



BOARD OF SUPERVISORS AGENDA ITEM REPORT
AWARDS / CONTRACTS / GRANTS

Award Contract Grant

Requested Board Meeting Date: 03/15/22

or Procurement Director Award: []

* = Mandatory, information must be provided

*Contractor/Vendor Name/Grantor (DBA):

Durazo Construction Corporation. (Headquarters: Tucson, AZ), Kappcon, Inc. (Headquarters: Tucson, AZ), Lloyd Construction Company, Inc. (Headquarters: Tucson, AZ)

*Project Title/Description:

Job Order Master Agreement: Park Development Services

*Purpose:

Award: Master Agreement No. MA-PO-22-103. This award of master agreement is recommended to the three (3) highest qualified contractors in an annual shared award amount of \$3,000,000.00 for an initial one (1) year agreement term from 03/15/2022 to 03/14/2023, which may be extended for up to four (4) additional one year terms. Administering Department: Capital Program Office.

Board of Supervisors Policy D29.4 authorizes the Procurement Director to execute annual renewals in an amount not to exceed the annual amount approved by the Board of Supervisors. This is an indefinite delivery/indefinite quantity job order master agreement. For projects estimated at less than \$250,000.00, the department may select a contractor based on availability, specialty or other such basis as the department may determine in its sole discretion. For projects estimated at \$250,000.00 or more, all contractors will be given the opportunity to compete on the basis of cost or cost and schedule through a request for quotation. No individual job order may exceed \$1,500,000.00

*Procurement Method:

Solicitation for Qualifications No. SFQ-PO-2200007 was conducted in accordance with A.R.S. § 34-604 and Pima County Board of Supervisors Policy D 29.1. Four (4) responsive statements of qualifications were received and evaluated by a seven (7) member committee using qualifications and experience-based selection criteria. Based upon the evaluation of the respondents' written representations of their qualifications and necessary due diligence, a short list of three (3) respondents were invited to interviews. As a result of the combined scoring of the written statements of qualifications and interviews, the final list of the three (3) highest qualified contractors is recommended for award.

Attachments: Notice of Recommendation for Award and Master Agreement

*Program Goals/Predicted Outcomes:

This Master Agreement will allow for the use of a Job Order Contractor, for park-related construction projects using a pre-qualification selection process.

*Public Benefit:

This Master Agreement will increase safety and usability of the parks and recreation facilities.

*Metrics Available to Measure Performance:

The Job Order Contractors will be evaluated per BOS Policy D29.1 using the standard contractor evaluation forms that consider quality, cost, and construction management.

*Retroactive:

No.

Vertical stamp: 03/15/2022 10:10:00 AM

Handwritten notes: TO: COB (1), Vers: 1, PGS: 127

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (*) fields

Contract / Award Information

Document Type: MA Department Code: PO Contract Number (i.e., 15-123): 22-103
Commencement Date: 03/15/22 Termination Date: 03/14/23 Prior Contract Number (Synergen/CMS):
[X] Expense Amount \$ 3,000,000.00 * [] Revenue Amount: \$

*Funding Source(s) required: Various Funds

Funding from General Fund? Yes No If Yes \$ %
Contract is fully or partially funded with Federal Funds? Yes No
If Yes, is the Contract to a vendor or subrecipient?
Were insurance or indemnity clauses modified? Yes No
If Yes, attach Risk's approval.
Vendor is using a Social Security Number? Yes No
If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

Document Type: Department Code: Contract Number (i.e., 15-123):
Amendment No.: AMS Version No.:
Commencement Date: New Termination Date:
Prior Contract No. (Synergen/CMS):
Expense Revenue Increase Decrease
Amount This Amendment: \$

Is there revenue included? Yes No If Yes \$

*Funding Source(s) required:

Funding from General Fund? Yes No If Yes \$ %

Grant/Amendment Information (for grants acceptance and awards)

Award Amendment

Document Type: Department Code: Grant Number (i.e., 15-123):
Commencement Date: Termination Date: Amendment Number:
[] Match Amount: \$ [] Revenue Amount: \$

*All Funding Source(s) required:

*Match funding from General Fund? Yes No If Yes \$ %

*Match funding from other sources? Yes No If Yes \$ %

*Funding Source:

*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Dawn Dargan Scott Loomis
Department: Procurement Director Terri Spencer Telephone: 724-9071
Department Director Signature: Nancy Cole Date: 2/22/2022
Deputy County Administrator Signature: Date: 2/24/2022
County Administrator Signature: Date: 2/24/2022



NOTICE OF RECOMMENDATION FOR AWARD

Date of Issue: February 9, 2022

The Pima County Procurement Department hereby issues formal notice to respondents to Solicitation No. SFQ-PO-2200007 for Job Order Master Agreement: Park Development Services that the following listed respondents will be recommended for award of a shared Master Agreement in the annual amount of \$3,000,000.00. The award action is scheduled to be performed by the Board of Supervisors on or after March 15, 2021.

Award is recommended to the most qualified Respondents (listed alphabetically):

Durazo Construction Corporation
Kapp-con, Inc.
Lloyd Construction Company, Inc.

NOTE: Pursuant to A.R.S. §34-604(H), only the names of the firms on the final list may be disclosed.

Issued by: *W Dawn Dargan*

Telephone Number: (520) 724-9071

This notice is in compliance with Pima County Procurement Code §11.12.010(C) and §11.20.010(C).

Copy to: Pima County SBE via e-mail at SBE@pima.gov.

PIMA COUNTY CAPITAL PROGRAM OFFICE

PROJECT: Job Order Master Agreement: Park Development Services

CONTRACTORS: Durazo Construction Corporation
934 S. Sixth Avenue
Tucson, AZ 85701

Kapp-con, Inc.
4847 N. Daisy Dawn Place, Suite 101
Tucson, AZ 85705

Lloyd Construction Company, Inc.
2180 N. Wilmot Rd.
Tucson, AZ 85712

CONTRACT NO.: MA-PO-22-103

AMOUNT: \$3,000,000.00

FUNDING: VARIOUS FUNDS

JOB ORDER MASTER AGREEMENT

1. Parties, Background and Purpose.

- 1.1. Parties. This Agreement is entered into between Pima County, a body politic and corporate of the State of Arizona, hereinafter called County, and Contractors, hereinafter called Contractor in the singular, Contractors in the plural, and collectively referred to as the Parties.
- 1.2. Authority. County has a need to establish an Agreement with up to five (5) Job Order Contractors for Park Development Services.
- 1.3. Qualifications Based Solicitation. County conducted a competitive qualifications-based procurement pursuant to A.R.S. §34-604, for Job Order Contractors under SFQ-PO-2200007 based on an evaluation of the respondents' representations of their qualifications and necessary due diligence, County selected the three (3) highest qualified Contractors as Job Order Contractors. The Job Order Contractors have agreed to be bound by and adhere to the requirements of this Agreement.

2. Basic Terms, Renewals, Extensions and Revisions.

- 2.1. Initial Term. This Master Agreement (Agreement), as approved by the Board of Supervisors, commences on March 15, 2022, and terminates on March 14, 2023, unless sooner terminated or further extended pursuant to the provisions of this Agreement. This Agreement establishes the terms under which the Job Order Contractors will be assigned and perform tasks and projects under this Agreement.
- 2.2. Extension Options. County, at its sole discretion, may extend up to four (4) additional one-year terms or add funding to this Agreement at any time with the acknowledgment of the Contractors and the Board of Supervisors' or the Procurement Director's approval pursuant to Board of Supervisor Policy D29.4. Contract extensions, renewals, or revisions will occur through the issuance by County to Contractor of a revised Agreement document setting forth the requested changes. Failure by Contractor to object in writing to the proposed revisions, terms, conditions, scope modifications and/or specifications within 10 calendar days of issuance by County will signify acceptance of all such changes by Contractor and the revision will be binding upon the Parties.

2.3. Individual Job Orders. Individual job orders will be implemented by issuing a Delivery Order (DO) to the selected Job Order Contractor to perform the work. Each DO will be an independent contract that will incorporate and be subject to the terms of this Agreement. The terms “DO”, “Job Order”, and “Contract” are used interchangeably in this Agreement.

2.3.1. Competition Thresholds.

2.3.1.1. For projects less than \$250,000.00 and during emergency situations, County may select a Contractor based on availability, specialty, or such other basis as County may determine in its sole discretion. During emergency situations requiring immediate attention by County (ie. Flooding or other disaster prevention) County reserves the right to select a Job Order Contractor on a non-competitive basis for the work. In addition, the requirement that a Job Order Contract be in place prior to the initiation of work is waived during such an event. During such an emergency, a Contractor may be contacted and given instructions by a County Project Manager to perform the work immediately without an approved Job Order. It is understood that County will prepare a Job Order as soon as practicable following said instructions.

2.3.1.2. For projects of \$250,000.00 or more, Contractor will compete on the basis of cost or cost and schedule through a request for quotation. Price may be either a fixed cost or a guaranteed maximum price.

2.3.1.3. All federally funded Job Orders will be competitively bid among all Contractors.

2.3.1.4. No individual Job Order may exceed \$1,500,000.00 including change orders.

2.3.2. Small Business Enterprise. These services are subject to the Pima County Code, Title 20, and Chapter 20.04, pertaining to participation of subcontractors. The Pima County SBE Program is a race and gender neutral program established to encourage contracting with all small businesses. A minimum goal of eight percent (8%) for participation by Small Business Enterprises (SBEs) of the total amount of the annual agreement applies to each Job Order Contractor individually. Only firms listed on the *City of Tucson Small Business Enterprise Certified Business Directory* are eligible to meet the SBE goal. The current list of certified SBE firms can be located on the City of Tucson’s Procurement Website, [City of Tucson Business Enterprise Program Certification & Compliance System](#) .

2.3.2.1. Contractor shall supply a year-to-date subcontractor and SBE utilization report covering the entire Master Agreement to date to the Pima County Procurement Department, Business Enterprise Program Coordinator on a quarterly basis. If the Contractor has experienced difficulties in achieving the SBE goal, they may present Certificate of Good Faith Effort/Request for Waiver at that time.

2.3.2.2. For projects that are federally-funded, a Disadvantaged Business Enterprise (DBE) goal pursuant to Pima County Code Title 20, must be established for the individual Job Order and does not apply toward the eight percent (8%) SBE goal.

2.3.3. Construction Completion Time: Work performed under this Agreement will be as stated in Individual Job Orders issued under this Agreement. County will assess Liquidated damages against Contractor based upon the construction completion time, if so specified in a Job Order.

2.3.4. SubContractors: SubContractors will be selected in accordance with Contractor’s SubContractor Selection Plan, incorporated herein by reference.

