

## **ITEM AND ISSUE:**

Request for approval of a General Services Agreement (“GSA”) with Andritz Separation, Inc. to Service and Repair the Water Treatment Plant (“WTP”) Centrifuge in the Amount of \$104,905.00 plus NMGRT with funding from the Major Repair & Replacement (“MR&R”) Fund under New Mexico State Sole Source Original Equipment Manufacturer (“OEM”) determination # 60-M0087-25-CP565.

## **BACKGROUND:**

The Buckman Direct Diversion Board (“BDDDB”) on February 5, 2026, previously approved the BDD Facility Manager to pursue an MR&R project towards repair of the Centrifuge at the WTP. The BDD facility requires specialized repair services by the OEM, under a State of New Mexico Sole Source determination, for continued WTP operation and compliance status.

The scope of work includes disassembly, transport to the OEM’s factory for service, and reassembly at the WTP.

## **ACTION REQUESTED:**

BDD Staff recommend approval of a GSA to complete the procurement from Andritz Separation, Inc in the Amount of \$104,905.00 plus NMGRT for necessary repairs at the WTP.

## APPROVAL:

Approved by BDDDB April 2, 2026

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Councilor Jamie Cassutt, BDDDB Chair



**BUCKMAN DIRECT DIVERSION BOARD  
GENERAL SERVICES AGREEMENT  
WITH ANDRITZ SEPARATION INC.  
Centrifuge Service**

THIS GENERAL SERVICES AGREEMENT ("Agreement") is made and entered into by and between the Buckman Direct Diversion Board ("BDDDB"), and Andritz Separation, Inc. ("Contractor").

**IT IS MUTUALLY AGREED BETWEEN THE PARTIES:**

**1. SCOPE OF WORK**

Contractor shall perform and provide the following work: Provide manufacturer authorized repair, service, inspection, and ongoing maintenance for Andritz centrifuge equipment installed and operated at the Buckman Direct Diversion ("BDD") Facility as more fully described in Exhibit A, attached hereto.

**2. COMPENSATION**

A. The BDDDB shall pay to Contractor based upon fixed prices for each Deliverable Item as listed here.

<b>DELIVERABLE ITEM: CENTRIFUGE SERVICE INCLUDING PARTS, TAXES AND FREIGHT</b>	
Parts	
Labor	\$ 99,905.00
Freight (estimated)	\$ 5,000.00
Taxes	
Total	\$ 104,905.00

Unless otherwise stated herein, the total Compensation under this Agreement shall not exceed One Hundred Four Thousand Nine Hundred Five Dollars (\$104,905.00) plus freight charges and New Mexico gross receipts tax.

B. Contractor shall be responsible for payment of gross receipts taxes due to the State of New Mexico on the sums paid under this Agreement.

**3. PAYMENT PROVISIONS**

All payments under this Agreement are subject to the following provisions:

A. Payment. BDDDB shall compensate Contractor based on the itemized amounts and/or rates specified in Exhibit A. For the services and goods described in the scope of work, the BDDDB agrees to pay Contractor up to \$104,905.00. The services and goods in the Agreement

include GRT. The GRT on this Agreement at 8.1875% equals \$8,179.72. The total compensation for the Agreement including GRT is up to \$ 113,084.72.

B. The compensation represents a maximum amount. Contractor must notify BDDB when the Services provided under this Agreement approach 90% of compensation total. Services rendered beyond the maximum compensation amount will not be reimbursed unless the Agreement is amended in writing prior to the provision of such services.

C. Invoicing and Payment Terms Payment will be made upon BDDB 's acceptance of deliverables and receipt of a detailed, certified invoice from Contractor. Payments will be sent to Contractor's designated address. BDDB shall issue payment in accordance with the timelines required by law. Invoices must be submitted no later than fifteen (15) days after the Agreement's termination. Late invoices will not be processed or paid.

D. Extended Payment Terms for Grant-Funded Contracts. For grant-funded agreements, BDDB may issue payment within forty-five (45) days following submission of an undisputed payment request.

#### **4. TERM**

THIS AGREEMENT SHALL NOT BECOME EFFECTIVE UNTIL APPROVED IN WRITING BY THE BDDB. This Agreement shall begin on date approved by the BDDB, and end on June 30, 2027. The BDDB reserves the right to renew the Agreement on an annual basis by mutual agreement not to exceed a total of four (4) years in accordance with NMSA 1978, §§ 13-1-150 through 152.

