

**CITY OF SANTA FE  
AMENDMENT No. 2 TO  
AGREEMENT BETWEEN OWNER AND CONTRACTOR**

AMENDMENT No. 2 (the "Amendment") to the CITY OF SANTA FE AGREEMENT 19-0648 BETWEEN OWNER AND CONTRACTOR, dated August 2, 2019 (the "Agreement"), between the City of Santa Fe (the "City") and B&D Industries, Inc. (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, the Contractor has agreed to provide construction services for CIP Project #503A, Salvador Perez Recreation Building - Structural and Building Envelope Rehabilitation;

B. Pursuant to Article 8.5.11 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the City and the Contractor agree as follows:

1. CONTRACT SUM:

Article 4 of the Agreement is amended to increase the total contract sum dollar amount by \$35,457.72 to include provision for additional Work per the attached proposal dated April 27, 2020 (Exhibit 1,A), so that Article 4.1 reads as follows:

**§ 4.1** The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be ~~one million three hundred thirty-nine thousand eight hundred thirty-eight dollars and ninety-eight cents~~ (\$ ~~1,339,838.98~~), inclusive of New Mexico Gross Receipts Tax, subject to additions and deductions as provided in the Contract Documents.

2. AGREEMENT IN FULL FORCE.

Except as specifically provided in this Amendment, the Agreement remains and shall remain in full force and effect, in accordance with its terms.

IN WITNESS WHEREOF, the parties have executed this Amendment No. 2 to the City of Santa Fe Agreement 19-6048 Between Owner and Contractor for CIP Project #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation.

CITY OF SANTA FE:

ALAN M. WEBBER, MAYOR

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

CONTRACTOR:

CLINTON BEALL, SENIOR VP  
B&D INDUSTRIES, INC.

DATE: 7/29/2020

NM LICENSE #1426  
CRS# 01-716872-004  
City of Santa Fe Business  
Registration# 17-00110523  
NM Resident Pref # L1754397648

ATTEST:

YOLANDA Y. VIGIL, CITY CLERK

CITY ATTORNEY'S OFFICE:

Marcos Martinez

Marcos Martinez (Jun 24, 2020 15:17 MDT)

SENIOR ASSISTANT CITY ATTORNEY

APPROVED FOR FINANCES:

MARY MCCOY, FINANCE DIRECTOR

Business Unit/Line Item

32151.572970.0119900: \$51,396.88, EXP Salvador Perez Building, WIP Construction (2-018 GRT Bond)

# City of Santa Fe New Mexico

## Public Works Dept. - Facilities Division

### MEMO

**DATE:** September 29, 2020

**TO:** Finance Committee / Governing Body

**VIA:**



Regina Wheeler, Department Director, Public Works  
Michael Rodriguez, Division Director, Facilities

**FROM:** Anson Rane, Facilities Division Project Administrator, Public Works

**ISSUE:** Project Progress Update and Retroactive Approval of Amendment No. 2 for Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation

#### PROJECT SUMMARY

Extensive remodeling has been completed on the Salvador Perez Recreation Building over the past year. The scope of work included the rehabilitation of the insulation and building envelope, structural repairs, HVAC replacement, upgrades to the locker rooms and swimming pool resurfacing. Four general contractors were engaged to complete this broad scope: B&D Industries for building envelope and structural; Ameresco for HVAC, FacilityBuild, Inc. for the locker rooms and PoolPro LLC for pool resurfacing.

During the work performed by B&D Industries, a number of deferred maintenance items were discovered that were beyond the scope of work of their contract. These additional scope items addressed code and safety issues (see list below) and were therefore necessary to perform. In consideration of the critical nature of the work and with the understanding that the City of Santa Fe purchasing procedures do make accommodations for retroactive approval of contract amendments in certain situations such as this one, the Facilities Division directed B&D to proceed. The total cost for this additional scope of work is \$35,457.72.

The project is funded by the 2018 GRT bond for \$2,450,000. The total project cost, including a previous Amendment 1 and this Amendment 2 to B&D Industries, as well as a change order to Pool Pro LLC, will be \$2,480,198. Additional funds from savings from the City Hall Roof Replacement GRT project, in the amount of \$30,198, will be transferred to the Salvador Perez Recreation Building project to address the budget differential.

#### SUMMARY OF B&D CONTRACT AMENDMENT NO. 2

1. Provide repairs to existing fire protection system backflow and fire sprinkler heads.
2. Repair gas leaks in existing gas piping and re-route section of existing exterior gas line for code compliance (existing gas line was covered by wall finish).
3. Provide temporary heat for the facility during gas shutdown for gas repairs and re-routing.
4. Demolish and remove existing damaged and non-code compliant reception counter.
5. Provide ductwork mitigation/cleaning required due to the shutdown of natatorium HVAC air-handler unit for work by others (Ameresco) and for deferred maintenance.

## **MEMO**

Project Progress Update and Approval of Amendment No. 2 for the Salvador Perez Recreation Building  
Structural and Building Envelope Rehabilitation

Page 2

### **PROJECT SCHEDULE**

The work of all four contractors has been completed. Additionally, Facilities and Parks and Recreation Division staff have been completing pre-occupancy work and tasks including the fabrication and installation of a new reception counter, the recharging of the pool filtration system and pool heater startup and the move-in and set up of fitness equipment.

### **BUDGET**

Funding is available from the Salvador Perez Project: GRT1835502 (org 3359980 object 572970) and from the City Hall Roof Replacement Project: GRT18355A2 (org 3359980 object 572970) from which \$30,198 will be moved into the Salvador Perez Project: GRT1835502 (org 3359980 object 572970).

### **REQUESTED ACTION**

Request retroactive approval of Amendment No.2 to the B&D Contract for Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation to increase compensation by \$35,457.72 to \$1,339,838.98 inclusive of NMGR.

### **ATTACHMENTS**

City of Santa Fe – Amendment No.2 to Agreement Between Owner and Contractor (Exhibit 1)  
Contractor's Amendment #2 Price Proposal dated 4/27/20 (Exhibit 1,A)  
Contractor's Certificate of Liability Insurance (Exhibit 1,B)  
Procurement Checklist – B&D Amendment 2 (Exhibit 2)  
Summary of Contract – B&D Amendment 2 (Exhibit 3)  
Memo to City Manager required for Retroactive Approval (Exhibit 4)

### **LEGISLATIVE SCHEDULE:**

Finance Committee: 10/5/2020

City Council: 10/14/2020

# City of Santa Fe New Mexico

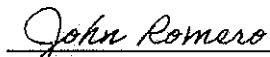
## Public Works Dept. - Facilities Division

### MEMO

**DATE:** May 14, 2020

**TO:** Public Works, CIP & Land Use Committee/ Governing Body

**VIA:**

  
John Romero, Acting Department Director, Public Works  
Michael Rodriguez, Division Director, Facilities

**FROM:** Anson Rane, Facilities Division Project Administrator, Public Works

**ISSUE:** Project Progress Update and Approval of Amendment No. 2 for Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation

#### PROJECT SUMMARY

The Salvador Perez Recreation Building has been undergoing extensive improvements for the past six months to address mold and ventilation issues as well as extensive deferred maintenance for the facility. The scope of work has included the rehabilitation of the insulation and building envelope, structural repairs, HVAC replacement, upgrades to the locker rooms and swimming pool resurfacing. Four general contractors are engaged to complete this broad scope: B&D Industries for building envelope and structural; Ameresco for HVAC, FacilityBuild, Inc. for the locker rooms and PoolPro LLC for pool resurfacing.

During the work performed by B&D Industries, a number of deferred maintenance items were identified that were not within the contracted scope of work. The additional maintenance and repair items, which addressed code and life safety issues, were time sensitive in that they needed to be completed before the facility could be re-opened and would be an impact to the progress of the contracted work if not addressed in a timely manner. The total cost for this additional work is \$35,457.72.

The project is funded by the 2018 GRT bond for \$2,450,000. The total project cost, including a previous Amendment 1 and this Amendment 2 to B&D Industries, as well as a change order to Pool Pro LLC, will be \$2,480,198. Additional funds from savings from the City Hall Roof Replacement GRT project, in the amount of \$30,198, will be transferred to the Salvador Perez Recreation Building project to address the budget differential.

#### SUMMARY OF B&D CONTRACT AMENDMENT NO. 2

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4. Demolish and remove existing damaged and non-code compliant reception counter.
5. Provide ductwork mitigation/cleaning required due to the shutdown of natatorium HVAC air-handler unit for work by others (Ameresco) and for deferred maintenance.

## **MEMO**

Project Progress Update and Approval of Amendment No. 2 for the Salvador Perez Recreation Building  
Structural and Building Envelope Rehabilitation

Page 2

### **PROJECT SCHEDULE**

Both the locker room remodel by FacilityBuild and the B&D Industries work on the building and envelope and structure are substantially complete and punchlist corrections are ongoing. The HVAC work by Ameresco is 90% complete with testing and balancing work still to be completed. The pool plaster work is complete and pool water conditioning is ongoing.

Facilities and Parks and Recreation Division staff have commenced with additional pre-occupancy work and tasks including the fabrication and installation of a new reception counter, recharging of the pool filtration system and pool heater startup, the move-in and set up of fitness equipment and the final testing and inspection of the fire alarm and suppression systems. It is anticipated that all work and pre-occupancy set-up will be completed on or about the end of July, 2020.

### **BUDGET**

Funding is available from the Salvador Perez Project: GRT1835502 (org 3359980 object 572970) and from the City Hall Roof Replacement Project: GRT18355A2 (org 3359980 object 572970) from which \$30,198 will be moved into the Salvador Perez Project: GRT1835502 (org 3359980 object 572970).