3. **Scope of Services.** Contractor will provide County all labor, materials and equipment necessary to complete the project as described in Exhibit A – Scope of Work (2 Pages) incorporated into this Agreement. All work will be done per specifications called for in the bid documents as contained in Pima County Solicitation Number SFQ-PO-2200007, Exhibit B - General Conditions to the Contract (10 pages), Exhibit C - Special

Conditions – Multiple Award Job Order Contract (12 pages), Exhibit D – Supplemental Provisions for Federal Aid Contracts (17 Pages), Exhibit E - Supplemental Provisions for Regional Transportation Authority (RTA) Funded Construction contracts (1. Page), and other documents incorporated into this Agreement.

4. Compensation and Payment.

4.1 Compensation. County will pay Contractor as specified.

4.1.1 Invoices. Contractor will provide detailed documentation in support of requested payment. The Contractor must cite the Delivery Order number on all invoices. Payments will be made in accordance with ARS § 34-609.

4.1.1.1 For the period of record retention required under Article 25, County reserves the right to question any payment made under this Article and to require reimbursement by setoff or otherwise for payments determined to be improper or contrary to the Agreement or law.

5. Federal Funding. County and Contractor understand the Job Orders under this Agreement may be funded partially or entirely through a federal grant or other source of federal funding.

5.1. Federal Labor Standards. Federal Labor Standards are applicable for Job Orders identified as being federally funded.

5.2. Additional Requirements. Federal forms will be attached to the Job Order, and Contractor agrees to be bound by all requirements.

5.2.1. Exhibit D – Supplemental Provisions for Federal-Aid Construction Contracts (17 Pages).

5.2.2. Davis Bacon (AZ. Wage Decision). Minimum wage rate, withholding, payroll, apprentice, subcontracting, and termination provisions, and the Work Hour and Safety Standards Act related to overtime pay and safety.

5.3. Subcontracting. Contractor will not subcontract on any federally-funded Job Order with any firm or person listed in the Federal Government's System for Award Management (SAM) system (<https://sam.gov/content/home>) with an active exclusion.

6. Insurance. The Insurance Requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.

6.1. Ratings. Contractor's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII. County in no way warrants that the minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

6.2. Insurance Coverages and Limits.

6.2.1. Minimum Scope and Limits of Insurance: Contractor will procure and maintain at its own expense insurance policies (the "Required Insurance") satisfying the below requirements (the "Insurance Requirements") until all of its obligations under this Agreement have been met. The below Insurance Requirements are minimum requirements for this Agreement and in no way limit Contractor's indemnity obligations under this Agreement. County in no way warrants that the required insurance is sufficient to protect the Contractor for liabilities that may arise from or relate to this Agreement. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy the Insurance Requirements.

6.2.1.1. Commercial General Liability (CGL) – Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy will include bodily injury, property damage, and broad form contractual liability coverage, personal and advertising injury and products – completed operations.

- 6.2.1.2. Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Agreement with a Combined Single Limit (CSL) of \$1,000,000 each accident.
- 6.2.1.3. Workers' Compensation and Employers' Liability - Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of one or more employees. Employer's Liability coverage- \$1,000,000 each accident and each person - disease.
- 6.2.1.4. Builder's Risk Insurance – Insurance applies to this Agreement. Contractor is required to maintain throughout the course of construction Builder's Risk Insurance in a dollar amount equal to the full insurable value under contract, which shall include "All Risk" coverage. Pima County shall be named as a "Loss Payee". Contractor is responsible for equipment, materials, and supplies until completion of the project and acceptance by County.
- 6.2.1.5. Claims-Made Coverage. Claim-Made Insurance Coverage - If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this Agreement, and Contractor must maintain such coverage for a period of not less than three years following Agreement expiration, termination or cancellation.

6.3. Additional Insurance Requirements:

The policies will include, or be endorsed to include, as required by this written agreement, the following provisions:

- 6.3.1 Additional Insured: The General Liability and Business Automobile Liability Policies shall each be endorsed to include Pima County, and the RTA, their departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of Contractor.
- 6.3.2 Subrogation: The General Liability, Business Automobile Liability and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of County, its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Contractor.
- 6.3.3 Primary Insurance: The Contractor's policies shall stipulate that the insurance afforded the Contractor shall be primary and that any insurance carried by County, its agents, officials, or employees shall be excess and not contributory insurance.
- 6.3.4 Insurance provided by Contractor shall not limit Contractor's liability assumed under the indemnification provisions of this Contract.

6.4 Notice of Cancellation:

Each Required Insurance policy must provide, and certificates specify, County will receive not less than 30 days advance written notice of any policy cancellation, except 10-days prior notice is sufficient when the cancellation is for non-payment of a premium. Notice shall include the County project or Agreement number and project description.

6.5 Verification of Coverage:

Contractor will furnish County with certificates of insurance as required by this Contract. An authorized representative of the insurer will sign the certificates.

6.5.1 All certificates and endorsements, as required by this Agreement, are to be received and approved by County before work commences. Each insurance policy required by this Agreement must be in effect at, or prior to, commencement of work under this Agreement. Failure to maintain the insurance coverages or policies as required by this Agreement, or to provide evidence of renewal, is a material breach of Agreement.

6.5.2 All certificates required by this Agreement shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include County project or contract number and project description on the certificate. County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

6.6 Approval and Modifications:

County's Risk Management Department may approve a modification of the Insurance Requirements without the necessity of a formal Contract amendment, but the approval must be in writing. Neither the County's failure to obtain a required insurance certificate or endorsement, the County's failure to object to a non-complying insurance certificate or endorsement, or the County's receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), constitutes a waiver of any of the Insurance Requirements.

7. **Indemnification.**

7.1. To the fullest extent permitted by law, Contractor indemnifies, defends, and holds harmless County, and the RTA, their officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, including reasonable attorney's fees and court costs, to the extent caused by any negligent, reckless or intentionally wrongful act or omission of Contractor, its agents, employees or anyone acting under its direction or control or on its behalf in connection with performance of this Agreement. The obligations under this Article do not extend to the negligence of County or the RTA, their agents, employees or indemnities.

7.2. All warranty and indemnification obligations under this Agreement shall survive expiration or termination of the Contract, unless expressly provided otherwise. The Parties agree that any indemnification provision inconsistent with A.R.S. § 34-226 is, in all cases, not void, but will be interpreted and applied as if it were consistent with A.R.S. § 34-226.

7.3. Upon request, Contractor may fully indemnify and hold harmless any private property owner granting a right of entry to Contractor for the purpose of completing the project.

8. **Bonding Requirements.** Contractor will file payment and performance bonds with County, as required by A.R.S. §§ 34-610 and 34-611, no later than the time of agreement on the price (or Guaranteed Maximum Price) for any construction under this Agreement.

8.1. Bonds will be submitted on an annual basis for the full value of all construction reasonably anticipated during the Agreement year or may be provided on a Job-Order by Job-Order basis; in the latter case, Contractor will anticipate additional Job Orders and provide bonds in reasonable increments.

8.1.1. If bonds are secured on a Job-Order by Job-Order basis, the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and prior to release of the Delivery Order.

8.2. At no time will the cumulative value of the bonds be less than the total value of the construction performed by Contractor under this Agreement, including Job Orders awarded to CONTRACTOR but not yet completed.

9. Laws and Regulations.

- 9.1. Compliance with Laws. Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation to those designated within this Agreement.
- 9.2. Choice of Law; Venue. The laws and regulations of the State of Arizona govern the rights of the parties, the performance of this Agreement, and any disputes hereunder. Any action relating to this Agreement will be brought and maintained in Superior Court in Pima County.

10. Status of Independent Contractor. Contractor is an independent Contractor and Contractor is not an employee of County and is not entitled to receive any of the fringe benefits associated with County employment, and will not be subject to the provisions of the County's merit system. Contractor is responsible for payment of all Federal, State and Local taxes associated with the compensation received by Contractor from County. Contractor is responsible for program development and operation without supervision by County.

11. Contractor/SubContractor Performance.

- 11.1. Performance. Contractor will perform the work with the degree of care and skill which a licensed contractor in Arizona would exercise under similar conditions. Contractor will employ suitably trained and skilled personnel to perform all required services under this Agreement. Prior to changing any key personnel, especially those key personnel County relied upon in making this Agreement, Contractor will obtain County's approval.
- 11.2. Responsibility. Contractor is responsible for the professional quality, technical accuracy, timely completion, and the coordination of all its effort and other services furnished by Contractor under this Agreement. Without additional compensation, Contractor will correct or revise any errors, omissions, or other deficiencies in all products of its efforts and other services provided. This includes resolving any deficiencies arising out of the acts or omissions of Contractor found during or after the course of the services performed by or for Contractor under this Agreement, regardless of County having knowledge of or condoning or accepting the products or the services. Correction of such deficiencies will be at no cost to County.
- 11.3. SubContractor License. Contractor will ensure that all SubContractors have the appropriate and current license issued by the Arizona Registrar of Contractors for work they perform under this Agreement. Contractor will not permit any SubContractor to perform work that does not fall within the scope of the SubContractor's license, except as may be permitted under the rules of the Registrar of Contractors.
- 11.4. Subcontractor Acts and Omissions. Contractor will be fully responsible for all acts and omissions of its SubContractor(s) and of persons directly or indirectly employed by SubContractor and of persons for whose acts any of them may be liable to the same extent that Contractor is responsible for the acts and omissions of persons directly employed by it. Nothing in this Agreement creates any obligation on the part of County to pay any SubContractor, except as may be required by law.
- 11.5. SubContractor List. Contractor must use the SubContractor's named on Contractor's SubContractor List submitted with the bid. No SubContractor may be added or changed without the prior written approval of County subsequent to review and approval by the Administering Department Director and Procurement Director. Substitution of non-SBE SubContractors may be approved at the discretion of County for reasons including but not limited to, availability, insolvency or any other reason deemed to be in the best interest of County. Approval for substitution of SBE SubContractors that are listed on the Bidders Statement of Proposed SBE Utilization submitted with the bid will only be granted if the provisions of Section 20.28.050 of the Pima County Code have been met.

12. Assignment. Contractor will not assign its rights or obligations under this Agreement in whole or in part, without County's prior written approval. County may withhold approval at its sole discretion.