#### **5. DEFAULT AND FORCE MAJEURE**

BDDB reserves the right to cancel all, or any part of any orders placed under this Agreement without cost to BDDB, if Contractor fails to meet the provisions of this Agreement and, except as otherwise provided herein, to hold Contractor liable for any excess cost occasioned by BDDB due to Contractor's default. Contractor shall not be liable for any excess costs if failure to perform the order arises out of causes beyond the control and without the fault or negligence of Contractor; such causes include, but are not restricted to, acts of God or the public enemy, acts of the State or Federal Government, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather and defaults of sub-contractors due to any of the above, unless BDDB shall determine that the supplies or services to be furnished by the sub-contractor were obtainable from other sources in sufficient time to permit Contractor to meet the required delivery scheduled. The rights and remedies of BDDB provided in this paragraph shall not be exclusive and are in addition to any other rights now being provided by law or under this Agreement.

## 6. TERMINATION

A. Grounds. BDDDB may terminate this Agreement for convenience or cause. For contracts within their authority, BDDDB 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. Contractor may only terminate this Agreement based upon BDDDB's uncured, material breach of this Agreement.

### B. Notice: BDDDB Opportunity to Cure.

1. BDDDB shall give Contractor written notice of termination at least thirty (30) days prior to the intended date of termination.

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

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

C. Liability. Except as otherwise expressly allowed or provided under this Agreement, BDDDB's sole liability upon termination shall be to pay for acceptable work performed prior to 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 Agreement. 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 BDDDB'S OTHER LEGAL RIGHTS AND REMEDIES CAUSED BY CONTRACTOR'S DEFAULT/BREACH OF THIS AGREEMENT.

## 7. AMENDMENT

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

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

## **8. STATUS OF CONTRACTOR**

Contractor, and Contractor's agents and employees, are independent Contractors for BDDB and are not employees of BDDB. Contractor, and Contractor's agents and employees, shall not accrue leave, retirement, insurance, bonding, use of BDDB vehicles, or any other benefits afforded to employees of BDDB because of this Agreement. Contractor acknowledges that all sums received hereunder are personally reportable by Contractor for income tax purposes, including without limitation, self-employment tax and business income tax. Contractor agrees not to purport to bind BDDB unless Contractor has written authority to do so, and then only within the strict limits of that authority.

## **9. ASSIGNMENT**

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

## **10. SUBCONTRACTING**

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

## **11. NON-COLLUSION**

In signing this Agreement, Contractor certifies Contractor has not, either directly or indirectly, entered into action in restraint of free competitive bidding in connection with this offer submitted to BDDB.

## **12. INSPECTION OF PLANT**

BDDB may inspect, at any reasonable time during Contractor's regular business hours and upon prior written notice, Contractor's plant or place of business, or any subcontractor's plant or place of business, which is related to the performance of this Agreement.'

## **13. COMMERCIAL WARRANTY**

Contractor agrees that the tangible personal property or services furnished under this Agreement shall be covered by the most favorable commercial warranties Contractor gives to any customer for such tangible personal property or services, and that the rights and remedies provided herein shall extend to the BDDB and are in addition to and do not limit any rights afforded to BDDB by any other clause of this order. Contractor agrees not to disclaim warranties of fitness for a particular purpose or merchantability. This warranty shall commence upon delivery of the goods and shall expire 12 months from initial operation of the goods. Notwithstanding the foregoing, Contractor will have no warranty obligations for the goods under this Paragraph 13: (i) if the goods

have not been stored, installed, operated and maintained in accordance with generally approved industry practice and with Contractor's specific written instructions; (ii) if the goods are used in connection with any mixture or substance, operating condition or operating environment other than that for which they were designed; (iii) if the goods are repaired or modified by someone other than Contractor or have been intentionally or accidentally damaged; (iv) for corrosion, erosion, ordinary wear and tear or in respect of any parts which by their nature are exposed to severe wear and tear or are considered expendable. The remedies provided in Paragraphs 13 are BDDDB's exclusive remedy for breach of warranty.

#### **14. CONDITION OF PROPOSED ITEMS**

Where tangible personal property is a part of this Agreement, all proposed items are to be NEW and of most current production, unless otherwise specified.

#### **15. RECORDS AND AUDIT**

During the term of this Agreement and for three years thereafter, Contractor shall maintain detailed records pertaining to the services rendered and products delivered. These records shall be subject to inspection by BDDDB, the State Auditor and other appropriate state and federal authorities. BDDDB shall have the right to audit billings both before and after payment. Payment under this Agreement shall not foreclose the right of BDDDB to recover excessive or illegal payments.