### **REQUESTED ACTION**

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### **LEGISLATIVE SCHEDULE:**

Public Works Committee: 5/26/2020

Finance Committee: 6/1/2020

City Council: 6/10/2020



# City of Santa Fe Summary of Contracts, Agreements, & Amendments

## Section to be completed by department for each contract or contract amendment

1 **FOR:** ORIGINAL CONTRACT ☐ or CONTRACT AMENDMENT ☒

2 Name of Contractor B&D Industries, Inc.

3 Complete information requested

☐ Plus GRT

☒ Inclusive of GRT

Original Contract Amount: \$1,252,984.38

Termination Date: June 30, 2023

☒ Approved by Council Date: July 31, 2019

☐ or by City Manager Date: \_\_\_\_\_

Contract is for: CIP #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation - Construction Services

Amendment # 2 to the Original Contract# 19-0648

Increase/(Decrease) Amount \$ 35,457.72

Extend Termination Date to: N/A

☒ Approved by Council Date: Pending

☐ or by City Manager Date: \_\_\_\_\_

Amendment is for: Added scope of work: New interior finishes (flooring and paint).  
Additional days added to construction period (+30 days)

4 **History of Contract & Amendments:** (option: attach spreadsheet if multiple amendments)

☐ Plus GRT

☒ Inclusive of GRT

Amount \$ 1,252,984.38 of original Contract# 19-0648 Termination Date: 6/30/2023

Reason: Rehabilitation of Sal Perez Rec Bldg Structural and Building Envelope

Amount \$ 51,396.88 amendment # 1 Termination Date: 6/30/2023

Reason: Replacement and refinishing of building interior finishes (flooring and paint)

Amount \$ 35,457.72 amendment # 2 Termination Date: 6/30/2023

Reason: Additional deferred maintenance and code compliance work

Amount \$ \_\_\_\_\_ amendment # \_\_\_\_\_ Termination Date: \_\_\_\_\_

Reason: \_\_\_\_\_

Total of Original Contract plus all amendments: \$ 1,339,838.98



**City of Santa Fe**  
**Summary of Contracts, Agreements, & Amendments**

**5 Procurement Method of Original Contract:** (complete one of the lines)

RFP# \_\_\_\_\_ Date: \_\_\_\_\_

RFQ ☐ \_\_\_\_\_ Date: \_\_\_\_\_

Sole Source ☐ \_\_\_\_\_ Date: \_\_\_\_\_

Other Cooperative Educational Services

**6 Procurement History:** New Contract, Amendment #1, Amendment #2

*Gian Duran* CPO 6/25/20  
Purchasing Officer Review

Comments or Exceptions: \_\_\_\_\_

**7 Funding Source:** GRT18355O2 / GRT18355A2 **BU/Line Item:** 3359980.572970: \$35,457.72

*Alexis Lotero*

Alexis Lotero (Aug 27, 2020 11:04 MDT)

**Budget Officer Approval**

Comments or Exceptions: \_\_\_\_\_

**8 Any out-of-the ordinary or unusual issues or concerns:**

\_\_\_\_\_  
(Memo may be attached to explain detail.)

**9 Staff Contact who completed this form:** Anson Rane

Phone # 955-5935

**10 Certificate of Insurance attached.** (if original Contract) ☐

**Submit to City Attorney for review/signature**

**Forward to Finance Director for review/signature**

**Return to originating Department for Committee(s) review or forward to City Manager for review and approval (depending on dollar level).**

**To be recorded by City Clerk:**

Contract # \_\_\_\_\_

Date of contract Executed (i.e., signed by all parties): \_\_\_\_\_

Note: If further information needs to be included, attach a separate memo.

**Comments:**



## CITY OF SANTA FE OTHER METHOD PROCUREMENT CHECKLIST

Contractor Name: B&D Industries, Inc.

Procurement Title: Amendment No. 2: CIP #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation

Other Methods: State Price Agreement ☐ Cooperative ☒ Sole Source ☐ Exempt ☐ Other ☐

Department Requesting/Staff Member: Anson Rane

### Procurement Requirements:

*A procurement file shall be maintained for all contracts, regardless of the method of procurement. The procurement file shall contain the basis on which the award is made, all submitted bids, all evaluation materials, score sheets, quotations and all other documentation related to or prepared in conjunction with evaluation, negotiation, and the award process. The procurement shall contain a written determination from the Requesting Department, signed by the purchasing officer, setting forth the reasoning for the contract award decision before submitting to the Committees.*

### REQUIRED DOCUMENTS FOR APPROVAL BY PURCHASING\*

YES	N/A	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Approved Procurement Checklist (by Purchasing)
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Departments Recommendation of Award Memo addressed to Finance
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Price Agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole Source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Purchasing Officers approval for exempt procurement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	BAR
<input type="checkbox"/>	<input checked="" type="checkbox"/>	FIR
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Contract, Agreement or Amendment
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Current Business Registration and CRS numbers on contract or agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Summary of Contracts and Agreements form
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Certificate of Insurance
<input type="checkbox"/>	<input type="checkbox"/>	Other: _____

Anson Rane, Project Administrator, Public Works Dept./Facilities Division

Department Rep Printed Name and Title



Department Rep Signature attesting that all information included



From Drawings (Aug 7, 2020 11:42 EDT)

Purchasing Officer attesting that all information is reviewed

### REQUIRED DOCUMENTS FOR OTHER METHOD FILE\*

YES	N/A	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	State Price Agreement
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Cooperative Agreement
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Sole source Request and Determination Form
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Contractors Exempt Letter
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Purchasing Officers approval of exempt procurement

- ☐ ☒ Copies of all Sole Source submittals
- ☐ ☐ Other: \_\_\_\_\_

**AWARD\***

YES N/A

- ☒ ☐ Fully executed Memo to Committees from the Department with recommendation of award
- ☐ ☐ Other: \_\_\_\_\_

**CONTRACT\***

YES N/A

- ☒ ☐ Copy of Executed Contract
- ☒ ☐ Copy of all documentation presented to the Committees
- ☒ ☐ Finalized Council Committee Minutes
- ☐ ☐ Other: \_\_\_\_\_

Include all other substantive documents and records of communication that pertain to the procurement and any resulting contract.

Create a separate file folder which may contain any documents with trade secrets or other competitively sensitive, confidential or proprietary information.

Anson Rane, Project Administrator, Public Works Dept./Facilities Division

Department Rep Printed Name and Title

  
 Department Rep Signature attesting that all information included

<p align="center"><b>ACTION SHEET</b></p> <p align="center"><b>ITEM FROM FINANCE COMMITTEE MEETING OF 10/05/20</b></p> <p align="center"><b>FOR CITY COUNCIL MEETING OF 10/14/20</b></p>
--

- a) Project Status Presentation and Request for Retroactive Approval of Amendment No. 2 to the contract for construction for CIP Project #503a (Salvador Perez Recreation Building – structural and building envelope rehabilitation), for the purpose of an increase of \$35,457.72 to the contract amount for additional deferred maintenance scope as detailed in the memo, the B&D Industries cost proposal and the presentation materials. (Anson Rrane, PW Project Administrator, [aerane@santafenm.gov](mailto:aerane@santafenm.gov), 955-5935)

**Committee Review:**

PWC (approved) 5-26-20

Finance (rescheduled) 10-05-20

Governing Body (scheduled) 10-14-20

**FINANCE COMMITTEE ACTION:**

Approved on Consent

**FUNDING SOURCE:**

**SPECIAL CONDITIONS OR AMENDMENTS**

VOTE	FOR	AGAINST	ABSTAIN
COUNCILOR ROMERO-WIRTH	x		
COUNCILOR CASSUTT-SANCHEZ	x		
COUNCILOR LINDELL	x		
COUNCILOR VILLARREAL	x		
CHAIRPERSON ABEYTA	x		

9-19-20

<b>ACTION SHEET</b> <b>PUBLIC WORKS AND PUBLIC UTILITIES COMMITTEE MEETING OF</b> <b>05/26/2020</b>	
<b>ISSUE NO. 7B</b>	
<p>B) Project Status Presentation and Request for Approval of Amendment No.2 to the Contract for Construction of CIP Project #503A (Salvador Perez Recreation Building – Structural and Building Envelope Rehabilitation for the Purpose of an Increase of \$35,457.72 to the Contract Amount for Additional Deferred Maintenance Scope, Detailed in the Memo, the B&amp;D Industries Cost Proposal and Presentation Materials (Anson Rane, PW Project Administrator, <a href="mailto:Aerane@Santafenm.gov">Aerane@Santafenm.gov</a>, 955-5935)</p>	
<p><b><u>COMMITTEE REVIEW</u></b></p>	
Finance Committee (Scheduled)	06/15/2020
Governing Body (Scheduled)	06/24/2020
<p><b>PUBLIC UTILITIES COMMITTEE ACTION:</b> Approved on Consent to forward to the 06/15/2020 Finance Committee.</p>	
<p><b>SPECIAL CONDITIONS OR AMENDMENTS:</b></p>	
<p><b>STAFF FOLLOW UP:</b></p>	

VOTE:	FOR	AGAINST	ABSTAIN
COUNCILOR RIVERA, CHAIR	X		
COUNCILOR GARCIA	X		
COUNCILOR ABEYTA	X		
COUNCILOR LINDELL	X		
COUNCILOR VIGIL COPPLER	X		

### NEW MEXICO

1720 Bell Ave SE  
Albuquerque, NM 87123  
Phone: (505) 299-4464  
(866) 315-8349  
Fax: (505) 298-2114

### BRANCH OFFICES

### NEW MEXICO

101 DP Rd  
Los Alamos, NM 87544  
Phone: (505) 661-8336  
Fax: (505) 661-8337

### TEXAS

2118 E. 8th St  
Odessa, TX 79762  
Phone: (432) 653-5178  
Fax: (432) 653-5179

3928 Business Park Dr.  
Amarillo, TX 79110  
Phone: (806) 367-8041  
Fax: (505) 298-2114

### ARIZONA

3454 N. San Marcos Pl.  
Bldg B, Suite 3A  
Chandler, AZ 85225  
Phone: (480) 632-4002  
Fax: (505) 298-2114

### NEW YORK

15 Wood Rd. Space 100  
Round Lake, NY 12151  
Phone: (518) 400-7412  
Fax: (518) 400-7415

April 27<sup>th</sup>, 2020

Anson Rane  
Facilities Division, Project Administrator  
City of Santa Fe, Public Works Department  
(505) 955-5935 Office  
(505) 795-2639 Cell  
[aerane@santafenm.gov](mailto:aerane@santafenm.gov)

Re: Salvador Perez Additional Contingency Items

Mr. Rane,

Thank you for the opportunity to provide this quote.