13. **Non-Discrimination.** Contractor will comply with all provisions and requirements of Arizona Executive Order 2009-09, which is hereby incorporated into this contract, including flow-down of all provisions and requirements to any SubContractors. During the performance of this Agreement, Contractor will not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.
14. **Americans with Disabilities Act.** Contractor will comply with Title II of the Americans with Disabilities Act (Public Law 110-325, 42 U.S.C. §§ 12101-12213) and the federal regulations for Title II (28 CFR Part 35).
15. **Authority to Contract.** Contractor warrants its right and power to enter into this Agreement. If any court or administrative agency determines that County does not have authority to enter into this Agreement, County will not be liable to Contractor or any third party by reason of such determination or by reason of this Agreement.
16. **Non-Waiver.** The failure of County to insist in any one or more instances upon full and complete compliance with any of the terms and provisions of this Agreement or to take any action permitted as a result thereof is not a waiver or relinquishment of the right to insist upon full and complete performance of the same or any other covenant or condition either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.
17. **Cancellation for Conflict of Interest.** This Agreement is subject to cancellation for conflict of interest pursuant to A.R.S. § 38-511, the pertinent provisions of which are incorporated into this Contract by reference.
18. **Termination of Contract for Default.**
 - 18.1. Upon a failure by Contractor to cure a default under this Agreement within 10 days of receipt of notice from County of the default, County may, in its sole discretion, terminate this Agreement for default by written notice to Contractor. In this event, County may take over the work and complete it by Contract or otherwise. Contractor and its sureties, if any, will be liable for any damage to County resulting from Contractor's default, including any increased costs incurred by County in completing the work.
 - 18.2. Default Events. The following constitutes an event of default:
 - 18.2.1. Abandonment of or refusal or failure to prosecute the work or any separable part thereof with the diligence that will insure completion within the time specified in this Agreement, including any extension, or a failure to complete the work (or the separable part of the work) within the specified time;
 - 18.2.2. Persistent or repeated refusal or failure to supply enough properly skilled workers or materials to perform the work on schedule;
 - 18.2.3. Failure to provide competent supervision at the site;
 - 18.2.4. Failure to take down, rebuild, repair, alter or amend any defective or deficient work, or to remove any defective or deficient material;
 - 18.2.5. Failure to make prompt payment to SubContractors or suppliers for material or labor;
 - 18.2.6. Loss of Contractor's business or other required license or authority, or any curtailment or cessation for any reason of business or business operations that would substantially impair or preclude Contractor's performance of this Agreement;
 - 18.2.7. Disregard of laws, ordinances, or the instructions of County or its representatives, or any otherwise substantial violation of any provision of the Agreement; or

18.2.8. If a voluntary or involuntary action for bankruptcy is commenced with respect to Contractor, or Contractor becomes insolvent, makes a general assignment for the benefit of creditors, or has a receiver or liquidator appointed in respect of its assets.

18.3. Termination. In the event of a termination for default:

18.3.1. All finished and unfinished as-builts, shop drawings, documents, data, studies, surveys, drawings, photographs, reports and other information in whatever form, including electronic, acquired or prepared by Contractor for this project become County's property and will be delivered to County not later than five business days after the effective date of the termination;

18.3.2. County may withhold payments to Contractor arising under this or any other Contract for the purpose of set-off until such time as the exact amount of damage due County from Contractor is determined; and

18.3.3. Subject to the immediately preceding subparagraph 18.3.2, County's liability to Contractor will not exceed the reasonable value of work satisfactorily performed prior to the date of termination for which payment has not been previously made.

18.4. Non-Termination. County will not terminate the Agreement nor any Job Order issued under this Agreement for default or charge Contractor with damages under this Article if:

18.4.1. Except for subparagraph 18.2.8 in subsection 18.2 above, the event of default or delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of Contractor. Examples of such causes include:

18.4.1.1. Acts of God or of the public enemy,

18.4.1.2. Acts of County in either its sovereign or contractual capacity,

18.4.1.3. Acts of another Contractor in the performance of a contract with County,

18.4.1.4. Fires,

18.4.1.5. Floods,

18.4.1.6. Epidemics,

18.4.1.7. Quarantine restrictions,

18.4.1.8. Strikes,

18.4.1.9. Freight embargoes,

18.4.1.10. Unusually severe weather, or

18.4.1.11. Delays of SubContractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both Contractor and the SubContractor(s) or suppliers; and

18.4.2. Contractor, within three days from the beginning of any event of default or delay (unless extended by County), notifies County in writing of the cause(s) therefor. In this circumstance, County will ascertain the facts and the extent of the resulting delay. If, in the judgment of County the findings warrant such action, the time for completing the work may be extended.

- 18.5. Receipt of Notice. For the purposes of subsection 18.1 above, "receipt of notice" includes receipt by hand by Contractor's onsite project manager, by facsimile transmission, or under the Notices clause of this Agreement.
- 18.6. Excusable. If, after termination of the Agreement for default, County determines that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if County had terminated the Contract for convenience as set forth in Article 17.
- 18.7. Rights and Remedies. The rights and remedies of County in this Article are cumulative and in addition to any other rights and remedies provided by law or under this Agreement.
19. **Termination for Convenience of County**. County may terminate this Agreement at any time by giving written notice to Contractor of such termination and specifying the effective date thereof, at least 15 days before the effective date of such termination. In that event, all finished or unfinished documents and other materials will, at the option of County, become its property. If County terminates the Agreement as provided herein, County will pay Contractor an amount based on the time and expenses incurred by Contractor prior to the termination date. However, County will make no payment for anticipated profit on unperformed services.
20. **Non-Appropriation of Funds**. Notwithstanding any other provision in this Agreement, County may terminate this Agreement if for any reason the Pima County Board of Supervisors does not appropriate sufficient monies for the purpose of maintaining this Agreement. In the event of such termination, County has no further obligation to Contractor, other than payment for services rendered prior to termination.
21. **Notices**. Any notice required or permitted to be given under this Agreement must be in writing and be served by delivery or by certified mail upon the other party as follows:

COUNTY:

Nancy Cole, Director
Capital Program Office
201 North Stone Avenue
Tucson, AZ 85701
520-724-6312

Non-Exclusive Agreement. Contractor understands that this Contract is Non-Exclusive and is for the sole convenience of County. County reserves the right to obtain like services from other sources for any reason.

22. Agreement Documents.

22.1. Incorporation of Documents: Contractor and County in entering into this Agreement have relied upon information provided in Solicitation No. SFQ-PO-2200007 - PARK DEVELOPMENT SERVICES Exhibit A – Scope of Work, Bonds (Bid, Payment, and Performance Bonds), Exhibit B – General Conditions to the Contract, Exhibit C - Special Conditions – Multiple Award Job Order Contract, Exhibit D - Supplemental Provisions for Federal-Aid Construction Contracts, Exhibit E - Supplemental Provisions for Regional Transportation Authority (RTA) Funded Construction contracts, Special Provisions, Technical Specifications and Plans, Construction Documents, Drawings and Specifications, Amendment, and on information provided in Contractor's response to this Solicitation. These documents are hereby incorporated into and made a part of this Agreement by reference as if set forth in full herein.

22.2. Order of Precedence: In the event of a conflict or inconsistency between or among the Agreement documents, the documents shall take precedence in the following order:

- 22.2.1. This Agreement
- 22.2.2. Exhibit B – General Conditions
- 22.2.3. Special Provisions, Technical Specifications, and Plans
- 22.2.4. Contractor Response to the Solicitation
- 22.2.5. Instructions to Bidders
- 22.2.6. Invitation to Bid

- 22.3. Deviation: The parties may, by written mutual agreement, deviate from this order of precedence in resolving inconsistencies between or among contract documents. Any such agreement interpreting the documents shall be incorporated into the Agreement by amendment.
- 22.4. Conflict: In the event of any conflict between any provision in the Special Conditions, and any provision of the General Conditions, or any other incorporated document, the provision in the Special Conditions shall take precedence.
23. **Ownership of Documents**. Ownership of all original drawings, boring logs, field data, estimates, field notes, plans, specifications, documents, reports, calculations, maps and models, and other information developed by Contractor under this Agreement vests in and become the property of the County and will be delivered to County upon completion or termination of the services, but Contractor may retain record copies thereof.
24. **Books and Records**.
- 24.1. Maintenance. Contractor will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County.
- 24.2. Retention. Contractor will retain all records relating to this Agreement at least five years after its termination or cancellation or until any related pending proceeding or litigation has been closed, if later. Alternatively, Contractor may, at its option, deliver such records to County for retention.
25. **Remedies**. Either party may pursue any remedies provided by law for the breach of this Agreement, provided, however, that the procedures in Article 29 are first exhausted. No right or remedy is intended to be exclusive of any other right or remedy and each is cumulative and in addition to any other right or remedy existing at law or at equity or by virtue of this Agreement.
26. **Severability**. Each provision of this Agreement stands alone, and any provision of this Agreement found to be prohibited by law is ineffective to the extent of such prohibition without invalidating the remainder of this Agreement.
27. **Delays**. Neither party will be considered in default in the performance of its obligations to the extent that the performance of any such obligation is prevented or delayed by any cause, existing or future, which is beyond the reasonable control of such party.
28. **Disputes**.
- 28.1. Resolving Dispute. In the event of a dispute between County and Contractor regarding any part of this Agreement or the Parties' obligations or performance hereunder, either party may request a special meeting between their respective representatives to resolve the dispute. If the dispute remains unresolved, then either Party may request escalation of the issue to a meeting between the Director of the Pima County Department administering this Agreement and Contractor's counterpart official, such meeting to be held within one week of the request, unless otherwise agreed. If the dispute is still not resolved after that meeting, then either party may pursue such remedy or remedies as may be available to them under the laws of the State of Arizona.
- 28.2. Performance. The Parties will continue performance of their respective obligations under this Agreement notwithstanding the existence of any dispute.
29. **Public Records**.
- 29.1. Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. §§ 34-603(H), 604(H), in the case of Construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all information submitted by Contractor in any way related to this Agreement, including, but not limited to, pricing, product specifications, work plans, and any supporting data becomes public information and upon request, is subject to release and/or review by the general public including competitors.

29.2. Records Marked Confidential.

29.2.1. Any information submitted related to this Agreement that Contractor believes constitutes proprietary, trade secret or otherwise confidential information must be appropriately and prominently marked as confidential prior to submittal to County and be accompanied by an index specifically identifying and describing the general contents of each page so marked. The index is a Public Record and must not include any information considered confidential.

29.2.2. Notwithstanding the above provisions, in the event records marked confidential are requested for public release pursuant to A.R.S. § 39-121 et seq., County will release records marked confidential 10 business days after the date of notice to the Contractor of the request for release, unless Contractor has, within the 10 day period, secured a protective order, injunctive relief or other appropriate order from a court of competent jurisdiction in Arizona, enjoining the release of the records. For the purposes of this paragraph, the day of the request for release is not counted in the time calculation. Contractor will be notified of any request for such release on the same day of the request for public release or as soon thereafter as practicable. County shall not, under any circumstances, be responsible for securing a protective order or other relief enjoining the release of records marked confidential, nor shall County be in any way financially responsible for any costs associated with securing such an order.

30. **Legal Arizona Workers Act Compliance.**

30.1. Compliance with Immigration Laws. Contractor warrants that it will at all times during the term of this Agreement comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each SubContractor who performs any work for Contractor under this Agreement likewise complies with the State and Federal Immigration Laws.

30.2. Books & Records. County has the right at any time to inspect the books and records of Contractor and any SubContractor in order to verify such party's compliance with the State and Federal Immigration Laws.

30.3. Remedies for Breach of Warranty. Any breach of Contractor's or any SubContractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Agreement subjecting Contractor to penalties up to and including suspension or termination of this Agreement. If the breach is by a SubContractor, and the subcontract is suspended or terminated as a result, Contractor will take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or to retain a replacement SubContractor (subject to County approval if SBE or DBE preferences apply), as soon as possible so as not to delay project completion.