#### **16. APPROPRIATIONS**

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

#### **17. RELEASE**

Contractor, upon final payment of the amount due under this Agreement, releases BDDDB, its officers, and employees, from all liabilities, claims and obligations whatsoever arising from or under this Agreement. Contractor agrees not to purport to bind BDDDB, unless Contractor has express written authority to do so, and then only within the strict limits of that authority.

#### **18. CONFIDENTIALITY**

Any confidential information developed by Contractor in the performance of this Agreement shall be kept confidential and shall not be made available to any individual, third-parties or organization by Contractor without prior written approval by Contractor. BDDDB

acknowledges that the information that Contractor submits to BDDB in connection with this Agreement and the performance hereof is Contractor's confidential and proprietary information. BDDB agrees not to disclose such information marked as 'confidential' by Contractor to third parties without Contractor's prior written consent. Notwithstanding the foregoing, Contractor understands that any such records may be subject to production under the New Mexico Inspection of Public Records Act.

## **19. CONFLICT OF INTEREST**

A. Contractor represents that it presently has no interest and, during the term of this Agreement, shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance or services required under the Agreement. Contractor shall comply with any applicable provisions of the New Mexico Governmental Conduct Act and the New Mexico Financial Disclosures Act.

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

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

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

## **20. APPROVAL OF CONTRACTOR REPRESENTATIVES**

BDDB reserves the right to require a change in Contractor's assigned representatives if they are not adequately serving BDDB's needs.

## **21. SCOPE OF AGREEMENT; MERGER**

This Agreement 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 Agreement. No prior agreements or understandings, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

## **22. NOTICE**

The Procurement Code, 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 bribes, gratuities, and kickbacks.

## **23. EQUAL OPPORTUNITY COMPLIANCE**

Contractor agrees to abide by all federal and state laws, and local Ordinances, pertaining to equal employment opportunity. In accordance with all such laws, rules, and regulations, Contractor agrees to assure 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 Agreement. If Contractor is found not to be in compliance with these requirements during the life of this Agreement, Contractor agrees to take appropriate steps to correct these deficiencies.

## **24. INDEMNIFICATION**

Contractor shall hold BDDB and its employees harmless and shall indemnify BDDB and its employees against any and all third-party claims, suits, actions, liabilities and costs of any kind, including attorney's fees for personal bodily injury or damage to tangible property but only to the extent such loss is caused by and/or arising from the Contractor's negligence, legal fault or omissions of Contractor, its agents, officers, employees or subcontractors. Contractor shall not be liable for any injury or damage as a result of any negligent act or omission committed by BDDB, its officers or employees. For all Contractor's indemnity obligations arising out of or resulting from this Agreement, the Contractor shall have the right to defend and settle all such indemnity claims, provided that (a) BDDB shall be entitled to be represented in the matter by counsel of its choosing at BDDB's sole expense, and (b) in no event shall such settlement include a financial or specific performance obligation on, or admission of liability by, BDDB.

## **25. NEW MEXICO TORT CLAIMS ACT**

Any liability incurred by the BDDB in connection with this Agreement is subject to the immunities and limitations of the New Mexico Tort Claims Act, NMSA 1978, Section 41-4-1, et. seq., as amended. BDDB 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 Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

## **26. APPLICABLE LAW**

The laws of the State of New Mexico shall govern this Agreement, 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 Agreement,

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 Agreement.

## **27. LIMITATION OF LIABILITY**

Contractor's liability to BDDDB, for any cause whatsoever shall be limited to the amounts paid to Contractor for the products and services that are the subject of BDDDB's claim. The foregoing limitation does not apply to paragraph "Indemnification" of this Agreement or to damages resulting from personal injury caused by Contractor's negligence. Notwithstanding any other provision in this Agreement except for Contractor's indemnity obligation for third-party claims for bodily injury and tangible property damage caused by or arising out of Contractor's negligence, willful misconduct or legal fault the following limitations of liability shall apply to the maximum extent permitted by applicable law: (a) In no event shall Contractor, its officers, directors, employees, subcontractors, suppliers or affiliated companies be liable for loss of use or loss of profits, in either case whether or not foreseeable, or for any indirect, special, incidental or consequential damages of any nature resulting from, arising out of or connected with the goods or this Agreement or from the performance or breach hereof; (b) The aggregate liability of Contractor, its officers, directors, employees, subcontractors, suppliers or affiliated companies, for all claims of any kind for any loss, damage, or expense resulting from, arising out of or connected with the goods or this Agreement or from the performance or breach hereof, together with the cost of performing make good obligations to pass performance tests, if applicable, shall in no event exceed the amounts paid to Contractor; (c) The limitations and exclusions of liability set forth in this Paragraph 27 shall take precedence over any other provision of this Agreement and shall apply whether the claim of liability is based on contract, warranty, tort (including negligence), strict liability, indemnity, or otherwise.