#### \*Pricing Breakdown\*

Total:	\$ 32,698.76
Tax @ 8.4375%:	\$ 2,758.96
<b>Grand Total:</b>	<b>\$ 35,457.72</b>

Scope: B&D will provide labor and material to perform the following services:

- |  |                    |
|--|--------------------|
| <b>Backflow repairs:</b>   | <b>\$ 1,957.00</b> |
| ▪ To include:<br>Emergency service and scheduled repairs of the backflow for the fire protection system. |                    |
| <b>Replacing fire sprinkler heads in locker rooms:</b>   | <b>\$ 1,890.20</b> |
| ▪ To include:<br>Replacement of the fire sprinkler heads in the men's and women's locker rooms.          |                    |
| <b>Reroute North gas line:</b>   | <b>\$ 4,952.05</b> |
| ▪ To include:<br>Reroute the existing gas line that is buried under the EIFS on the north side.          |                    |
| <b>Duct Cleaning:</b>  | <b>\$ 5,593.33</b> |
| ▪ To include:<br>Clean duct work in natatorium post sandblasting.  |                    |
| <b>Cost Difference for Fire Sprinkler Heads (No 9):</b>  | <b>\$ 1,511.56</b> |
| ▪ To include:<br>The difference of the fire sprinkler heads in the locker rooms.                         |                    |
| <b>Fire Sprinkler Parts:</b>   | <b>\$ 213.29</b>   |
| ▪ To include:<br>Additional parts need to replace the fire sprinkler heads in the locker rooms.          |                    |

## NEW MEXICO

9720 Bell Ave SE  
Albuquerque, NM 87123  
Phone: (505) 299-4464  
(866) 315-8249  
Fax: (505) 298-2114

## BRANCH OFFICES

## NEW MEXICO

101 DP Rd  
Los Alamos, NM 87544  
Phone: (505) 661-8236  
Fax: (505) 661-8337

## TEXAS

2118 E. 8th St  
Odessa, TX 79762  
Phone: (432) 653-5178  
Fax: (432) 653-5179

3928 Business Park Dr.  
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Fax: (505) 298-2114

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## NEW YORK

15 Wood Rd. Space 100  
Round Lake, NY 12151  
Phone: (518) 400-7412  
Fax: (518) 400-7415

### Temporary Heaters:

**\$ 8,067.91**

- To include:  
Temporary heating for the natatorium for epoxy, primer, and paint applications.

### Gas Leak Repairs:

**\$ 5,215.55**

- To include:  
Investigate entire facility gas line for leaks and make necessary repairs.

### Reception Desk Removal:

**\$ 3,297.87**

- To include:  
Demo electrical and reception desk in lobby. Patch drywall.

### Exclusions:

- Engineering
- Exterior or interior work not included in the above scope / Correcting existing code violations
- Temporary HVAC, Plumbing, Power, Lighting or Facilities, UEC Charges
- Any other major components not identified in the above scope or attached documents

### Assumptions:

- All existing utilities, services, and structural supports will accommodate the new install
- B&D will have full unrestricted access to work area
- All work will be performed during standard working hours

Please contact me should you have questions or concerns.

Best Regards,

Kris Trujillo  
(505) 379-1760 (cell)  
[krist@banddindustries.com](mailto:krist@banddindustries.com)

*This cost proposal is valid for 30 days following issuance by B&D Industries, Inc. If the proposal is accepted after 30 days, B&D reserves the right to revise the price in accordance with commodity pricing changes including, but not limited to, copper, conduit and steel materials. If awarded, B&D reserves the right to review all contract documents associated with the project.*



B&amp;DINDU-01

MKATS

## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

11/7/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> License # 0757776 HUB International Insurance Services (NMX) 7770 Jefferson Street NE, Suite 101 Albuquerque, NM 87109		<b>CONTACT NAME:</b> Carrie Butler <b>PHONE (A/C, No, Ext):</b> (505) 262-9412 9412 <b>FAX (A/C, No):</b> (866) 487-3972 <b>E-MAIL ADDRESS:</b> Carrie.Butler@hubinternational.com		
<b>INSURED</b>  B & D Industries, Inc. 9720 Bell Ave SE Albuquerque, NM 87123		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
		<b>INSURER A : Valley Forge Insurance Company</b>		<b>20508</b>
		<b>INSURER B : National Fire Insurance Company of Hartford</b>		<b>20478</b>
		<b>INSURER C : The Continental Insurance Company</b>		<b>35289</b>
		<b>INSURER D : Transportation Insurance Company</b>		<b>20494</b>
		<b>INSURER E : Builders Trust of New Mexico</b>		
<b>INSURER F :</b>				

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	X	X	6016149399	11/11/2019	11/11/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X	X	6016149371	11/11/2019	11/11/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	X	X	6016149404	11/11/2019	11/11/2020	EACH OCCURRENCE \$ 11,000,000 AGGREGATE \$ 11,000,000
D	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input checked="" type="checkbox"/> Y / N If yes, describe under DESCRIPTION OF OPERATIONS below	N	A	6016149385	11/11/2019	11/11/2020	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
E	Worker's Compensatio		X	5672	1/1/2020	1/1/2021	Accid/Empl/Pol Limit 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
Umbrella is Form Following over General Liability, Auto Liability and Employers Liability. Additional Insured, Waiver of Subrogation and Primary Non-Contributory apply per attached policy forms.

Job Name: Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation

## CERTIFICATE HOLDER

## CANCELLATION

City of Santa Fe  
Salvador Perez  
601 Alta Vista St.  
Santa Fe, NM 87505

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

*Robert M. [Signature]*

**CNA PARAMOUNT****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.

- II.** 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; or
- C. 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**.

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

- A. coverage broader than required by the **written contract**; or
- B. a higher limit of insurance than required by the **written contract**.

- IV.** 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**.

- V.** 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**:

CNA75079XX (10-16)

Page 1 of 2

VALLEY FORGE INSURANCE COMPANY

Insured Name: B & D INDUSTRIES, INC.

Policy No: 6016149399

Endorsement No: 6

Effective Date: 11/11/2018

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

**VI. 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 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 insurance on 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.

**VII. 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. is currently in effect or becomes effective during the term of this policy; and
- B. 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.

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

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.

CNA75079XX (10-16)

Page 2 of 2

VALLEY FORGE INSURANCE COMPANY

Insured Name: B & D INDUSTRIES, INC.

Policy No: 6016149399

Endorsement No: 6

Effective Date: 11/11/2018

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**Workers Compensation And Employers Liability Insurance**  
**Policy Endorsement**

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

This endorsement applies only to the insurance provided by the policy because Texas is shown in Item 3.A. of the Information Page.

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule, but this waiver applies only with respect to bodily injury arising out of the operations described in the Schedule where you are required by a written contract to obtain this waiver from us.

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

The premium for this endorsement is shown in the Schedule.

Schedule

1. ☐ Specific Waiver

Name of person or organization

☒ Blanket Waiver

Any person or organization for whom the Named Insured has agreed by written contract to furnish this waiver.

2. Operations: All Texas Operations

3. Premium:

The premium charge for this endorsement shall be 2% percent of the premium developed on payroll in connection with work performed for the above person(s) or organization(s) arising out of the operations described.

4. Advance Premium: Refer to Schedule of Operations

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 Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: WC 42 03 04 B (06-2014)

Endorsement Effective Date:

Endorsement Expiration Date:

Endorsement No: 20; Page: 1 of 1

Underwriting Company: Transportation Insurance Company, 151 N Franklin St, Chicago, IL 60606

Policy No: WC 6 16149385

Policy Effective Date: 11/11/2018

Policy Page: 71 of 76



**Workers Compensation And Employers Liability Insurance**  
**Policy Endorsement**

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

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

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

**Schedule**

Any Person or Organization on whose behalf you are required to obtain this waiver of our right to recover from under a written contract or agreement.

The premium charge for the endorsement is reflected in the Schedule of Operations.

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 Policy Effective Date of said policy at the hour stated in said policy, unless another effective date (the Endorsement Effective Date) is shown below, and expires concurrently with said policy unless another expiration date is shown below.

Form No: WC 00 03 13 (04-1984)

Endorsement Effective Date:

Endorsement Expiration Date:

Endorsement No: 4; Page: 1 of 1

Underwriting Company: Transportation Insurance Company, 151 N Franklin St, Chicago, IL 60606

Policy No: WC 6 16149385

Policy Effective Date: 11/11/2018

Policy Page: 50 of 76



## WAIVER OF SUBROGATION

B & D INDUSTRIES, INC  
Insured # 5672

Builders Trust of New Mexico waives any right of recovery of subrogation against the certificate holder named on this certificate of insurance, but only to the extent that the employers to whom we provide coverage performs work under a written contract with the certificate holder that requires this waiver.

Name of Person	Name of Organization	Effective	Expiration
	Blanket Waiver of Subrogation	1/1/2019	1/1/2020

Date: 12/7/2018

Countersigned by

*Randy L. Alkin*

Agency Number: 35 – 39  
Agency Name: HUB International (Lujan)

(505) 345-3477 1-800-640-3369 FAX (505) 344-7245  
5931 OFFICE BOULEVARD, NE SUITE 3 ALBUQUERQUE, NM 87109 - P.O. BOX 91330  
ALBUQUERQUE, NM 87109  
[www.builderstrust.com](http://www.builderstrust.com)



**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:

- 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,
- 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.:

- 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.

3. Does not apply to:

- Bodily injury or property damage caused by an accident that occurred before you acquired or formed the organization; or
- 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:

- Which are no longer in force; or
- 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:

- In A.2, the limit for the cost of bail bonds is changed from \$2,000 to \$5,000; and
- In A.2, the limit for the loss of earnings is changed from \$250 to \$500 a day.

Form No: CNAB3359XX (04-2012)	Endorsement Effective Date:	Policy No: BUA 6018149371
Endorsement No: 24; Page 1 of 4	Underwriting Company: The Centennial Insurance Company, 161 N Franklin St, Chicago, IL 60606	Policy Effective Date: 11/11/2018
		Policy Page: 152 of 801

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**C. Fellow Employee**

Section II, Paragraph B.5 does not apply.

Such coverage as is afforded by this provision C, is excess over any other collectible insurance.

**II. PHYSICAL DAMAGE COVERAGE**

**A. Glass Breakage - Hitting A Bird Or Animal - Falling Objects Or Missiles**

The following is added to Section III, Paragraph A.3.:

With respect to any covered auto, any deductible shown in the Declarations will not apply to glass breakage if such glass is repaired, in a manner acceptable to us, rather than replaced.