30.4. SubContractors. Contractor will advise each SubContractor of County's rights, and the SubContractor's obligations, under this Article by including a provision in each subcontract substantially in the following form:

"SubContractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to SubContractor's employees, and with the requirements of A.R.S. § 23-214 (A). SubContractor further agrees that County may inspect the SubContractor's books and records to ensure that Contractor is in compliance with these requirements. Any breach of this paragraph by SubContractor is a material breach of this contract subjecting SubContractor to penalties up to and including suspension or termination of this contract."

30.5. Costs. Any additional costs attributable directly or indirectly to remedial action under this Article are the responsibility of Contractor. In the event that remedial action under this Article results in delay to one or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay will be excusable delay for which Contractor is entitled to an extension of time, but not costs.

31. **Israel Boycott Certification.** Pursuant to A.R.S. § 35-393.01, if Contractor engages in for-profit activity and has 10 or more employees, and if this Agreement has a value of \$100,000.00 or more, Contractor certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.
32. **Cooperative Use of Resulting Agreement.** Reserved.
33. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. Facsimile or other electronically delivered copies of signature pages to this Agreement shall be treated between the Parties as original signatures for all purposes.
34. **Amendment.** Except for the amendment provision above in Article 2, this Contract may be modified, amended, altered or extended only by a written amendment signed by the Parties.
35. **Entire Agreement.** This document constitutes the entire agreement between the parties and all prior or contemporaneous agreements and understandings, oral or written, are hereby superseded and merged herein.

(The remainder of this page intentionally left blank)

36. **Effectiveness and Date.** This Agreement will become effective when all parties have signed it. The date of this Agreement will be the date the Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature).

Each Party is signing this Contract on the date below that Party's signature.

PIMA COUNTY:

CONTRACTOR:

Chair, Board of Supervisors

Signature

Date

Name and Title (Please Print)

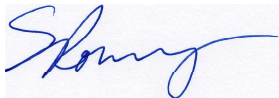
Date

ATTEST:

Clerk of the Board

Date

APPROVED AS TO FORM:



Deputy County Attorney
Stacey Roseberry

Name (Please Print)

2/24/2022

Date

36. **Effectiveness and Date.** This Agreement will become effective when all parties have signed it. The date of this Agreement will be the date the Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature).

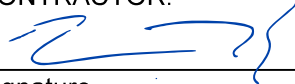
Each Party is signing this Contract on the date below that Party's signature.

PIMA COUNTY:

Chair, Board of Supervisors

Date

CONTRACTOR:



Signature

Mario Durazo Jr., President
Name and Title (Please Print)

February 22, 2022
Date

ATTEST:

Clerk of the Board

Date

APPROVED AS TO FORM:

Deputy County Attorney

Name (Please Print)

Date

36. **Effectiveness and Date.** This Agreement will become effective when all parties have signed it. The date of this Agreement will be the date the Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature).

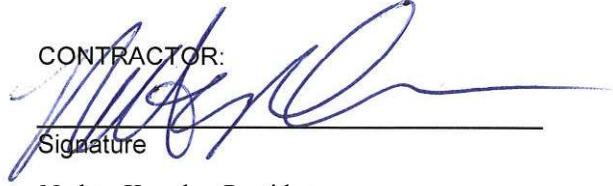
Each Party is signing this Contract on the date below that Party's signature.

PIMA COUNTY:

Chair, Board of Supervisors

Date

CONTRACTOR:



Signature

Nathan Kappler, President

Name and Title (Please Print)

02/18/2022

Date

ATTEST:

Clerk of the Board

Date

APPROVED AS TO FORM:

Deputy County Attorney

Name (Please Print)

Date

36. **Effectiveness and Date.** This Agreement will become effective when all parties have signed it. The date of this Agreement will be the date the Agreement is signed by the last party to sign it (as indicated by the date associated with that party's signature).


Each Party is signing this Contract on the date below that Party's signature.

PIMA COUNTY:

Chair, Board of Supervisors

Date

CONTRACTOR: Lloyd Construction Company, Inc.



Signature

William E. Lloyd, President

Name and Title (Please Print)

February 23, 2022

Date

ATTEST:

Clerk of the Board

Date

APPROVED AS TO FORM:

Deputy County Attorney

Name (Please Print)

Date

EXHIBIT A SCOPE OF WORK (2 pages)

This is an indefinite quantity job order contract under which the Contractor will provide all labor, materials, management, supervision, services, and coordination required to provide a full range of park development services, such work to be requested by the County from time to time by issuance of an individual job order for each individual project. Services are primarily for the County's department of Natural Resources, Parks & Recreation (NRPR); however, other County departments may also utilize the services.

General Scope: Scope of work will include construction, improvement and maintenance of new and existing County owned commercial buildings, structures, and facilities.

Services:

The following services are examples of typical services to be performed at various locations throughout Pima County, and may or may not include all of the services required to meet the general scope of work needs, which will vary based on individual project conditions. They are not meant to restrict or exclude other types of work or areas under this contract.

It is the intention of County, from time to time, to have more than one project or a grouping of projects in design or construction at one time. This will facilitate meeting the requirements of both bond scheduling and the needs of the public. County will work with the contractor to determine priorities and scheduling.

1. Design Services: A State Registered architect/engineer will design the extent of work to meet NRPR's scope and goals, with all design elements engineered to all current and applicable code requirements, including the Dark Sky Ordinance or other applicable codes. NRPR Standard Specifications and Details 2016, PAG Standard Specifications and Details 2015, COT Park Electrical Specifications 2013 as well as all individual site requirements will be coordinated by the registrant with County development staff. The engineer and contractor will work together to design the most efficient design for both installation and lifetime costs. The contractor is responsible for working with the registrant to obtain all of the necessary reviews and permits with the applicable review parties (such as Pima County Development Services, Regional Flood Control District, etc.).
2. Utility Service: The contractor and engineer will review the current utilities, and as needed, coordinate new service or upgrades to existing service to meet the project requirements. All coordination with approval agencies is to be coordinated in a timely manner to meet the project timelines.
3. When requested by County, Contractor will provide pre-construction services.
4. Typical projects may include, but are not limited to the following:
 - Sports fields construction, including but not limited to soccer, baseball and softball fields, tennis and basketball courts, fencing including backstops, batting cages and dugouts, and electrical improvements related to the fields and courts.
 - Placement of concrete and asphalt pavements and poured in place forms including rough and finish grading and base preparation. Resurfacing or painting as needed for maintenance of existing pavement improvements and sports courts (e.g., basketball, tennis).
 - Landscaping and large-scale irrigation system installation and improvements including reclaimed and potable water systems, erosion control elements, or water harvesting/ LID components.

- Erection of pre-fabricated or site-constructed buildings and structures including comfort stations, maintenance buildings, playground equipment (with safety surfacing), shade sails and ramadas.
 - Masonry work including structural, retaining and screen walls, shade structures, seating and unit pavements.
 - Electrical work including small structure service and wiring, park path and landscape lighting, parking lot and security lighting, and sports field lighting/lighting control systems.
 - Commercial plumbing systems including small building service, back flow prevention, drinking fountains and water features. Work may include connections to public sewer, installation of septic service, or dry well applications.
 - Security fencing, temporary fencing, permanent fencing, post and cable installation, bollards, electronic gates, steel gates, or other fencing accessories as needed to meet the parks security needs.
 - Swimming pool and splash pad construction and improvements, including but not limited to shotcrete, plaster, tile, decking, plumbing, heaters, pool pumps and related equipment, electrical and lighting.
5. Post Construction Services: The contractor and engineer shall supply all warranty and manufacturer's information to the NRPR staff at the completion of project. As-builts for the project, including location of all pertinent project elements installed as a part of the project.

END EXHIBIT A - SCOPE OF WORK

EXHIBIT B - GENERAL CONDITIONS (12 pages)

ARTICLE 1. DEFINITIONS

Whenever in these Specifications, or in any document of instructions where these Specifications govern, the following terms or pronouns in place of them are used, the intent and meaning will be interpreted as follows:

Bid: The offer of the Bidder for the work when properly made out on forms containing the Bid for Lump Sum Construction supplied by County and properly submitted, signed and guaranteed.

Bid Documents: All Drawings, Technical Specifications, Supplementary General and/or General Conditions, Bid Schedule, Construction Contract and Bonds, and Contract Documents.

Bidder: Any individual, firm or corporation, qualified as herein provided, legally submitting a Bid for the work contemplated, acting directly or through an authorized representative.

Board: The Board of Supervisors, Pima County, Arizona, acting under authority of the laws of Arizona.

Building Code: The directions, provisions, and requirements contained in the current edition of the Building Codes, with Amendments, as adopted by Pima County, supplemented by such special provisions as may be necessary, pertaining to the method and manner of performing the work, quality and quantity of material to be furnished and measurement for payment of same.

Contract: The written Agreement between County and Contactor covering the performance of the work and the furnishing of labor, equipment, and materials in the construction of the work.

Contract Bond: The approved form of security furnished by Contactor and its Surety as a guarantee on the part of Contactor to execute the work in accordance with the terms of the Contract.

Contractor: The party who undertakes to execute the work, acting directly or through an authorized lawful agent or employee.

County: Pima County, Arizona, a body politic and corporate, the owner of the work.

Department: The Pima County Capital Program Office Department.

Director: The Pima County Department Director, an assistant or other representative duly authorized by a Department Director to act on their behalf.

Extra Work: Work, including materials, for which no price agreement is contained in the Contract and which is deemed necessary for the proper completion of the work.

Item: A detail of work for which separate payment is made.

Laboratory: The established laboratory of the Department or other laboratories authorized by County to test materials and work involved in the Contract.

Plans: The Contract drawings or exact representations thereof, which show the location, character, dimensions, and details of the work.

Project Manager, Engineer, or Architect: The person designated by County to oversee the project on its behalf.

Standard Specifications: The directions, provisions, and requirements contained in the current edition of the PAG Standard Specifications for Public Improvements 2015 Edition with Amendments, as adopted by Pima County,

supplemented by such special provisions as may be necessary, pertaining to the method and manner of performing the work, quality and quantity of material to be furnished and measurement of payment of same.

Supplementary Agreement: A written agreement executed by Contactor and County covering alterations to the project. A change order or a force account work request prepared on the approved form of the Department is a supplementary agreement.

Supplementary General Conditions or Special Conditions: The Supplementary General Conditions or Special Conditions are additional to the General Conditions, which are conditions or requirements peculiar to the project under consideration.

Surety: The corporate body which is bound with and for Contactor, who is primarily liable, and which (agrees) to be responsible for its payment of all debts pertaining to and for its acceptable performance of the work for which it has contracted.

The Work: All of the work specified in the Contract.