## **28. INCORPORATION BY REFERENCE AND PRECEDENCE**

If this Agreement has been procured pursuant to a request for proposals, this Agreement is derived from (1) the request for proposal, (including any written clarifications to the request for proposals and any BDDDB response to questions); (2) Contractor's best and final offer; and (3) Contractor's response to the request for proposals.

In the event of a dispute under this Agreement, applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) amendments to the Agreement in reverse chronological order; (2) the Agreement, including the scope of work and all terms and conditions thereof; (3) the request for proposals, including attachments thereto and written responses to questions and written clarifications; (4) Contractor's best and final offer if such has been made and accepted by BDDDB; and (5) Contractor's response to the request for proposals.

## **29. WORKERS' COMPENSATION**

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

### **30. INSPECTION**

If this Agreement is for the purchase of tangible personal property (goods), final inspection and acceptance shall be made at Destination. Tangible personal property rejected at Destination for non-conformance to specifications shall be removed at Contractor's risk and expense promptly after notice of rejection and shall not be allowable as billable items for payment.

### **31. INSPECTION OF SERVICES**

If this Agreement is for the purchase of services, the following terms shall apply.

A. Services, as used in this Paragraph, include services performed, workmanship, and material furnished or utilized in the performance of services.

B. Contractor shall provide and maintain an inspection system acceptable to the BDDB covering the services under this Agreement. Complete records of all inspection work performed by Contractor shall be maintained and made available to the BDDB and for as long thereafter as the Agreement requires. The BDDB has the right to inspect and test all services contemplated under this Agreement to the extent practicable at all times and places during the term of the Agreement. The BDDB shall perform inspections and tests in a manner that will not unduly delay or interfere with Contractor's performance.

C. If the BDDB performs inspections or tests on the premises of Contractor or a subcontractor, Contractor shall furnish, and shall require subcontractors to furnish, at no increase in contract price, all reasonable facilities and assistance for the safe and convenient performance of such inspections or tests.

D. If any part of the services does not conform with the requirements of this Agreement, the BDDB may require Contractor to re-perform the services in conformity with the requirements of this Agreement at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the BDDB may:

(1) require Contractor to take necessary action(s) to ensure that future performance conforms to the requirements of this Agreement; and

(2) reduce the contract price to reflect the reduced value of the services performed.

E. If Contractor fails to promptly re-perform the services or to take the necessary action(s) to ensure future performance in conformity with the requirements of this Agreement, the BDDB may:

(1) by contract or otherwise, perform the services and charge to Contractor any cost incurred by the BDDB that is directly related to the performance of such service; or

(2) terminate the Agreement for default.

## **32. INSURANCE**

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

A. **Commercial General Liability.** Insurance shall be written on an occurrence basis and be as broad as ISO Form CG 00 01 with limits \$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 BDDDB their officials, officers, employees, and agents as additional insureds.

B. **Broader Coverage and Limits.** The insurance requirements under this Agreement shall be the greater of (1) the minimum coverage and limits specified in this Agreement, 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 Agreement are sufficient to cover the obligations of Contractor hereunder.

C. Contractor shall maintain the above insurance for the term of this Agreement and name the BDDDB as an additional insured and provide for thirty (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.

## **33. IMPRACTICALITY OF PERFORMANCE**

A party shall be excused from performance under this Agreement for any period that the party is prevented from performing as a result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination.

## **34. INVALID TERM OR CONDITION**

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

## **35. ENFORCEMENT OF AGREEMENT**

A party's failure to require strict performance of any provision of this Agreement 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 Agreement 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.