**B. Transportation Expenses**

Section III, Paragraph A.4.a. is revised, with respect to transportation expense incurred by you, to provide:

- \$80 per day, in lieu of \$20; subject to
- \$1,800 maximum, in lieu of \$600.

**C. Loss of Use Expenses**

Section III, Paragraph A.4.b. is revised, with respect to loss of use expenses incurred by you, to provide:

- \$1,000 maximum, in lieu of \$500.

**D. Hired "Autos"**

The following is added to Section III, Paragraph A.:

5. Hired "Autos"

If Physical Damage coverage is provided under this policy, and such coverage does not extend to Hired Autos, then Physical Damage coverage is extended to:

- Any covered auto you lease, hire, rent or borrow without a driver; and
- Any covered auto hired or rented by your employee without a driver, under a contract in that individual employee's name, with your permission, while performing duties related to the conduct of your business.
- The most we will pay for any one accident or loss is the actual cash value, cost of repair, cost of replacement or \$75,000, whichever is less, minus a \$500 deductible for each covered auto. No deductible applies to loss caused by fire or lightning.
- The physical damage coverage as is provided by this provision is equal to the physical damage coverage(s) provided on your owned auto.
- Such physical damage coverage for hired autos will:

- Include loss of use, provided it is the consequence of an accident for which the Named Insured is legally liable, and as a result of which a monetary loss is sustained by the leasing or rental concern.

- Such coverage as is provided by this provision will be subject to a limit of \$750 per accident.

**E. Airbag Coverage**

The following is added to Section III, Paragraph B.3.:

The accidental discharge of an airbag shall not be considered mechanical breakdown.

Form No: CNAB3359XX (04-2012)	Endorsement Effective Date:	Policy No: BUA 6018149371
Endorsement No: 24; Page 2 of 4	Underwriting Company: The Centennial Insurance Company, 161 N Franklin St, Chicago, IL 60606	Policy Effective Date: 11/11/2018
		Policy Page: 150 of 801

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**F. Electronic Equipment**

Section III, Paragraphs B.4.c and B.4.d, are deleted and replaced by the following:

- Physical Damage Coverage on a covered auto also applies to loss to any permanently installed electronic equipment including its antennas and other accessories
- A \$100 per occurrence deductible applies to the coverage provided by this provision.

**G. Diminution In Value**

The following is added to Section III, Paragraph B.6.:

Subject to the following, the diminution in value exclusion does not apply to:

- Any covered auto of the private passenger type you lease, hire, rent or borrow, without a driver for a period of 30 days or less, while performing duties related to the conduct of your business; and
- Any covered auto of the private passenger type hired or rented by your employee without a driver for a period of 30 days or less, under a contract in that individual employee's name, with your permission, while performing duties related to the conduct of your business.
- Such coverage as is provided by this provision is limited to a diminution in value loss arising directly out of accidental damage and not as a result of the failure to make repairs, faulty or incomplete maintenance or repairs; or the installation of substandard parts.
- The most we will pay for loss to a covered auto in any one accident is the lesser of:
  - \$5,000; or
  - 20% of the auto's actual cash value (ACV).

**III. Drive Other Car Coverage - Executive Officers**

The following is added to Sections II and III:

- Any auto you don't own, hire or borrow is a covered auto for Liability Coverage while being used by, and for Physical Damage Coverage while in the care, custody or control of, any of your "executive officers", except:

- An auto owned by that "executive officer" or a member of that person's household; or
- An auto used by that "executive officer" while working in a business of selling, servicing, repairing or parking autos.

Such Liability and/or Physical Damage Coverage as is afforded by this provision,

- Equal to the greatest of those coverages afforded any covered auto; and
- Excess over any other collectible insurance.

- For purposes of this provision, "executive officer" means a person holding any of the officer positions created by your charter, constitution, bylaws or any other similar governing document, and, while a resident of the same household, includes that person's spouse.

Such "executive officers" are insured while using a covered auto described in this provision.

**IV. BUSINESS AUTO CONDITIONS**

**A. Duties In The Event Of Accident, Claim, Suit Or Loss**

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

Form No: CNAB3359XX (04-2012)	Endorsement Effective Date:	Policy No: BUA 6018149371
Endorsement No: 24; Page 2 of 4	Underwriting Company: The Centennial Insurance Company, 161 N Franklin St, Chicago, IL 60606	Policy Effective Date: 11/11/2018
		Policy Page: 151 of 801

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- 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.:

- 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 B.a. and B.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, 7.1(b)(1)(e) is revised to provide:

- 45 days of coverage in lieu of 30 days.

**V. DEFINITIONS**

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

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

Form No: CNAB3359XX (04-2012)	Endorsement Effective Date:	Policy No: BUA 6018149371
Endorsement No: 24; Page 4 of 4	Underwriting Company: The Centennial Insurance Company, 161 N Franklin St, Chicago, IL 60606	Policy Effective Date: 11/11/2018
		Policy Page: 152 of 801

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**CNA** **CNA PARAMOUNT**  
**Contractors' General Liability Extension Endorsement**

It is understood and agreed that this endorsement amends the COMMERCIAL GENERAL LIABILITY COVERAGE PART as follows. If any other endorsement attached to this policy amends any provision also amended by this endorsement, then that other endorsement controls with respect to such provision, and the changes made by this endorsement with respect to such provision do not apply.

TABLE OF CONTENTS
1. Additional Insureds
2. Additional Insured - Primary And Non-Contributory To Additional Insured's Insurance
3. Bodily Injury - Expanded Definition
4. Broad Knowledge of Occurrence/ Notice of Occurrence
5. Broad Named Insured
6. Broadened Liability Coverage For Damage To Your Product And Your Work
7. Contractual Liability - Rallies/Events
8. Electronic Data Liability
9. Estates, Legal Representatives and Spouses
10. Expected Or Intended Injury - Exception For Reasonable Force
11. General Aggregate Limits of Insurance - Per Project
12. In Rem Actions
13. Incidental Health Care Malpractice Coverage
14. Joint Venture/Partnership/Limited Liability Companies
15. Legal Liability - Damage To Premises / Allocated Premises / Property In The Named Insured's Care, Custody or Control
16. Liquor Liability
17. Medical Payments
18. Non-owned Aircraft Coverage
19. Non-owned Watercraft
20. Personal And Advertising Injury - Discrimination or Humiliation
21. Personal And Advertising Injury - Contractual Liability
22. Property Damage - Elevators
23. Supplementary Payments
24. Unintentional Failure To Disclose Hazards
25. Waiver of Subrogation - Blanket
26. Wrap-Up Extension: OCIP CCIP, or Consolidated (Wrap-Up) Insurance Programs

CNA747050X (1-15) Policy No: 6016149399  
Page 1 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.  
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**CNA** **CNA PARAMOUNT**  
**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 each 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. Mortgagees, Assignees or Receivers**

A mortgagee, assignee or receiver of premises but only with respect to such mortgage, 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, holiday openings, sidewalk vents, street banners, or decorative and similar appliances or

b. the construction, erection, or removal of elevator; 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:

**CNA** **CNA PARAMOUNT**  
**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 permitted 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

CNA747050X (1-15) Policy No: 6016149399  
Page 2 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.  
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**CNA** **CNA PARAMOUNT**  
**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 emotional 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

CNA747050X (1-15) Policy No: 6016149399  
Page 4 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.  
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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

b. by reason of a Named Insured creating or acquiring the organization during the policy period, qualify 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 BROADENED LIABILITY 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 (the) as any Named Insured should choose to employ.

#### B. 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 II, and I, and replace them with the following:

This insurance does not apply to:

I. 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.

II. 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 arose, was performed on the Named Insured's behalf by a subcontractor; or

CNA74705XX (1-15) Policy No: 6016149399  
Page 6 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.

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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

(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 products-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 arose, 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 railroad 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) Policy No: 6016149399  
Page 6 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.

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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

A. Under COVERAGES, Coverage A – Bodily Injury and Property Damage Liability, the paragraph entitled Exclusions is amended to delete exclusion 8. 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 patient, 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 on 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 purpose 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.

#### II. 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

CNA74705XX (1-15) Policy No: 6016149399  
Page 7 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.

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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

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 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 ventures or partnerships Named Insureds are insured 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 limit 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.

CNA74705XX (1-15) Policy No: 6016149399  
Page 8 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.

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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

E. If a single construction project away from premises owned by or related 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 quest 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 that 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 Employees 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, harassment 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 dishonesty, criminal or malicious act, error or omission.

Medicare/Medicaid Fraud

CNA747050X (1-15) Policy No: 6016149399  
Page 9 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.

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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

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 insured 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

CNA747050X (1-15) Policy No: 6016149399  
Page 10 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.

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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

(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 insured 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 venture, 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:

CNA747050X (1-15) Policy No: 6016149399  
Page 11 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.

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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

#### 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, maintenance or 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 inaccurately performed on it.

Paragraphs (1), (2) and (4) of this exclusion do not apply to property damage (other than damage by fire) to premises rented to the Named Insured or is 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.

CNA747050X (1-15) Policy No: 6016149399  
Page 12 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, INC.

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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

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 H, 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 6. above, \$25,000 is the most the Insurer will pay under Coverage A for damage 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 damage 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:

- \$500,000; or
- 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:

(i) That is primary 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.

The 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:

- \$15,000 unless a different amount is shown here: \$NANNNNNNN; or
- the amount shown in the Declarations for Medical Expense Limit.

CNA74705XX (1-15) Policy No: 6016149399  
Page 13 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, LLC.  
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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

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:

- 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;
- the aircraft is rented with a trained, paid crew to the Named Insured; and
- 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:

- a watercraft that is not owned by any Named Insured, provided the watercraft is:
  - less than 75 feet long; and
  - 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 text:

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:

- 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:

- the Named Insured; or
- any executive officer, director, stockholder, partner, member or manager (if the Named Insured is a limited liability company) of the Named Insured.

- add the following exclusions:

CNA74705XX (1-15) Policy No: 6016149399  
Page 14 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, LLC.  
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<b>Contractors' General Liability Extension Endorsement</b>	

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:

- Paragraph 2.d. is replaced by the following:

4. 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 Intervenor;

- The first unnumbered paragraph beneath Paragraph 2.d.(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 intervenor, necessary litigation expenses incurred by the Insurer, and necessary litigation expenses incurred by the Intervenor 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 Premises Exclusion and subparagraphs (3), (4) and (5) of the Damage to Property Exclusion do not apply to property damage that results from the use of elevators.