ARTICLE 2. RESPONSIBILITY REGARDING EXISTING UTILITIES AND STRUCTURES

County does not guarantee the existence and locations of underground utilities indicated on the plans and Contactor will investigate and verify the location of underground utilities in the field before starting work. Contactor will carefully perform excavations in the vicinity of existing structures and utilities. Contactor is responsible for any damage to, and for maintenance and protection of, existing utilities and structures. At least two full working days prior to commencing excavation, contactor must call blue Stake Center, 1-800-STAKE-IT, between the hours of 7:00 a.m. and 4:30 p.m., Monday through Friday for information relative to the location of buried utilities.

Contactor is fully responsible for costs incurred due to damage to utilities as a result of grading or excavation operations. Utility locations shown on the Plans are approximate, and not all utilities may be shown. The possibility of conflicts with existing utilities –in-place exists. If conflicting utilities interfere with Contactor's normal progress toward completion of this project, County may, at is option, authorize Contactor to relocate said conflicting utilities by Force Account.

It is the responsibility of Contactor to contact the utility companies in order for them to determine if there is a need for any bracing or shoring of power to telephone poles during the construction of this project. If bracing or shoring is necessary, Contactor will effect this work to the satisfaction of the utility company. County will make no measurement or direct payment for bracing or shoring.

ARTICLE 3. LEGAL RELATIONS AND RESPONSIBILITY TO THE PUBLIC

- a. Laws to be Observed -- Contactor is presumed to be familiar with and at all times will observe and comply with all Federal and State laws and local ordinances, worker's compensation, occupational disease, and unemployment compensation laws together with the payment of all premiums and taxes therefor, also all laws, ordinances, and regulations in any manner affecting the conduct of the work and will indemnify and hold harmless County and its representatives against any claim arising from the violations of such laws, bylaws, ordinances or regulations, whether by Contactor or by Contactor's employees.
- b. Permits and Licenses -- Contactor will procure all County building permits, and sewer connection fees. Contactor will post required permits on site and give all notices necessary and incidental to the due and lawful prosecution of the work. Contactor will procure and pay for all other permits, fees, and applications for water, gas, electric and other utilities.
- c. Sanitary Provisions -- Contactor will provide and maintain in a neat and sanitary condition such accommodations for the use of its employees as may be necessary to comply with the requirements and regulations of the Arizona Department of Health Services or other authorities having jurisdiction therein.
- d. Public Convenience and Safety -- Contactor will have due regard for the public health and will conduct the

work in such a manner as to provide and insure the safety and convenience of the public.

When special conditions prevail and extraordinary measures are necessary, the details will be set forth in the Technical Specifications or Special Provisions.

- e. Barricades, Warning Lights, and Detour Signs -- Contactor will at its expense and without further order provide, erect, and maintain at all times during the progress or temporary suspension of the work such barricades, fences, warning lights, danger signals, reflectors, signs, or other protective devices as are required to insure the safety of the public, those engaged in connection with the work and the work itself.

Unless otherwise expressly stated in the Contract, no measurement or direct payment for this work will be made, but the cost of providing, erecting, and maintaining such protection devices, including guards, watchmen and/or flagmen as required will be considered as included and paid for in the contract prices for the work.

- f. Use of Explosives -- Prohibited

- g. Preservation and Restoration of Property -- Contactor will be responsible for the preservation of all public and private property on the surface or underground, along and adjacent to the work and will conduct its operations so as to insure the prevention of injury or damage thereto. No land monuments or property will be disturbed or moved until an authorized agent has witnessed or otherwise referenced their locations.

When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct in the execution of the work, or in consequence or the non-execution thereof on the part of Contactor, Contactor will restore such property at its own expense to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring same, or it will make good such damage or injury in an acceptable manner.

- h. Contactor's Responsibility for Work -- Until written final acceptance of the work by County, Contactor will have the charge and care thereof and will take every precaution against injury or damage to any part thereof by action of elements, or from any other cause, whether arising from the execution or non-execution of the work. The Contactor will rebuild, repair, restore, and make good all injuries or damages of any portion of the work occasioned by any of the above causes before final acceptance and will bear the expense thereof.

In case of the suspension of work for any cause whatever, Contactor will be responsible for all work and materials and will take proper care of the work, storing all materials if necessary, and will provide suitable drainage of the work and erect necessary temporary structures.

- i. Waiver of Legal Rights -- County will not be precluded or be estopped, by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment therefor, from showing the true amount and character of the work performed and materials furnished by Contactor, or from showing that any such measurement, estimate, or certificate is untrue or incorrectly made, or that the work or materials do not conform in fact to the Contract. Neither the acceptance by County or by any representative of County nor any payment, nor acceptance of the whole or any part of the work, nor any extension of time, nor any possession taken by County will operate as a waiver of any portion of the Contract or of any power herein reserved, or any right to damage herein provided. A waiver of any breach of the Contract is not a waiver of any other subsequent breach.

ARTICLE 4. ACCIDENTS

Contactor will provide, at the site, such equipment and medical facilities as are necessary to supply first-aid service to anyone who may be injured in connection with the work.

Contactoꝛ must promptly report in writing to County all accidents whatsoever arising out of, or in connection with the performance of the work, whether on or adjacent to the site, which caused death, personal injury, or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages are caused, Contacfoꝛ will report the accident immediately by telephone or messenger to both County and the Board.

If any claim is made by anyone against Contacfoꝛ or any Subcontractoꝛ on account of any accident, Contacfoꝛ will promptly report the facts in writing to County, giving full details of the claim.

ARTICLE 5. RESERVED

ARTICLE 6. DELAY

If the number of calendar days in Contacfoꝛ's schedule plus the grace period specified in the above paragraph equals or exceeds the number of calendar days for completion stated in the solicitation, then the completion period will be as stated in the solicitation and there will be no grace period.

County and Contacfoꝛ have agreed upon the Project scope, total price, and schedule for the performance of the work. The agreed schedule represents a firm commitment by Contacfoꝛ and County to complete the work within the schedule identified in this Contract, as it may be adjusted from time to time.

County and Contacfoꝛ understand that events may occur that delay or disrupt the schedule or require a change in the level of resources or effort. Therefore, the Contract may be adjusted as follows for Delays:

1. A delay in the work attributable to County is an excusable delay for which an adjustment may be made to the schedule. In any such case the schedule of the affected task or activity may be extended one day for each day of County-caused delay; provided, however, that if the County-caused delay overlaps a period of delay attributable to any other cause, the extension for County-caused delay is limited to the number of non-overlapped days of County-caused delay.
2. There is no adjustment for any Contacfoꝛ-causeɔ delay in the work, including time to repair or replace defective work. In the event of a significant Contacfoꝛ-causeɔ delay exceeding three (3) workdays, Contacfoꝛ will provide a recovery plan to County within five (5) days of County's request.
3. A delay in the work attributable to any other cause, including strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any causes beyond the control of County or Contacfoꝛ and that arises without the fault or negligence of either, is an excusable delay for which County and Contacfoꝛ agree to negotiate an appropriate schedule adjustment. If the period of delay attributable to any cause under this paragraph overlaps a period of delay attributable to any other cause, the adjustment under this paragraph will be made first and the delay attributed to such other cause will be limited to that occurring outside of the overlap.

ARTICLE 7. EXECUTION, CORRELATION AND INTENT OF DOCUMENTS

The Contract documents are complementary, and what is called for by any one will be as binding as if called for by all, and the most stringent requirement will apply. The intention of the documents is to include all labor and materials, equipment and transportation necessary for the proper execution of the work. It is not intended, however, that materials or work not covered by or properly inferable from any heading, branch, class or trade of the specifications will be supplied unless distinctly so noted on the drawings. Materials or work described in words that so applied have a well-known technical or trade meaning will be held to refer to such recognized standards.

ARTICLE 8. DETAIL DRAWINGS AND INSTRUCTIONS

County will furnish with reasonable promptness, additional instructions, by means of drawings or otherwise, necessary for the proper execution of the work. All such drawings and instructions will be consistent with the Bid documents, true developments thereof, and reasonably inferable therefrom.

ARTICLE 9. COPIES OF DRAWINGS FURNISHED

County will provide, at no cost to Contactor, two complete sets of code approved construction documents in non-reproducible form.

County will provide, at no cost to Contactor, five (5) non-reproducible sets of construction documents used during the course of bidding the work (Bid Sets) for execution on the work. It will be Contactor's responsibility to ensure that any modifications called for as a result of the permit process are transferred to the bid sets.

Contactor may purchase additional sets of code-approved sets or bid sets construction documents, at its expense.

ARTICLE 10. ORDER OF COMPLETION

Contactor will submit at such times as may be requested by County, schedules which will show the order in which Contactor proposes to carry on the work with dates at which Contactor will start the several parts of the work and estimated dates of completion of the several parts.

ARTICLE 11. CONSTRUCTION DOCUMENTS ON THE JOB SITE

Contactor will keep one copy of code approved construction documents on the job site, in good order, available to County and to County's representatives. This set of documents will be kept current as to pending and approved changes in the work.

ARTICLE 12. OWNERSHIP OF DRAWINGS

All drawings, specifications, and copies thereof furnished by County are the property of Pima County. They are not to be used on other work and with the exception of the signed Contract set, and are to be returned to County on request, at the completion of the work. All models are the property of County.

ARTICLE 13. CONTRACTOR'S UNDERSTANDING

Contactor has, by careful examination, satisfied itself as to the nature and location of the work, the conformation of the ground, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this Contract. No verbal agreement or conversations with any officer, agent or employee of County, either before or after the execution of this Contract, will affect or modify any of the terms or obligations herein contained.

ARTICLE 14. MATERIALS, APPLIANCES, EMPLOYEES

Unless otherwise agreed, Contactor will provide and pay for all materials, labor, water, tools, equipment, light, power, transportation, and other facilities necessary for the execution and completion of the work.

Unless otherwise agreed, all materials will be new, and both workmanship and materials will be of good quality. Contactor will, if required, furnish satisfactory evidence as to the kind and quality of materials.

Contactor will at all times enforce strict discipline and good order among its employees, and will not employ on the work any unfit person or anyone not skilled in the work that Contactor assigns to that person.

ARTICLE 15. ROYALTIES AND PATENTS

Contactor will pay all royalties and license fees. Contactor will defend all suits or claims for infringement of any patent rights and will hold County harmless from loss on account thereof, except that County will be responsible for all such loss when a particular process or the product of a particular manufacturer or manufacturers is specified, but if Contactor has information that the process or article specified is an infringement of a patent it will be responsible for such loss unless it promptly gives such information to County.

ARTICLE 16. SURVEYS, PERMITS, AND REGULATIONS

County will furnish all property surveys unless otherwise specified. Contactor will secure and pay for permits and licenses of a temporary nature necessary for the prosecution of the work except as noted in Article 3.b. County will secure and pay for easements for permanent structures or permanent changes in existing facilities unless otherwise agreed.