### **36. PATENT, COPYRIGHT AND TRADE SECRET INDEMNIFICATION**

A. Contractor shall defend, at its own expense, the BDDB against any third-party claim that any product or service provided under this Agreement infringes any patent, copyright to trademark in the United States or Puerto Rico, and shall pay all costs, damages and attorneys' fees that a court finally awards as a result of any such claim. In addition, if any third party obtains a judgment against the BDDB based upon Contractor's trade secret infringement relating to any product or services provided under this Agreement, Contractor agrees to reimburse the BDDB for all costs, attorneys' fees and amount of the judgment. To qualify for such defense and or payment, the BDDB shall:

- (1) give Contractor prompt written notice within 48 hours of any claim;
- (2) allow Contractor to control the defense of settlement of the claim; and
- (3) cooperate with Contractor in a reasonable way to facilitate the defense or settlement of the claim.

B. If any product or service becomes, or in Contractor's opinion is likely to become the subject of a claim of infringement, Contractor shall at its option and expense:

- (1) provide the BDDB the right to continue using the product or service and fully indemnify the BDDB against all claims that may arise out of the BDDB's use of the product or service;
- (2) replace or modify the product or service so that it becomes non-infringing;  
or,
- (3) accept the return of the product or service and refund an amount equal to the value of the returned product or service, less the unpaid portion of the purchase price and any other amounts, which are due to Contractor. Contractor's obligation will be void as to any product or service modified by the BDDB to the extent such modification is the cause of the claim.

C. All intellectual property embodied in the goods provided to BDDB is the property of Contractor. Contractor grants to BDDB a non-exclusive, royalty-free, non-transferable license to use Contractor's confidential and proprietary information disclosed hereunder for the purpose of the installation, operation, maintenance and repair of the products and services that are the subject of this Agreement only.

### **37. SURVIVAL**

The paragraphs titled "Patent, Copyright, Trademark, and Trade Secret Indemnification; Indemnification; and Limit of Liability" in this Agreement shall survive the expiration of this Agreement. Software licenses, leases, maintenance and any other unexpired agreements that were entered into under the terms and conditions of this Agreement shall survive this Agreement.

### **38. DISCLOSURE REGARDING RESPONSIBILITY**

A. Any prospective Contractor and any of its principals who enter into an agreement greater than sixty thousand dollars (\$60,000.00) with the City of Santa Fe or the BDDB for professional services, tangible personal property, services or construction agrees to disclose whether Contractor, or any principal of Contractor's company is presently debarred, suspended, proposed for debarment, or declared ineligible for award of contract by any federal entity, state agency or local public body.

B. Principal, for the purpose of this disclosure, means an officer, director, owner, partner, or a person having primary management or supervisory responsibilities within a business entity or related entities.

C. Contractor shall provide immediate written notice to the BDDB if, at any time during the term of this Agreement, Contractor learns that Contractor's disclosure was at any time erroneous or became erroneous by reason of changed circumstances.

D. A disclosure that any of the items in this requirement exist will not necessarily result in termination of this Agreement. However, the disclosure will be considered in the determination of Contractor's responsibility and ability to perform under this Agreement. Failure of Contractor to furnish a disclosure or provide additional information as requested will be grounds for immediate termination of this Agreement pursuant to the conditions set forth in Paragraph 7 of this Agreement.

E. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the disclosure required by this document. The knowledge and information of a Contractor is not required to exceed that which is the normally possessed by a prudent person in the ordinary course of business dealings.

F. The disclosure requirement provided is a material representation of fact upon which reliance was placed when making an award and is a continuing material representation of the facts during the term of this Agreement. If during the performance of the Agreement, Contractor is indicted for, or otherwise criminally or civilly charged, by any government entity (federal, state or local) with commission of any offenses named in this Agreement, Contractor must provide immediate written notice to the BDDB. If it is later determined that Contractor knowingly rendered an erroneous disclosure, in addition to other remedies available to the Government, the BDDB may terminate this Agreement for cause. Further, the BDDB may suspend or debar Contractor from eligibility for future solicitations until such time as the matter is resolved to the satisfaction of the BDDB.

### **39. SUSPENSION, DELAY OR INTERRUPTION OF WORK**

BDDB may, without cause, order Contractor, in writing, to suspend, delay or interrupt the work in whole or in part for such period of time as the City may determine. The Agreement sum and Agreement time shall be adjusted for increases in cost and/or time associated with Contractor's compliance therewith. 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. Any compensation requested for which entitlement is granted and the Agreement sum adjusted, shall have profit included (for work completed) and for cost only (not profit) for Contractor costs incurred directly tied to the suspension itself and not otherwise covered by Agreement remedy. Any change in Total Compensation must be reflected in an Amendment executed pursuant to Section "Amendment" of this Agreement.