CNA74705XX (1-15) Policy No: 6016149399  
Page 15 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, LLC.  
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<b>CNA</b>	<b>CNA PARAMOUNT</b>
<b>Contractors' General Liability Extension Endorsement</b>	

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:

- the Named Insured's ongoing operations; or
- year 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:

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

26. WRAP-UP EXTENSION: DCP, CCP, 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:

- 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

CNA74705XX (1-15) Policy No: 6016149399  
Page 16 of 17 Endorsement No: 3  
VALLEY FORGE INSURANCE COMPANY Effective Date: 11/11/2018  
Insured Name: B & D INDUSTRIES, LLC.  
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2. Bodily injury or property damage included within the products-completed operations hazard that arises out of those portions of the project that are not residential structures.

9. Condition 4. Other insurance is amended to add the following subparagraph 4b.(1)(e):

This insurance is excess over:

(e) Any of the other insurance whether primary, excess, contingent or any other basis that is insurance available to the Named Insured as a result of the Named Insured being a participant in a consolidated (wrap-up) insurance program, but only as respects the Named Insured's involvement in that consolidated (wrap-up) insurance program.

C. DEFINITIONS is amended to add the following definitions:

**Consolidated (wrap-up) insurance program** means a construction, erection or demolition project for which the prime contractor/project manager or owner of the construction project has secured general liability insurance covering some or all of the contractors or subcontractors involved in the project, such as an Owner Controlled Insurance Program (O.C.I.P.) or Contractor Controlled Insurance Program (C.C.I.P.).

**Residential structure** means any structure where 30% or more of the square foot area is used or is intended to be used for human residency, including but not limited to:

1. single or multifamily housing, apartments, condominiums, townhouses, co-operatives or planned unit developments; and
2. the common areas and structures appurtenant to the structures in paragraph 1. (including pools, hot tubs, detached garages, guest houses or any similar structures).

However, when there is no individual ownership of units, residential structure does not include military housing, college/university housing or dormitories, long term care facilities, hotels or motels. Residential structures also does not include hospitals or prisons.

This WRAP-UP EXTENSION: OCIP, CCIP, OR CONSOLIDATED (WRAP-UP) INSURANCE PROGRAMS Provision does not apply to any person or organization who otherwise qualifies as an additional insured on this Coverage Part.

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 Insurer, 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.

CNA74705XX (1-15)

Page 17 of 17

VALLEY FORGE INSURANCE COMPANY

Insured Name: B & D INDUSTRIES, INC.

Policy No: 6016149399

Endorsement No: 3

Effective Date: 11/11/2018

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## COOPERATIVE EDUCATIONAL SERVICES

December 08, 2015

### Contract Award Letter

Nikki Parson  
B&D INDUSTRIES, INC.  
9720 Bell Ave SE  
Albuquerque, NM 87123

Re: ACCEPTANCE OF OFFER and CONTRACT AWARD

16-01B-R124-ALL RSMMeans JOC Regions 1 through 8

Dear Ms. Parson,

On behalf of Cooperative Educational Services (CES), I thank you for responding to our 2016-001 solicitation. The responses have been reviewed and it is my pleasure to inform you that you have been selected to provide the products and services indicated in your response.

The enclosed Acceptance of Offer and Contract Award is from the cover sheet that you submitted in your bid. I suggest that you take this award and place it with your copy of the bid that you submitted. Please read carefully the paragraph above the authorized signature. It outlines the agreement and specifies the term of the award.

We would like to include information concerning your company in our procurement directory called the Blue Book. Each of our members and participating entities receives a copy of this Blue Book. It enables their staff to look up important information concerning each vendor before placing an order. Although space is limited, the description below is intended as a quick reference of your company. If you would like to revise the description, please provide any changes in writing to CES' procurement office.

B&D is a full service contractor offering general contracting, electrical, mechanical, HVAC services and low voltage services in the areas of fire and security, network and cabling, voice, video, intercom and data collection. They are highly qualified to assist CES Members and Participating Entities in obtaining and completing Job Order Contracting projects in a timely and cost effective manner. They are also able to provide energy-efficient, cost-effective and long-lasting heating, cooling, ventilation, lighting systems, doors/windows, building interior and external envelope systems, and other

On CES' website ([www.ces.org](http://www.ces.org)), you can download contact information for all of CES' members and participating entities. You are invited to send marketing materials directly to these institutions.

We look forward to working with you. Please let us know if you have questions or if we can be of any further assistance.

Sincerely yours,

Cooperative Educational Services

David Chavez,  
Executive Director  
Ofc: 505.344.5470  
Fax: 505.344.9343

•Your New Mexico Purchasing Cooperative Since 1979•

<b>ACCEPTANCE OF OFFER and CONTRACT AWARD</b>
---

RFP NUMBER 2016-001*See attached cover letter for specific awarded contract number(s).***OFFER TO BE COMPLETED BY VENDOR**

In compliance with the Request for Proposal, the undersigned warrants that I/we have examined the Instruction to Offerors, and, being familiar with all of the conditions surrounding the proposed projects, hereby offer and agree to furnish all labor, materials, and supplies incurred in compliance with all terms, conditions, specifications and amendments in this Request for Proposal and any written exceptions in the offer. Signature also certifies understanding and compliance with the certification requirements of the Categorical Terms and Conditions. The under-signed understands that his/her competence and responsibility and that of his/her proposed subcontractors, time of completion, as well as other factors of interest to CES as stated in the evaluation section, will be a consideration in making the award.

Company Name B&D Industries, Inc.Address 9720 Bell Avenue SE City S Albuquerque State NM Zip 87123Contract Contact Person Nicole Parsons, SecretaryAuthorized Signature Nicole Parsons Printed Name Nicole Parsons, Secretary**OFFER EXTENDED TO TEXAS SERVICE AGENCIES**

If you are willing to enter into a contract with TexBuy (ESC16) Texas Educational Service Center Region 16 under the same terms and conditions as in this RFP, place initials in the box.

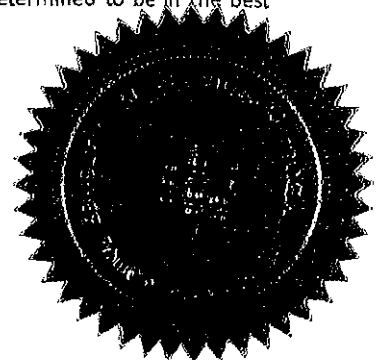
**ACCEPTANCE OF OFFER AND CONTRACT AWARD TO BE COMPLETED ONLY BY CES**

Contract period: It is CES' intent to award a multi-term contract for the specified materials, equipment and services. The initial contract term shall be for one (1) calendar year from the date of contract award. By mutual written agreement between CES and contractor, the contract may be extended for up to three (3) consecutive additional 12-month periods, beginning immediately after expiration of the prior term. However, no contract extension exists unless and until contractor is so notified by CES.

Month-to-month extensions: CES reserves the right to offer month-to-month extensions if that is determined to be in the best interests of Members/Participating Entities.

Daniel Cressy  
CES Authorized Signature

Awarded this 24th day of November 2015





## COOPERATIVE EDUCATIONAL SERVICES

### EXTENSION OF CONTRACT

made by and between  
**B&D INDUSTRIES, INC.**  
and  
**Cooperative Educational Services**

Said Contract(s) being numbered:

16-01B-R124-ALL      RSMears JOC Regions 1 through 8

The existing Contract initially commenced on November 24, 2015 and will expire on November 23, 2016. The Term of Contract and Extension in 2016-001 RFP C provides the Contract may be extended annually for up to three (3) additional one (1) year terms by mutual written agreement through November 23, 2019. Cooperative Educational Services desires to extend the Contract for an additional term of one (1) year until November 23, 2017. Upon the signature of an authorized officer of the above named company or corporation, the Contract is hereby extended.

This extension shall be subject to the same Terms and Conditions contained in the original Bid Document and in Contract Number 2016-001 RFP C

#### PRICE ADJUSTMENTS

A written request to CES for a price adjustment to this contract must in be accordance with the stated RFP terms, conditions and stipulations agreed upon at contract award. The request to adjust pricing shall include all documentation for consideration of approval. Upon CES approval, the documents shall be placed in the procurement file for audit purposes. Your request must be submitted prior to the yearly renewal date of the contract or at contract renewal. The price adjustments shall apply to all CES Members and Participating Entities. CES reserves the right to approve or disapprove such requests.

#### COOPERATIVE EDUCATIONAL SERVICES

Authorized Signature *Daniel Chavez* Date September 16, 2016

Contractor agrees to provide complete information of any deleted and new products or price adjustments as allowed under headings (Discontinued Products) and (New Technology and Price Reduction) of the RFP.

Authorized Signature *Nikki Parsons* Date 11/1/16

Printed Name Nikki Parsons Title Director of Contracts

NOTE: This Contract Extension should be received by 4:00 p.m. at the offices of CES on 11/15/16

*If you do not want to extend this Contract, please sign below and return this agreement.*

**Discontinue: We desire to discontinue the contract effective 11/23/2016**

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

*"Your New Mexico Procurement Partner Since 1979"*



## COOPERATIVE EDUCATIONAL SERVICES

### EXTENSION OF CONTRACT

made by and between  
**B&D INDUSTRIES, INC.**  
and  
**Cooperative Educational Services**

Said Contract(s) being numbered:

16-01B- R124-ALL RSMMeans JOC Regions 1 through 8

The existing Contract initially commenced on November 24, 2015 and will expire on November 23, 2017. The Term of Contract and Extension in 2016-001 RFP C provides the Contract may be extended annually for up to three (3) additional one (1) year terms by mutual written agreement through November 23, 2019. Cooperative Educational Services desires to extend the Contract for the final term of one (1) year until November 23, 2018. Upon the signature of an authorized officer of the above named company or corporation, the Contract is hereby extended.

This extension shall be subject to the same Terms and Conditions contained in the original Bid Document and in Contract Number 2016-001 RFP C

#### PRICE ADJUSTMENTS

A written request to CES for a price adjustment to this contract must in be accordance with the stated RFP terms, conditions and stipulations agreed upon at contract award. The request to adjust pricing shall include all documentation for consideration of approval. Upon CES approval, the documents shall be placed in the procurement file for audit purposes. Your request must be submitted prior to the yearly renewal date of the contract or at contract renewal. The price adjustments shall apply to all CES Members and Participating Entities. CES reserves the right to approve or disapprove such requests.