Contactor will give all notices and comply with all laws, ordinances, rules, and regulations bearing on the conduct of the work as drawn and specified. If Contactor observes that the drawings and specifications are at variance therewith, it will promptly notify County in writing, and any necessary changes will be adjusted as provided in the Contract for changes in the work. If Contactor performs any work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to County, it will bear all costs arising therefrom.

ARTICLE 17. PROTECTION OF WORK AND PROPERTY

Contactor will continuously maintain adequate protection of all its work from damage and will protect County's property from injury or loss arising in connection with this Contract. It will make good any such damage, injury, or loss, except such as may be directly due to errors in the bid documents or caused by agents or employees of County. It will adequately protect adjacent property as provided by law and the bid documents. It will provide and maintain all passageways, guard fences, lights, and other facilities for protection required by public authority or local conditions.

If an emergency should occur affecting the safety of life or the work or of adjoining property, Contactor, without special instruction or authorization from County, is hereby permitted to act at his discretion, to prevent such threatened loss or injury, and Contactor will so act, without appeal, if so instructed or authorized. Any compensation claimed by Contactor on account of emergency work will be determined by County.

Contactor is responsible for equipment, materials, and supplies until completion of the project and acceptance by County.

ARTICLE 18. INSPECTION OF WORK

County representatives will at all times have access to the work wherever it is in preparation or progress and Contactor will provide proper facilities for such access and for inspection.

If the specifications, County's instructions, laws, ordinances, or any public authority, require any work to be specially tested or approved, Contactor will give County timely notice of its readiness for inspection and if the inspection is by an authority other than County, of the date fixed for such inspection. Inspections by County will be promptly made, and where practicable at the source of supply. If any work should be covered up without approval or consent of County, it must, if required by County, be uncovered for examination at Contactor's expense.

Re-examination of questioned work may be ordered by County and if so ordered the work must be uncovered by Contactor. If such work is found to be in accordance with the bid documents, County will pay the cost of re-examination and replacement. If such work is found not to be in accordance with the bid documents, Contactor will pay such cost.

ARTICLE 19. SUPERINTENDENCE - SUPERVISION

Contactor will keep on its work site during its progress a competent Superintendent and any necessary assistants, all satisfactory to County. The Superintendent will not be changed except with the consent of County, unless the Superintendent proves to be unsatisfactory to Contactor and ceases to be in its employ. The Superintendent will represent Contactor in its absence and all directions given to it will be as binding as if given to Contactor. Contactor will give efficient supervision to the work using its best skill and attention.

If Contactor, in the course of the work, finds any discrepancy between the construction documents and the physical conditions of the locality, or any errors or omissions in the construction documents or in the layout as given by points and instructions, it will be its duty to immediately inform County, in writing, and County will promptly verify the same. Any work done after such discovery, until authorized, will be done at Contactor's risk.

Neither County nor Contactor, will employ an employee of the other without consent.

ARTICLE 20. RESERVED

ARTICLE 21. CLAIMS FOR EXTRA COST FOR ADDITIONAL WORK

If Contactor claims that any additional instructions by drawings or otherwise involve extra cost under this Contract, it will give County written notice thereof within a reasonable time after the receipt of such instructions, and in any event before proceeding to execute the work, except in an emergency endangering life or property. No such claim will be valid unless so made.

ARTICLE 22. DEDUCTIONS FOR UNCORRECTED WORK

If County deems it not expedient to correct work injured or done not in accordance with the Contract, an equitable deduction from the Contract price will be made therefor.

Contactor will promptly remove from the premises all materials condemned by County as failing to conform to the Contract, whether incorporated in the work or not, and Contactor will promptly replace and re-execute its own work in accordance with the Contract and without expense to County and will bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

If Contactor does not remove such condemned work and materials within a reasonable time, fixed by written notice, County may remove them and may store the material at the expense of Contactor. If Contactor does not pay the expense of such removal within ten days' time thereafter, County may, upon ten days written notice, sell such materials at auction or at private sale and will account for the net proceeds thereof, after deducting all the costs and expenses that should have been borne by Contactor.

ARTICLE 23. SUSPENSION OF WORK

County may at any time suspend the work, or any part thereof by giving three (3) days' notice to Contactor in writing. When the reason for such suspension involves safety, health or welfare issues, the three (3) day written notice requirement may be waived at the decision of the County Management. Contactor will resume the work within ten (10) days after the date fixed in the written notice from County to Contactor to do so.

ARTICLE 24. COUNTY'S RIGHT TO DO WORK

If Contactor neglects to prosecute the work properly or fails to perform any provision of this Contract, County may, after three (3) days written notice to the Contactor, without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due Contactor.

ARTICLE 25. COUNTY'S RIGHT TO TERMINATE CONTRACT

If Contactor persistently or repeatedly refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials, or if it fails to make prompt payment to subcontractors for material or labor, or persistently disregards laws, ordinances, or the instructions of County, or otherwise is guilty of a substantial violation of any provision of the contract, then County may, without prejudice to any other right or remedy and after giving Contactor ten (10) days written notice, terminate the employment of Contactor and take possession of the premises and of all materials, tools, and appliances thereon and finish the work by whatever method County may deem expedient. In such case Contactor will not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract price will exceed the expense of finishing the work, including

compensation for additional managerial and administrative service, such excess will be paid to Contactor. If such expense will exceed such unpaid balance, Contactor will pay the difference to County. County will certify the expense incurred by County as herein provided, and the damage incurred through the Contactor's default.

ARTICLE 26. REMOVAL OF EQUIPMENT

In any case of annulment or termination of this Contract before completion from any cause whatever, Contactor, if notified to do so by County, will promptly remove any part or all of its equipment and supplies from the property of County, failing which County will have the right to remove such equipment and supplies at the expense of Contactor.

ARTICLE 27. USE OF COMPLETED PORTIONS

County has the right to take possession of and use any completed or partially completed portions of the work, notwithstanding the time for completing the entire work or such portions may not have expired, but such taking possession and use is not an acceptance of any work not completed in accordance with the Bid documents. If such prior use increases the cost of or delays the work, Contactor will be entitled to such extra compensation, or extension of time, or both, as County may determine.

ARTICLE 28. PAYMENTS WITHHELD

County may decline to certify payment or, because of discovered evidence or observations, may nullify the whole or any part of any certificate for payment previously issued, to such extent as may be necessary in its opinion to protect County from loss because of:

- a. Defective work not remedied.
- b. Third party claims filed or reasonable evidence indicating probable filing of such claims.
- c. Failure of Contactor to make payments properly to Subcontractors or for labor, materials, or equipment.
- d. Reasonable evidence that the work cannot be completed for the unpaid balance of the Contract sum.
- e. Damage to another Contactor.

When the above grounds are removed, payment will be made for amounts withheld because of them.

ARTICLE 29. WARRANTY

Contactor will provide a written guarantee covering all costs for repair or replacement of defective work for a period of two (2) years (or longer if noted elsewhere in the construction documents) from substantial completion. Contactor will complete repair, or respond to County in writing with repair solution, within seventy-two (72) hours of notification by County. County may make emergency repairs to ensure life safety or to prevent property loss, without invalidating the warranty.

ARTICLE 30. LIENS

Neither the final payment nor any part of the retained percentage will become due until Contactor delivers to County a complete release of all liens arising out of this Contract, or receipts in full or in lieu thereof, and if required in either case, an affidavit that so far as it has knowledge or information, the release and receipts include all the labor for which a lien could be filed; but Contactor may, if any subcontractor refuses to furnish a release or receipt in full, furnish a bond satisfactory to County, to indemnify County against any lien. If any lien remains unsatisfied after all payments are made, Contactor will pay to County all monies that County may be compelled to pay in discharging such a lien, including all costs and a reasonable attorney's fee.

ARTICLE 31. RIGHTS OF VARIOUS INTERESTS

Wherever work being done by County's forces or other contractors is contiguous to work covered by this Contract the respective rights of the various interests involved will be established by the County to secure the completion of the various portions of the work in general harmony.

ARTICLE 32. SEPARATE CONTRACTS

County reserves the right to let other contracts in connection with this work. Contractor will afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and will properly connect and coordinate its work with theirs.

If any part of Contractor's work depends upon proper execution or results of the work of any other contractor, Contractor will inspect and its report will constitute an acceptance of the other contractor's work after the execution of its work.

To insure the proper execution of its subsequent work, Contractor will measure work already in place and will once report to County any discrepancy between the executed work and the drawings.

ARTICLE 33. COUNTY'S STATUS

The County has general review of the work and has the authority to reject all work and materials that do not conform to the Contract.

ARTICLE 34. CLAIMS AND DISPUTES

All claims, demands, disputes, controversies, and differences that arise between the parties hereto as result of or in connection with this Contract will be referred to County in writing with a request for review and response in accordance with this paragraph, which County will render in writing within a reasonable time.

Contractor will deliver written notice of each such claim, demand, dispute, controversy or difference to County within fifteen (15) days of the occurrence of the event giving rise thereto and written supporting data will be submitted to County within forty-five (45) days of such occurrence unless County specifies a different period of time in writing to Contractor. The submission to County with respect to any such claim, demand, dispute, controversy or difference will be a condition precedent to any exercise by Contractor of such rights or remedies as Contractor may otherwise have under the Bid documents or at law in respect of any such claim, demand, dispute, controversy or difference.

If either County or Contractor is dissatisfied with any decision of County and both parties agree in writing, then the dispute may be settled by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, and judgment upon the award rendered by the arbitrator(s) will be entered in any court having jurisdiction thereof. All arbitration hearings must be held in Tucson, Arizona.

ARTICLE 35. CLEANING UP

Contractor will, as directed by County, remove from County's property and from all public and private property, at its own expense, all temporary structures, rubbish, and waste materials resulting from its operation.

ARTICLE 36. RESERVED

ARTICLE 37. ARCHAEOLOGICAL FEATURES

Construction for this project may occur in an archaeological sensitive area. The County Office of Conservation and Sustainability Cultural Resources Division will determine prior to construction (other than emergencies) any special site monitoring requirements. Human burials, including human skeletal remains, cremations, and funerary objects are protected under A.R.S. section 41-844 on state, county, and municipal lands, and under A.R.S. section 41-865 on private lands. Should archaeological features and/or artifacts or human remains, including human skeletal or cremation remains be discovered, work at that location will cease immediately, and the area will be taped off and avoided until archaeological investigations are completed. Construction is subject to delay in that location pursuant

to applicable State law, while consultation with the Arizona State Museum and appropriate documentation and data recovery takes place. To the extent permitted by law, all archaeological artifacts and other materials will belong to Pima County. No monetary compensation will be made to Contactor for any claims due to delays in the work schedule. Only the Contract construction time will be extended to permit the original scheduled number of days for completion of the project.

ARTICLE 38. RESERVED

ARTICLE 39. RESERVED

ARTICLE 40. HAZARDOUS MATERIALS/ HAZARDOUS WASTES / HAZARDOUS SUBSTANCES ABATEMENT

Should Contactor uncover, or otherwise become aware of the presence of any Hazardous Materials, Hazardous Wastes or Hazardous Substances during the construction of this project, notice will be served immediately to the County Project Manager, and all work surrounding said materials or substances will be ceased until directed to proceed. Construction delays due to Hazardous Materials, Hazardous Wastes or Hazardous Substances abatement may occur.