#### **40. NOTIFICATION**

Either party may give written notice to the other party in accordance with the terms of this Paragraph. Any written notice required or permitted to be given hereunder shall be deemed to have been given on the date of delivery if delivered by personal service or hand delivery or three (3) business days after being mailed.

**To the BDDDB:** Bradley Prada,  
BDD Facilities Manager  
341 Caja Del Rio Road  
Santa Fe, NM 87506  
Email: bxprada@santafenm.gov

**With a Copy to:** Nancy R. Long  
BDDDB Counsel  
P.O. Box 5098  
Santa Fe, NM 87502-5098  
Email: nancy@longkomer.com

**To Contractor:** Andritz Separation Inc.  
Gina Mongardo  
1010 Commercial Bld. South  
Arlington, Texas 76001 USA  
gina.mongardo@andritz.com

Either party may change its representative or address above by written notice to the other in accordance with the terms of this Paragraph. The carrier for mail delivery and notices shall be the agent of the sender.

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

**BUCKMAN DIRECT DIVERSION BOARD**

**CONTRACTOR:**  
Andritz Separation, Inc.

\_\_\_\_\_  
BDDDB Chair

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Nancy R. Long  
BDDDB ATTORNEY

APPROVED FOR FINANCES:

\_\_\_\_\_  
FINANCE DIRECTOR

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

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

CRS# \_\_\_\_\_

Registration # \_\_\_\_\_

\_\_\_\_\_  
Org. Name/Org.#

## **EXHIBIT A SCOPE OF SERVICES**

Contractor shall perform and provide the following work:

**A. General:** Provide manufacturer-authorized repair, service, inspection, and ongoing maintenance for Andritz centrifuge equipment installed and operated at the BDD ("BDD") Facility. The centrifuge units are critical to solids handling, treatment efficiency, and regulatory compliance of the facility. All work shall be performed in accordance with original equipment manufacturer (OEM) specifications and industry best practices.

**B. Initial Repair Services:** Contractor shall perform repair services for the Andritz centrifuge rotating assembly, including but not limited to:

1. Diagnosis and evaluation of the rotating assembly
2. Disassembly and inspection of the rotating assembly
3. Repair, refurbishment, or replacement of worn or damaged components
4. Balancing, reassembly, and functional testing
5. Factory-authorized service and quality assurance
6. Return of the repaired unit to operational readiness. All repairs requiring factory work shall be completed at Contractor's authorized service facility. Parts used shall be OEQ or OEM-approved components only.

**C. Ongoing Repair and Maintenance Services:** Throughout the Agreement period, Contractor shall provide ongoing repair and maintenance services as needed to ensure continued reliable operation of the centrifuge equipment, including:

1. Preventive maintenance inspections
2. Corrective maintenance and emergency repairs
3. Troubleshooting mechanical or operational failures
4. Replacement of wear parts and spare parts as required
5. Technical support and consultation related to equipment performance
6. On-site and off-site services as required by the condition of the equipment. Services may be provided on a scheduled, on-call, or as-needed basis in coordination with BDD operations staff.

**D. Technical Support and Expertise:** Contractor shall provide OEM-qualified technical personnel with demonstrated experience servicing Andritz centrifuge equipment. Contractor shall:

1. Ensure all work complies with OEM standards
2. Maintain equipment performance and operational safety
3. Provide recommendations to extend equipment life and minimize downtime.

4. **Parts, Materials, and Freight:** Contractor shall supply all necessary OEM or OEM-approved parts, materials, and components required to complete the repair and maintenance services. Freight, shipping, and handling associated with repair services shall be coordinated with the BDD facility and invoiced in accordance with Agreement terms.

E. **Regulatory and Operational Compliance:** All services performed under this Agreement shall support the continued operation of the BDD water treatment facility in compliance with applicable environmental, safety, and operational regulations. Work shall be scheduled to minimize operational disruptions whenever feasible.

F. **Deliverables:** Deliverables under this Agreement may include, but are not limited to:

1. Completed repairs and maintenance services
2. Service reports documenting work performed
3. Recommendations for future maintenance or repairs
4. Documentation of parts replaced and services rendered

G. **Agreement Term Applicability:** This Scope of Work applies to both the initial repair services and all ongoing maintenance and repair activities performed during the full Agreement term, including and renewal periods, if applicable.