#### COOPERATIVE EDUCATIONAL SERVICES

Authorized Signature *Daniel Chavez* Date October 02, 2017

Contractor agrees to provide complete information of any deleted and new products or price adjustments as allowed under headings (Discontinued Products) and (New Technology and Price Reduction) of the RFP.

Authorized Signature *Nikki Parsons* Date 11/14/2017

Printed Name Nikki Parsons Title Corporate Secretary

NOTE: This Contract Extension should be received by 4:00 p.m. at the offices of CES on 11-23-2017

*If you do not want to extend this Contract, please sign below and return this agreement.*

**Discontinue: We desire to discontinue the contract effective 11/23/2017**

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

*"Your New Mexico Procurement Partner Since 1979"*



## COOPERATIVE EDUCATIONAL SERVICES

### EXTENSION OF CONTRACT

made by and between

**B&D INDUSTRIES, INC.**

and

**Cooperative Educational Services**

Said Contract(s) being numbered:

16-01B- R124-ALL RSMean JOC Regions 1 through 8

The existing Contract initially commenced on November 24, 2015 and will expire on November 23, 2018. The Term of Contract and Extension in 2016-001 RFP C provides the Contract may be extended annually for up to three (3) additional one (1) year terms by mutual written agreement through November 23, 2019. Cooperative Educational Services desires to extend the Contract for the final term of one (1) year until November 23, 2019. Upon the signature of an authorized officer of the above named company or corporation, the Contract is hereby extended.

This extension shall be subject to the same Terms and Conditions contained in the original Bid Document and in Contract Number 2016-001 RFP C

#### PRICE ADJUSTMENTS

A written request to CES for a price adjustment to this contract must in be accordance with the stated RFP terms, conditions and stipulations agreed upon at contract award. The request to adjust pricing shall include all documentation for consideration of approval. Upon CES approval, the documents shall be placed in the procurement file for audit purposes. Your request must be submitted prior to the yearly renewal date of the contract or at contract renewal. The price adjustments shall apply to all CES Members and Participating Entities. CES reserves the right to approve or disapprove such requests.

#### COOPERATIVE EDUCATIONAL SERVICES

Authorized Signature *David Chavez* Date November 26, 2018

Contractor agrees to provide complete information of any deleted and new products or price adjustments as allowed under headings (Discontinued Products) and (New Technology and Price Reduction) of the RFP.

Authorized Signature *Nikki Parsons* Date 11/29/2018

Printed Name Nikki Parsons Title Director of Contracts

NOTE: This Contract Extension should be received by 4:00 p.m. at the offices of CES on 11/23/19

*If you do not want to extend this Contract, please sign below and return this agreement.*

**Discontinue: We desire to discontinue the contract effective 11/23/2018**

Authorized Signature \_\_\_\_\_ Date \_\_\_\_\_

*"Your New Mexico Procurement Partner Since 1979"*



Your New Mexico Purchasing Cooperative

Since 1979

## Contract Award Letter

December 13, 2019

B&D INDUSTRIES, INC.  
9720 Bell Ave SE  
Albuquerque, NM 87123

Re: ACCEPTANCE OF OFFER and CONTRACT AWARD For:

2020-08B-G2305-ALL JOC Electrical - Gordian  
2020-08B-G1107-ALL JOC Mechanical - Gordian  
2020-08B-G3507-ALL JOC Plumbing - Gordian

Dear Procurement Partner,

Cooperative Educational Services (CES) thanks you for responding to our 2020-08 solicitation. The responses have been reviewed and it is our pleasure to inform you that your company has been selected to provide the products and services indicated in your response.

The enclosed Acceptance of Offer and Contract Award, in conjunction with the RFP documents that you submitted with your proposal, constitute the Agreement between the parties. Please retain all documents for your records. The term of this Indefinite Quantity Contract Award as defined in NMSA 13-1-63; is for three (3) years beginning December 13, 2019 and expiring December 12, 2022, pursuant to 13-1-150 NMSA.

***It is the vendor's responsibility to keep pricing up-to-date, throughout the life of the contract.***

Sincerely Yours,

Cooperative Educational Services

David Chavez  
Executive Director  
Ofc: 505.344.5470  
Fax: 505.344.9343





# AIA® Document A101™ – 2017

ITEM # 19-0648

## Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum

AGREEMENT made as of the      day of      in the year  
(In words, indicate day, month and year.)

BETWEEN the Owner:

City of Santa Fe  
P.O. Box 909  
Santa Fe, NM 87504-0909  
(505)955-5937

and the Contractor:

B&D Industries, Inc.  
9720 Bell Avenue SE  
Albuquerque, New Mexico 87123  
(505)299-4464

for the following Project:

CIP Project #503A, Salvador Perez Recreation Building  
Structural and Building Envelope Rehabilitation

(Paragraph deleted)

The Design Professional:

WHPacific, Inc.  
6501 Americas Pkwy NE, STE 400  
Albuquerque, New Mexico 87110  
(505)830-8752

The Owner and Contractor agree as follows.

### ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101™-2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™-2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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User Notes:

(1212299082)

1

## TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings and Specifications: as indicated herein under Article 9, Addenda issued prior to execution of this Agreement, other documents and Exhibits listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

In the event of a conflict between or among the Contract Documents, the following order of priority shall be:

- (1) This Agreement (Exhibit 1)
- (2) AIA Document A201-2007, General Conditions of the Construction Contract (Exhibit 1,B)
- (3) The City of Santa Fe General Conditions (Exhibit 1,C)
- (4) The City of Santa Fe Supplementary Conditions (Exhibit 1,D)
- (5) Provisions of the Cooperative Education Services contract #16-01B-R124-ALL (Exhibit 1,E)
- (6) Provisions set forth in the Contract Documents issued by the Design Professional
- (7) Provisions set forth in other exhibited documents

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described herein and in the Contract Documents. The Scope of Work includes Natatorium roof structure rehabilitation, building entry signage and beam structure replacement and building envelope rehabilitation and shall be carried out in accordance with the Contract Documents indicated under Article 9, Enumeration of Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:

*(Paragraphs deleted)*

[ X ] The date set forth in the Official Notice-to-Proceed issued by the Owner.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

#### § 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

*(Paragraph deleted)*

Int.

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User Notes:

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[ X ] Not later than one hundred forty five ( 145 ) calendar days from the date of commencement of the Work, subject to adjustments of this Contract Time as provided in the Contract Documents.

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed after Substantial Completion of the other Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
Exterior insulation and finish system color coat if the Notice to Proceed is issued after September 23, 2019, and, substantiated inclimate and/or freezing weather conditions are incurred, prohibiting responsible completion of the stucco work within the one hundred forty five (145) day contract time. See Allowance #4 below.	May 10, 2020

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

#### ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one million, two hundred fifty two thousand, nine hundred eighty four dollars and thirty eight cents (\$ 1,252,984.38 ), inclusive of New Mexico Gross Receipts Tax, subject to additions and deductions as provided in the Contract Documents.

#### § 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum and as part of the Construction Contingency Reserve, applied as set forth in Section 4.3.2, and as described in the Contract Documents are hereby accepted by the Owner:

Item	Price
Alternate #1 - Remove and replace VCT tiled floors	\$21,825.10
Alternate #2 - Paint all interior walls other than in the Natatorium (in Base Bid)	\$21,828.46
Alternate #3 - Install rooftop TPO walk path.	\$13,638.07

(Table deleted)

(Paragraphs deleted)

#### § 4.3

(Paragraphs deleted)

#### Allowances

§ 4.3.1 Allowances, if any, included in the Contract Sum and as part of the Construction Contingency Reserve, applied as set forth in Section 4.3.2, and as described in the Contract Documents are hereby accepted by the Owner:

Item	Allotted reserve dollar amount, subject to final pricing and approval per Section 4.3.2
Allowance #1 - Required roof membrane, roof deck and structural repairs and modifications necessitating additional performance of work by the Contractor beyond the base bid scope of work.	\$9,750.39
Allowance #2 - Required finishes, hardware, fittings and equipment removal and/or installation necessitating additional	\$9,000.00

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performance of work by the Contractor beyond the base bid scope of work.  
 Allowance #3 – Reserve for other construction remodeling related unforeseen conditions, testing and mitigation measures. \$5,000.00  
 Allowance #4 – Delayed EFIS color coat installation remobilization, associated finish work and clean up. \$38,000.00

**§ 4.3.2** The Construction Contingency Reserve of one hundred thousand nineteen, forty two dollars and two cents (\$119,042.02), exclusive of New Mexico Gross Receipts Tax, shall be applied toward the Allowance items enumerated under Section 4.3.1 addressing unanticipated conditions including required testing and mitigation measures, modifications to the scope of work required by regulatory agencies, Owner requested changes and design clarifications or required modifications that necessitate additional mobilization and/or performance of work by the Contractor beyond the base bid scope of work. Project Contingency Reserve funds not applied to these circumstances shall be applied toward the completion of the Alternates listed under Section 4.2.1, in the order listed. Construction Contingency Reserve funds not applied to contingency items or alternates shall be deducted from the Contract Sum on the Final Application for Payment and remain unbilled. All items funded by the Construction Contingency Reserve shall be authorized by written pre-approval from the Owner's Representative, with the Design Professional's concurrence, as applicable and shall be clearly documented with line item actual costs (not to exceed the total dollar amount of the allotted Construction Contingency Reserve without approval of a Change Order) on the Schedule of Values accompanying the relevant application for payment.

**§ 4.4** Unit prices, if any:

Item	Units and Limitations	Price per Unit (\$0.00)
Not applicable	N/A	N/A

**§ 4.5** Liquidated damages, if any:

*(Paragraph deleted)*

Liquidated damages of two hundred fifty dollars and zero cents (\$250.00) per calendar day will apply for work not completed by the Substantial Completion date(s).

*(Paragraphs deleted)*

**ARTICLE 5 PAYMENTS**

**§ 5.1 Progress Payments**

**§ 5.1.1** Based upon Applications for Payment submitted to the Design Professional by the Contractor and approved Applications for Payment issued by the Design Professional, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

**§ 5.1.2** The period covered by each Application for Payment shall be one calendar month ending on the last day of the month.