If this Contract does not otherwise require the services of a Hazardous Materials contractor, abatement of such materials will be provided by Pima County, at its expense and independent of this Contract.

If this Contract already employs the services of a Hazardous Materials contractor, the cost to abate any such additional materials will be added to the contract as Additional Services, in accordance with the provisions of Article 21 "Claims for Cost of Additional Work".

ARTICLE 41. WASTE DISPOSAL FACILITIES

Contactor will legally dispose of all construction debris in appropriate County operated waste disposal facilities and pay any applicable fees. In the case of conflicts with the provisions of the Contract Specifications, this provision applies.

ARTICLE 42. AS-BUILT DRAWINGS

Contactor will keep an accurate record of all changes and deviations from the Project Plans and Specifications and submit to County one set of "As-Built" drawings including dimension, location of underground utilities, etc., upon completion of the work. As-Built drawings will be drawn and submitted in such a format as prescribed by County.

ARTICLE 43. RESERVED

ARTICLE 44. BUILDER'S RISK

Contactor will be responsible for equipment, materials, and supplies until completion of the project and acceptance by County.

END OF EXHIBIT B - GENERAL CONDITIONS

EXHIBIT C (12 pages)
SPECIAL CONDITIONS – MULTIPLE AWARD JOB ORDER CONTRACT

ARTICLE 1 – OVERVIEW AND DEFINITIONS

- A. **Overview of Job Order Contracting Arrangement** – This Agreement establishes a Multiple-Award, indefinite quantity, job order contracting Arrangement for such construction services within the scope of this Agreement as County may request from time to time by issuance of an individual Job Order Contract for each Project.

The Contract Price for each Job Order shall not exceed \$1,500,000.00, including any Change Orders.

There is no limit on the number of Job Orders County may issue to any Contractor during any twelve (12) month term of this Contract or during the entire period this Contract is in effect.

Generally, a Contractor may not refuse to quote any Job Order under this Agreement properly issued by County, unless Contractor can legitimately claim the scope of work is poorly defined, hazardous to health or safety, outside the bounds of the intended use of this Agreement, or the Contractor does not have the capacity to accept the Job Order and begin work in a timely manner.

County shall have the right to perform work of the types included in this Agreement itself or to have other contractors perform such work.

- B. **Definitions** – The following terms will have the following meanings when used in the Agreement. Other terms may be defined elsewhere in the Documents. Terms not defined in the Agreement shall have their ordinary meaning within the usage of the trade. The presence or absence of initial capitals does not indicate a change in meaning.

“Alternatives Analysis” means assessment of alternatives for design, means and methods or other scope considerations that are evaluated using value engineering principles and have the potential to reduce construction costs while still delivering a quality and functional Project that meets County requirements.

“Contract Price” means the price to be paid for the Work (and for Preconstruction Services, if any) as specified in the Job Order. The Contract Price shall be a fixed, lump sum price, or a Not-to-Exceed Guaranteed Maximum Price, based on the Contractor’s accepted quotation.

“Contract Time” means the time for performance of the Work under a Job Order as specified in the Job Order commencing with the Start Date and ending with Final Completion Date set forth in the Job Order, as modified.

“Critical Path Method (CPM)” is a scheduling technique which identifies the logical sequence of the activities occurring in a construction project, the anticipated time required to complete each activity in the project, and the activities that must be completed on schedule to finish the project within the anticipated time. Typically, activities are arrayed in a network that shows both activities and their dependencies. CPM is also used as a management technique which enables contracting parties to predict when activities may occur so that resources can be effectively used and limitations can be identified.

“Critical Path” means that sequence of dependent activities in a project that will take the longest time to complete. Any delay in the completion of any of these activities may extend the Substantial Completion date.

“Day” means calendar day unless specifically provided otherwise or required by law.

“Design Professional (DP)” means, as to a Job Order, the person, if any, who will perform Design Services relating to the Work under the Job Order and who is designated as the Design Professional in the Job Order.

"Drawings and Specifications" means, as to a Job Order, the drawings and specifications, if any, attached to the Job Order and specifications included in the Job Order Contract Documents. The Drawings and Specifications set forth the requirements for construction of the Project. Where there are no drawings and specifications for the Work prepared by a Design Professional, County will deliver to the Contractor line drawings and/or a written description of the Work and, in each such case, the line drawings and/or the written description shall be deemed the drawings for the Work for that Job Order for all purposes.

"Final Completion Date" means, as to a Job Order, the date by which Contractor shall have completed all Work under a Job Order, including, without limitation, all deficiency, correction and incomplete items (Punch List).

"Job Order" means the Contract for a Project executed by County under this Agreement, as it may be modified by Change Orders, if any, relating to the Project under the Job Order.

"Minor Change" means a change in the Work having no impact on cost or time or the County's approved design intent, as determined by County.

"Notice to Proceed" means written notice given by County to the Contractor fixing the date on which the Contractor will start to perform the Work under that Job Order. The start date will be the Start Date stated in the Job Order.

"Plans and Specifications" means the plans and specifications upon which the Job Order's price proposal is based.

"Preconstruction Services" means the performance under a Job Order requiring such services of alternatives analysis, cost or schedule estimating, value engineering, constructability or other design reviews or consultation in the review of a County or third-party design prepared by a County-provided design professional.

"Project" means each project of County as to which some or all of the work is to be performed under a Job Order.

"Qualifications/Proposals Documents" means the Solicitation for Qualifications issued by County for this Job Order Contract, all Addenda thereto, and all information and documents submitted by Contractor relating thereto including, without limitation, Contractor's submission of formal sealed qualifications, and also including, without limitation, the subcontractor management plan submitted by the Contractor. It also includes all other qualifications/proposals documents: that is all documents and materials delivered by County to Contractor in connection with Contractor's submission of qualifications and submission of a proposal for the contract.

"Sales Taxes" - Sales taxes are deemed to include all sales, use, excise, consumer, franchise, and other taxes which are legally enacted when negotiations of a Job Order Contract Price are concluded, whether or not yet effective or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount.

"Schedule of Values (SOV)" A spreadsheet with estimated costs organized by subcontract categories, allowances, bid contingency, general conditions costs, taxes, bonds, insurances, and the Contractor's construction phase fee. The supporting document for the spreadsheet must be provided in an organized manner that correlates with the schedule of values. The backup information shall consist of the request for bids, bids received, and clarification assumptions used for the particular bid item listed on the schedule of values, if applicable. The SOV may be output from the Project Schedule if the Project Schedule is cost-loaded.

"Start Date" means, as to a Job Order, the date specified in the Notice to Proceed for that Job Order for Contractor to begin the Work.

"Subcontractor" means a subcontractor of the Contractor for any of the Work included in a Job Order or any subcontractor at any tier of such a subcontractor.

“Substantial Completion” means when the Work, or an agreed upon portion of the Work, is sufficiently complete so that County can occupy and use the Project or a portion thereof for its intended purposes. The conditions of Substantial Completion that apply to a specific Job Order will be listed in the Notice to Proceed Letter for that Job Order.

“Supplier” means a person providing materials, supplies or equipment to be included in the Work to Contractor or any Subcontractor.

“Technical Specifications” means the general provisions and the detailed specifications prescribed by County describing the materials and performance required for each individual Job Order.

“Work” and **“Work (Construction)”** mean all labor, materials, supplies, tools, equipment, transportation, site cleanup, storage and disposal of construction debris, supervision, management, overhead and profit, bonds, insurance, licenses and permits, taxes, intellectual property royalty and license fees, all other activities and items required to perform the Work under a Job Order as described in the Scope of Work in the Job Order. Work does not include Preconstruction Services in connection with a Job Order.

ARTICLE 2 – JOB ORDER DEVELOPMENT

The steps for development of a Job Order and Quotation will generally be the following:

- A. For Projects estimated under \$250,000.00, and during emergency situations County will notify the selected Contractor of a new Project and may or may not schedule a site visit to explain and discuss the project. Design documents, if any, will be provided to the Contractor by the time of the site visit. Once the parties agree on the scope of the project, County will memorialize the agreement in a Job Order and deliver it to Contractor who shall have five (5) working days, unless a shorter period is specified in the Job Order, to commence construction. Unless otherwise specified by County, issuance of the Job Order shall constitute Notice to Proceed. In the event of an emergency, the requirement that a Job Order Contract be in place prior to the initiation of work is waived. During such an emergency, a Contractor may be contacted and given instructions by a County Project Manager to perform the work immediately without an approved Job Order. It is understood that the County will prepare a Job Order as soon as practicable following said instructions.
- B. For Projects estimated at \$250,000.00 or greater, the County will notify all Job Order Contractors under contract to County. The request shall advise all Contractors of the nature of the Work to be done and include the selection criteria and methodologies County will use to make the "best value" decision. Criteria could include lowest bid, lowest bid meeting schedule, best cost alternative(s), etc. The request letter may also include an estimate of the total dollars the County has budgeted for the Job. Contractor shall be provided an opportunity to ask questions, seek clarification and/or inspect the site, if requested. Alternatively, the County may identify in the request the date and time for a meeting or site visit to explain and discuss the Work and further refine the scope of the project. Design documents, if any, may be provided in advance or at the meeting or site visit.
- C. Upon establishment of the scope of the needed Project, each Contractor interested in performing the Job Order shall prepare its proposal for accomplishment of the Project utilizing the Contractor's best estimating practices to develop a fixed, lump sum or not-to-exceed Guaranteed Maximum Contract Price to complete the Work, including any additional Preconstruction Services (if necessary). See Article 3 for a description of required proposal items. Quotes will be in letter format including an attached table listing major construction components (i.e. Mobilization, grade control structures, soil cement bank protection, excavation, clearing/grubbing, subgrade prep., etc.) with quantities, unit cost, total cost as columns in the table. The time for submittal of proposals for individual Projects shall not exceed seven (7) working days unless approved by the County.
- D. County shall review each Contractor's proposal and may either accept the proposals or negotiate modifications to the proposals until such time the County is satisfied with each of the proposals. Such negotiations shall be limited to value alternatives of costs less than 20% of the original quotation price. Scope modifications or value alternatives that are equal to or greater than 20% shall require County to modify the original request and rebid to the benefit of all interested Contractor's under this Contract.

- E. The Job Order will then be issued by County to the Job Order Contractor that submitted the best quotation (including schedule and/or value engineering alternatives), as measured by the criteria in the request for quotation. Past performance on earlier Job Orders, including past performance on cost or price control, may be used to determine award of future Job Orders. Quotations must be reasonably prepare, accurately describing the work including the types of materials used, quantities and other cost elements. In the instance the quotation is deemed to be unreasonable or inaccurate, the Project Manager can exercise the option to reject the bid (even if it is the lower bid) or request a revised quotation. An alternative Contractor will be chosen for the work.
- F. Upon issuance of each Job Order by County, the Job Order Contract will be binding upon the Contractor and County. A Job Order is considered "issued" when delivered to the Contractor or sent by facsimile copy, in which case the Job Order will be "issued" when sent to Contractor's fax number and County's fax machine prints an acknowledgement of receipt or County.