**§ 5.1.3** Provided that an Application for Payment is received by the Design Professional not later than the 1st day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 30th day of the month. If an Application for Payment is received by the Design Professional after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Design Professional receives the Application for Payment.

**§ 5.1.4** Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Design Professional may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

**§ 5.1.5** Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The Contractor shall stipulate a sum as a line item on the schedule

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of values for Completion of Work after issuance of the Certificate of Substantial Completion as listed on the Design Professional's official Punch list and for completion and submission of all Project Close Out documentation, including, but not limited to the documents listed below. The Certificate of Final Completion will be issued after acceptance of these documents by the Owner.

- .1 Certificate of Liability Insurance with an expiration date no earlier than one (1) year after the Substantial Completion date.
- .2 Contractor's Affidavit of Release of Liens (AIA Document G706A)
- .3 Contractor's Affidavit of Payment of Debts and Claims (AIA Document G706)
- .4 Contractor's Warranty
- .5 Manufacturer's Warranties (as applicable)
- .6 Operations and Maintenance Manual covering warranted equipment, materials requiring maintenance and including any reports or procedural documentation generated by third parties or subcontractors as part of, or necessitated by the Work.
- .7 Approved Construction Permit(s) with Construction Document set stamped by Permitting Authorities (as applicable)
- .8 As-Built Construction Document set and documentation of all other Work completed that is not included in the As-Built set
- .9 Final Inspection Report(s) from Permitting Authorities (as applicable)
- .10 Consent of Surety Company to Final Payment.
- .11 Application for Final Payment.
- .12 Lien Bond (as applicable)
- .13 Lien Discharge Fee(s) Refund (as applicable)
- .14 Certificate of Occupancy (as applicable)
- .15 New Mexico Dept. of Workforce Solutions Affidavit of Wages Paid
- .16 New Mexico Dept. of Workforce Solutions Payroll Statement of Compliance

§ 5.1.6 In accordance with AIA Document A201™-2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum, including fully executed change orders, properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Design Professional has previously withheld an Application for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;

*(Paragraphs deleted)*

§ 5.1.7 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.

*(Paragraphs deleted)*

§ 5.1.8 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

*(Paragraph deleted)*

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## **§ 5.2 Final Payment**

**§ 5.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final approved Application for Payment has been issued by the Design Professional.

**§ 5.2.2** The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Design Professional's final approved Application for Payment, or as follows:

Within fifteen days of the Contractor's request for final payment being submitted to the City, provided the Owner has received from the Contractor the Consent of Surety, Waivers, Releases of Liens and all other items listed in Section 5.1.5.

*(Paragraphs deleted)*

## **ARTICLE 6 DISPUTE RESOLUTION**

### **§ 6.1 Initial Decision Maker**

The Owner will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

### **6.2 Binding Dispute Resolution**

*(Paragraphs deleted)*

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

☒ *In accordance with New Mexico Public Works Mediation Act 13-4C-1 through 13-4C-11, NMSA 1978.*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

*(Paragraphs deleted)*

## **ARTICLE 7 TERMINATION OR SUSPENSION**

**§ 7.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

*(Paragraphs deleted)*

**§ 7.2** The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017.

## **ARTICLE 8 MISCELLANEOUS PROVISIONS**

**§ 8.1** Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**§ 8.2** The Owner's representative:

Jason M. Kluck or other authorized Public Works Project Administrator or Director  
Project Administrator, Facilities Division  
City of Santa Fe  
2651 Siringo Road, Building E, Santa Fe, New Mexico 87505  
(505) 955-5937

**§ 8.3** The Contractor's representative:

Clinton Beall  
Senior Vice President  
B&D Industries, Inc.  
9720 Bell Avenue SE, Albuquerque, NM 87123  
(505) 299-4464

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**§ 8.4** Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

**§ 8.5** Other provisions:

*(Paragraph deleted)*

**§ 8.5.1 Indemnification**

**§ 8.5.1.1** The Contractor shall indemnify, hold harmless and defend the City from all losses, damages, claims or judgments, including payments of all attorneys' fees and costs on account of any suit, judgment, execution, claim, action or demand whatsoever arising from Contractor's performance under this Agreement as well as the performance of Contractor's employees, agents, representatives and subcontractors.

**§ 8.5.2 Appropriations**

**§ 8.5.2.1** The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the City for the performance of this Agreement. If sufficient appropriations and authorization are not made by the City, this Agreement shall terminate 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.

**§ 8.5.3 Third Party Beneficiaries**

**§ 8.5.3.1** By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the City and the Contractor. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

**§ 8.5.4 Status of Contractor; Responsibility for Payment of Employees and Subcontractors**

**§ 8.5.4.1** The Contractor and its agents and employees are independent contractors performing professional 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 Agreement.

**§ 8.5.4.2** Contractor shall be solely responsible for payment of wages, salaries and benefits to any and all employees or subcontractors retained by Contractor in the performance of the services under this Agreement.

**§ 8.5.4.3** The Contractor shall comply with City of Santa Fe Minimum Wage, Article 28-1-SFCC 1987, as well as any subsequent changes to such article throughout the term of this Agreement.

**§ 8.5.5 Conflict of interest**

**§ 8.5.5.1** The Contractor warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement. Contractor further agrees that in the performance of this Agreement no persons having any such interests shall be employed.

*(Paragraphs deleted)*

**§ 8.5.6 Assignment: Subcontracting**

*(Paragraphs deleted)*

**§ 8.5.6.1** The Contractor shall not assign or transfer any rights, privileges, obligations or other interest under this Agreement, including any claims for money due, without the prior written consent of the City. The Contractor shall not subcontract any portion of the services to be performed under this Agreement without the prior written approval of the City.

**§ 8.5.7 Release**

**§ 8.5.7.1** The Contractor, upon acceptance of final payment of the amount due under this Agreement, releases the City, its officers and employees from all liabilities, claims and obligations whatsoever arising from or under this Agreement. The Contractor agrees not to purport to bind the City to any obligation not assumed herein by the City unless the Contractor has express written authority to do so, and then only within the strict limits of that authority.

**§ 8.5.8 Insurance**

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§ 8.5.8.1 The contractor, at its own cost and expense, shall carry and maintain in full force and effect during the term of this Agreement, comprehensive general liability insurance covering bodily injury and property damage liability, in a form and with an insurance company acceptable to the City, with limits of coverage in the maximum amount which the City could be held liable under the New Mexico Tort Claims Act for each person injured and for each accident resulting in damage to property. Such insurance shall provide that the City is named as an additional insured and that the City is notified no less than 30 days in advance of cancellation for any reason. The Contractor shall furnish the City with a copy of a Certificate of Insurance as a condition prior to performing services under this Agreement.

§ 8.5.8.2 Contractor shall also obtain and maintain Workers' compensation insurance, required by law, to provide coverage for Contractor's employees throughout the term of this Agreement. Contractor shall provide the City with evidence of its compliance with such requirement.

#### § 8.5.9 Records and Audit

§ 8.5.9.1 The contractor shall maintain, throughout the term of this Agreement and for a period of three years thereafter, detailed records that 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 the billing both before and after payment. Payment under this Agreement shall not foreclose the right of the City to recover excessive or illegal payments.

#### § 8.5.10 Applicable Law: Choice of Law: Venue

§ 8.5.10.1 Contractor shall abide by all applicable federal and state laws and regulations, and all ordinances, rules and regulations of the City of Santa Fe. In any action, suit or legal dispute arising from this Agreement, the Contractor agrees that the laws of the State of New Mexico shall govern. The parties agree that any action or suit arising from this Agreement shall be commenced in a federal or state court of competent jurisdiction in New Mexico. Any action or suit commenced in the courts of the State of New Mexico shall be brought in the First Judicial District Court.

#### § 8.5.11 Amendment

§ 8.5.11.1 This Agreement shall not be altered, changed or modified except by an amendment in writing executed by the parties hereto.

#### § 8.5.12 Non-Discrimination

§ 8.5.12.1 During the term of this Agreement, Contractor shall not discriminate against any employee or applicant for an employment position to be used in the performance of services by Contractor hereunder, on the basis of ethnicity, race, age, religion, creed, color, national origin, ancestry, sex, gender, sexual orientation, physical or mental disability, medical condition, or citizenship status.

#### § 8.5.13 Severability

§ 8.5.13.1 In case any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein and any other application thereof shall not in any way be affected or impaired thereby.

#### § 8.5.14 Notices

§ 8.5.14.1 Any and all notices provided for hereunder shall be in writing and shall be deemed delivered, given and received when (i) personally delivered, or (ii) five (5) days after the same are deposited in the United States Postal Service mail, postage prepaid, certified mail, return receipt requested, addressed to the applicable party at the address indicated below for each party, or at such other address as may be designated by either party in a written notice to the other party:

**OWNER:**

City of Santa Fe  
Public Works Department, Facilities Division  
P.O. Box 909  
Santa Fe, New Mexico 87504-0909

**CONTRACTOR:**

B&D Industries, Inc.  
9720 Bell Avenue SE, Albuquerque, NM 87123  
(505)299-4464

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**§ 8.5.15 New Mexico Tort Claims Act**

**§ 8.5.15.1** Any liability incurred by the City of Santa Fe in connection with this agreement 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 any limitation of liability pursuant to law. No provision in this Agreement modifies or waives any provision of the New Mexico Tort Claims Act.

**§ 8.5.16 Term and Effective Date**

**§ 8.5.16.1** This Agreement shall be effective when signed by the City and the Contractor, which shall terminate on June 30, 2023 unless sooner pursuant to section 8.5.11.

**ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS**

**§ 9.1** This Agreement is comprised of the following documents:

- 1 This, executed, AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor (Exhibit 1)
- 2 Contractor's Price Proposal dated 6/18/19 (Exhibit 1,A)
- 3 AIA Document A201™-2017, General Conditions of the Contract for Construction (Exhibit 1,B)
- 4 City of Santa Fe General Conditions (Exhibit 1,C)
- 5 City of Santa Fe Supplementary Conditions (Exhibit 1,D)
- 6 Cooperative Educational Services Contract #16-01B-R124-ALL (Exhibit 1,E)
- 7 Contractor's Certificate of Liability Insurance (Exhibit 1,F)
- 8 Project Schedule (Exhibit 1,G)
- 9 NMDWS Wage documents (Exhibit 1,H)
- 10 Construction Documents referenced below (Exhibit 1,I)

Where there is a conflict or duplication between the General Conditions documents, the AIA General Conditions shall prevail.

**Drawings**

Number	Title	Date
19 sheets: G-001 through S-501	CIP Project #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation	06/04/2019

**Specifications**

Section	Title	Date	Pages
01 1000 through 12 2113	Design Specifications Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation	06/04/2019	120

**(Paragraphs deleted)**

All Addenda transmitted to the Contractor prior to execution of this Agreement, if any, are included in the Agreement regardless of enumeration herein.

**Addenda**

Number	Date	Pages
001	6/13/19	2

**§ 9.2** Indicated here for reference, the following documents are ancillary to the Agreement and are included in the City approval packet:

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- .1 Contractor's City of Santa Fe Business License (Exhibit 2)
- .2 Cooperative Educational Services Purchasing Agreement with the City, #18-0191 (Exhibit 3)

#### ARTICLE 10 INSURANCE AND BONDS

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2017.

Type of Insurance or Bond

Contractor's Commercial General Liability Insurance

Contractor's Commercial General Liability Insurance

Limit of Liability or Amount Covered (See Note)

Contractor's Commercial General Liability Insurance

Contractor's Commercial General Liability Insurance

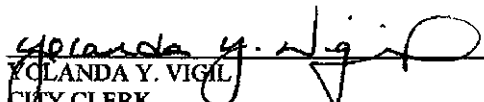
IN WITNESS WHEREOF, the parties have executed this Agreement on the date set forth below.

CITY OF SANTA FE:

  
ALAN WEBBER, MAYOR

DATE: 8/2/19

ATTEST:

  
YOLANDA Y. VIGIL  
CITY CLERK  
Cc. Mtg. - 7-31-19  
APPROVED AS TO FORM:

  
ERIN MCSHERRY,  
CITY ATTORNEY

CONTRACTOR:  
B&D INDUSTRIES, INC.

  
BY: CLINTON BEALL, SENIOR VICE PRESIDENT

NM LICENSE # 1426  
CRS # 01-716872-004  
CITY BUSINESS REGISTRATION # 17-00110523  
NM RESIDENT PREFERENCE #: L1754397648

APPROVED:

  
MARY MCCOY, FINANCE DIRECTOR

Business Unit/Line Item

32151.572970.0119900: \$1,111,484.38, EXP Salvador Perez Building, WIP Construction (2018 GRT Bond)  
32125.572970: \$141,500.00, EXP Municipal Facility Repair, WIP Construction

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**CITY OF SANTA FE  
AMENDMENT No. 1 TO  
AGREEMENT BETWEEN OWNER AND CONTRACTOR**

AMENDMENT No. 1 (the "Amendment") to the CITY OF SANTA FE AGREEMENT 19-0648 BETWEEN OWNER AND CONTRACTOR, dated July 31, 2019 (the "Agreement"), between the City of Santa Fe (the "Owner") and B&D Industries, Inc. (the "Contractor"). The date of this Amendment shall be the date when it is executed by the City and the Contractor whichever occurs last.

**RECITALS**

A. Under the terms of the Agreement, the Contractor has agreed to provide construction services for CIP Project #503A, Salvador Perez Recreation Building - Structural and Building Envelope Rehabilitation;

B. Pursuant to Article 8.5.11 of the Agreement, and for good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the Owner and the Contractor agree as follows:

1. **SUBSTANTIAL COMPLETION:**

Article 3 of the Agreement is amended to increase the Contract Time by thirty (30) calendar days for completion of the additional scope of work and for additional days for unforeseen conditions due to no fault of the Contractor, so that Article 3.3 reads as follows:

**§ 3.3 Substantial Completion**

**§ 3.3.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

[ X ] Not later than ~~one hundred seventy-five ( 175 )~~ calendar days from the date of commencement of the Work, subject to adjustments of this Contract Time as provided in the Contract Documents.

2. CONTRACT SUM:

Article 4 of the Agreement is amended to increase the total contract sum dollar amount by \$51,396.88 to include provision for additional Work per the attached proposal dated December 13, 2019 (Exhibit 1,A), so that Article 4.1 reads as follows:

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be ~~one million, three hundred four thousand, three hundred eighty-one dollars and twenty-six cents (\$1,304,381.26)~~, inclusive of New Mexico Gross Receipts Tax, subject to additions and deductions as provided in the Contract Documents.

3. AGREEMENT IN FULL FORCE.

Except as specifically provided in this Amendment, the Agreement remains and shall remain in full force and effect, in accordance with its terms.

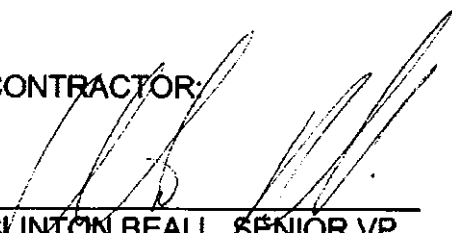
IN WITNESS WHEREOF, the parties have executed this Amendment No. 1 to the City of Santa Fe Agreement 19-6048 Between Owner and Contractor for CIP Project #503A, Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation.

CITY OF SANTA FE:

  
ALAN WEBBER, MAYOR

DATE: 2/14/20

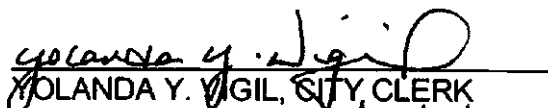
CONTRACTOR:

  
CLINTON BEALL, SENIOR VP  
B&D INDUSTRIES, INC.

DATE: 2/19/2020

NM LICENSE #1426  
CRS# 01-716872-004  
City of Santa Fe Business  
Registration# 17-00110523  
NM Resident Pref # L1754397648

ATTEST:

  
YOLANDA Y. VIGIL, CITY CLERK  
City 1/25/20

CITY ATTORNEY'S OFFICE:

MDM 1/14/20  
SENIOR ASSISTANT CITY ATTORNEY

APPROVED:

Mary McCoy  
MARY MCCOY, FINANCE DIRECTOR

Business Unit/Line Item

32151.572970.0119900: \$51,396.88, EXP Salvador Perez Building, WIP Construction (2-018 GRT Bond)

# City of Santa Fe New Mexico

## Public Works Dept. - Facilities Division

### MEMO

**DATE:** September 29, 2020

**TO:** Jarel Lapan Hill, City Manager

**VIA:**

Regina Wheeler, Department Director, Public Works *RW*

Michael Rodriguez, Division Director, Facilities

Marcos Martinez, Senior Assistant City Attorney *MDM*

**FROM:** Anson Rane, Facilities Division Project Administrator, Public Works

**ISSUE:** Retroactive Approval of Amendment No. 2 for Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation

#### PROJECT SUMMARY

Extensive remodeling has been completed on the Salvador Perez Recreation Building over the past year. The scope of work included the rehabilitation of the insulation and building envelope, structural repairs, HVAC replacement, upgrades to the locker rooms and swimming pool resurfacing. Four general contractors were engaged to complete this broad scope: B&D Industries for building envelope and structural; Ameresco for HVAC, FacilityBuild, Inc. for the locker rooms and PoolPro LLC for pool resurfacing.

During the work performed by B&D Industries, a number of deferred maintenance items were identified that were beyond the scope of work of their contract. This deferred maintenance was not foreseeable at the time the City created the scope of work. The total cost for this additional scope, as identified in Amendment 2 to the B&D contract (City of Santa Fe contract #19-048), is \$35,457.72.

These additional scope items, summarized below, addressed code and safety issues, therefore it was necessary to perform the work in a timely manner. In consideration of the critical nature of the work and with the understanding that the City of Santa Fe purchasing procedures have accommodations for retroactive approval of contract amendments in critical situations like this one, the Facilities Division directed B&D to proceed.

The services performed without the City's prior approval of a contract amendment did not occur as the result of repeated mistakes or willful misconduct of the Requesting Department. Had the City's contractor, B&D, not performed the work, the Salvador Perez Recreation Center would not be operable and therefore would not be able to provide recreational services to the public.

#### SUMMARY OF B&D CONTRACT AMENDMENT NO. 2

1. Provide repairs to existing fire protection system backflow and fire sprinkler heads.
2. Repair gas leaks in existing gas piping and re-route section of existing exterior gas line for code compliance (existing gas line was covered by wall finish).
3. Provide temporary heat for the facility during gas shutdown for gas repairs and re-routing.
4. Demolish and remove existing damaged and non-code compliant reception counter.
5. Provide ductwork mitigation/cleaning required due to the shutdown of natatorium HVAC air-handler unit for work by others (Ameresco) and for deferred maintenance.

The Department will route Amendment No.2 to the B&D Contract for Salvador Perez Recreation Building Structural and Building Envelope Rehabilitation to increase compensation by \$35,457.72 to \$1,339,838.98 inclusive of NMGR through committees and Governing Body for retroactive approval. Note that the contract expiration is June 2023 which meets the criteria of the procurement manual for retroactive approval. An excerpt of the section of the City of Santa Fe Procurement Manual governing Retroactive Approval for a Contract Amendment is included below for your convenience.

***XX. Retroactive Approval for a Contract or Contract Amendment***

*The Procurement Code requires that all non-exempt procurement by the City shall be achieved by competitive sealed bids or competitive sealed proposals except for small purchases, sole source procurements, emergency procurements, and existing contracts.*

*Failure of retroactive approval for contracts and contract amendments that fulfill all of the requirements of this manual and the Procurement Code, the City will approve the date requested in writing by the Requesting Department on the memo accompanying the request as long as the requested approval date is within thirty (30) days of the expiration of the contract.*

*For retroactive approval of contracts and contract amendments apart from the approval given pursuant to the provisions of this manual, the City may grant additional retroactive approval to a contract or contract amendment, based upon exceptional circumstances, where all the following conditions are met:*

*A. the services performed without the City's prior approval of the contract did not occur as the result of repeated mistakes or willful misconduct of the Requesting Department;*

*B. the failure to obtain the City's retroactive approval will prevent the Requesting Department from fulfilling its obligations;*

*C. the Requesting Department provides to the City Manager a written, factual, explanation of the matters described in Paragraphs (1) and (2) signed by the department director;*

*D. the Requesting Department requested, through a public officer or employee with authority to make such a request, the contractor to perform services that were then actually performed by the contractor in good faith reliance that it would be paid for those services*