ARTICLE 3 – JOB ORDER PROPOSAL CONTENT

Although specific Job Orders will vary, the content of Job Order proposals provided by each Contractor under this contract will generally include the following:

- A. The description of the Scope of the Work;
- B. The duration of the work, including CPM schedule (if required);
- C. The Contract Price for Work (Construction), including prices for various proposed alternatives;
- D. The Contract Price of Preconstruction Services by Contractor (if any);
- E. The name of the Contractor Representative for the Project;
- F. The Drawings and Specifications (if any) used to prepare the quotation;
- G. Any assumptions or exclusions that qualify the Contractor's price, including how many days the proposal is valid for;
- H. A risk analysis of the project that identifies potential risks to the cost or schedule, or other items which the Owner may need to be informed of that will impact a successful outcome;
- I. If any Shop Drawings, Product Data and/or Samples are required for the Job Order, the date for delivery of each required item;
- J. A statement of which, if any, of the following are required: Preconstruction Conference, Weekly Progress Meetings, Field Office, Storage Enclosure, Materials and Equipment Handling Facility, Submittals, Shop Drawings, Product Data, Equipment List, Samples, Project Manual, Schedule of Values, Construction Progress Schedule, Narrative Reports, Progress Report, Progress Charts, Progress Photographs, Materials Status Report, Construction Diagram, Construction Status Report, Operation and Maintenance Data, Operating Maintenance Instructions and Parts List, and As-Built Drawings.

Each Job Order will be interpreted to include all items reasonably necessary to complete the Project as described in the Scope of the Work of the Job Order. All Work shall be performed in a professional manner and all materials used shall be new, of the highest quality and of the type best adapted to their purpose, unless otherwise specified.

ARTICLE 4 – JOB ORDER NEGOTIATION

- A. Job Order Pricing – The Contract Price shall include all costs, including overhead, pre-construction, mobilization, indirect costs, etc., incidental to performing the work and completing the job order and with the exception of any changes in the scope of work as directed by the Owner as defined by ARTICLE 6, no additional payments will be made.
- B. Preconstruction Services (if any) – If Contractor is providing Preconstruction Services, the proposal must be supported by documentation to establish that adequate involvement by Contractor in the planning, engineering and design work will be performed to satisfy the requirements of the project. Required services may include (but are not limited to) constructability reviews, materials recommendations, alternatives analysis, development of cost and schedule estimates and tradeoffs, and similar services.

ARTICLE 5 – JOB ORDER MANAGEMENT

- A. Planning, Scheduling, Monitoring – Planning, scheduling and progress monitoring are essential functions of Contractor. If required by the Job Order, after the issuance of the Job Order Contractor shall prepare and submit to County a Schedule of Values allocating the Contract Price among the various portions of the Work for purposes of progress payments. The format of the Schedule of Values shall be as specified by County. In addition, if required by the Job Order, Contractor shall submit a CPM-based Construction Schedule that shall be maintained and updated for the duration of the project.

- 1. Project Management

Contractor shall employ and supply a sufficient force of workers, material and equipment, and shall prosecute the Work under each Job Order with such diligence as to maintain a steady rate of progress or, if there is a Construction Progress Schedule, the rate of progress indicated on the Construction Progress Schedule, to prevent work stoppage, and to ensure completion of the Project under each Job Order within the Contract Time.

- 2. Daily Log

Contractor shall maintain a Daily Log of construction activities using a form approved by County. Contractor shall include in the log all significant issues or problems affecting progress and completion of any Job Order.

If required in a Job Order, Contractor shall provide copies of the entries in the Daily Log to County no later than the morning of the next business day. The Daily Log does not constitute written notice to the County when such notice is required by the Contract.

- 3. Progress Schedule and Float

If Contractor submits an original or updated schedule which shows the Work under a Job Order and/or individual milestone(s) completing earlier than required by the adjusted Final Completion Date in the Job Order, the differences between the forecasted early completion and the required Final Completion Date shall be considered Project-owned float available for use by both County and Contractor.

- B. Reporting

- 1. Monthly Reporting

If required by the Job Order, on the last business day of each calendar month, Contractor will deliver to the County a Monthly Narrative Report. The Report shall include a description of all current, issued, and

in process Job Orders, the status of each and anticipated problem areas, delaying factors and their impact, and an explanation of corrective action(s) taken or proposed.

The Report shall include for each job order the Start Date, the Final Completion Date, and, for Job Orders with more than sixty (60) days between such dates, either (A) the current Progress Schedule for the Project, or (B) the date by which Contractor is to submit a proposed Progress Schedule for approval by County.

If the Project under any Job Order is behind schedule in any month, Contractor's Narrative Report shall indicate precisely what measures it will take in the next thirty days to put the Work back on schedule.

If requested by County, Contractor shall meet with County to review the monthly Update Report and to discuss any issues.

2. Contractor Responsibility

To the extent required in the Job Order for the Project, Contractor shall be responsible to prepare, submit and maintain the daily log, CPM schedules and Narrative Reports indicated above; failure to do so may be considered a material breach of this Contract. Any additional or unanticipated cost or expense required to maintain logs, schedules reports shall be solely Contractor's responsibility and shall not be charged to County.

ARTICLE 6 – CHANGES AND CHANGED CONDITIONS

- A. Owner Directed Changes in the Scope of Work – By written directive at any time, County may make any changes within the general scope of the Work under a Job Order or issue additional instructions, require additional or modified Work or direct deletion of Work. Contractor shall not proceed with any change involving an increase or decrease in cost or time without prior written authorization from the County in the form of a completed and executed Change Order. If Contractor proceeds with any change involving an increase or decrease in cost or time without written authorization as required by this article, Contractor waives all rights or claims Contractor may have as a result of the change. County's right to make changes shall not invalidate the Agreement or Job Order Contract Documents or relieve Contractor of any liability. Any requirement of notice of change to the Surety shall be the responsibility of Contractor.

ARTICLE 7 – DELAYS AND TIME EXTENSIONS

- A. Demonstration of Delay – It is agreed that no time extensions shall be granted nor delay damages paid by County unless the delay can be clearly demonstrated by Contractor on the basis of the updated Critical Path Schedule, cannot be mitigated, offset, or eliminated through such actions as revising the intended sequence of the Work or other reasonable means.
- B. Application of Float – Since float time within the schedule is jointly owned, no time extensions will be granted nor delay damages paid until a delay occurs which extends the work beyond the adjusted Final Completion Date. Since float time within the construction schedule is jointly owned, it is acknowledged that County-caused delays on the Project may be offset by County-caused time savings (i.e., critical path submittals returned in less time than allowed by the Contract, approval of substitution requests which result in a savings of time to the Contractor, etc.).
- C. In such an event, Contractor shall not be entitled to receive a time extension or delay damages until all County-caused time savings are exceeded and the Final Completion Date or milestone date is also exceeded
-

ARTICLE 8 – PERFORMANCE MEASUREMENT

- A. Performance Assessment – Promptly after final completion of the Work under each Job Order, County will complete a written evaluation of Contractor's performance of the Work. The evaluation shall consist of completion by County of the Performance Quality Evaluation Form attached as **Attachment 1 to Exhibit C** to these **SPECIAL CONDITIONS**.
- B. Feedback – The completed Performance Evaluation will be shared with Contractor as a means of providing feedback regarding Contractor's cost, schedule and quality performance. Contractor may submit additional information, comment, recommendations or rebuttal for association with the Performance Evaluation.
- C. Comparative Assessment – Contractor's cost, schedule and quality performance of Job Orders under this Contract will be compared periodically to the performance of other like-situated Contractors. The results of these comparisons will be provided to Contractor.

Contractor understands that these assessments will necessarily involve significant subjectivity. Contractor agrees to this process and agrees further that the application of subjectivity in these assessments shall not form the basis for any claim or cause of action of any form whatsoever.

- D. Consideration of Renewal – Contractor's record of cost, schedule and quality performance and comparative assessments shall be significant considerations in the County's determination whether to renew Contractor's participation in the Agreement. Contractor agrees that any determination by County not to renew its participation based on performance will be at the sole discretion of County.

ARTICLE 9 – SUBCONTRACTORS

- A. Subcontractor Selection – Contractor will select Subcontractors in accordance with the Subcontractor Selection Plan incorporated into this Contract by reference.
- B. Subcontracts
 - 1. Contractor agrees to deliver to each Subcontractor and to cause each Subcontractor to deliver to each sub-subcontractor a copy of this Agreement and the Job Order Contract Documents relating to the Work of the Subcontractor or sub-subcontractor. Contractor agrees to include in its contract with each Subcontractor all provisions of the Agreement and Job Order documents required to be included in those contracts and to cause its Subcontractors to include the same provisions in their contracts with their sub-subcontractors at all tiers.
 - 2. Each Subcontract, or other Agreement, with any subcontractor for any job order shall include the address or location of the work.
- C. Assignment Upon Termination – Contractor hereby assigns to County (and its assigns) all its interest in any subcontracts and purchase orders now existing or hereinafter entered into by Contractor for performance of any part of the Work under each Job Order, which assignment will be effective upon termination of the Contract by the County and only as to those subcontracts and purchase orders which the County assumes in writing. All subcontracts and purchase orders shall provide that they are freely assignable by Contractor to the County and its assigns. Such assignment is part of the consideration to County for entering into the Contract with Contractor and may not be withdrawn prior to final completion of the Work under each Job Order.

ARTICLE 10 – TERMINATION FOR CAUSE

Anything in the Contract Documents to the contrary notwithstanding, any termination of this Agreement shall automatically terminate all Job Orders as to which the Work is not complete, except that upon any termination of this Contract, County may elect by written notification to Contractor to continue in effect any or all then uncompleted Job Orders in which event this Agreement shall continue in effect as to each continued Job Order and shall terminate upon completion of the last such Job Order.

Anything in the Agreement to the contrary notwithstanding, (i) all indemnification provisions, reimbursement provisions and payment provisions shall survive termination of this Agreement under this Article and shall continue in effect indefinitely without termination, and (ii) all guarantee and warranty provisions and all provisions in the Agreement Documents requiring Contractor to correct any Work not in accordance with the relevant Job Order Documents shall not terminate upon termination of this Agreement and shall continue in effect thereafter in accordance with the terms of each such provision.

A. **Cause for Termination** – In addition to the termination rights of the County in **ARTICLE 18 – TERMINATION OF CONTRACT FOR DEFAULT** of the Agreement between County and Contractor, the County may terminate any or all Job Orders and/or the overall Job Order Agreement at the election of County, upon the occurrence of any one or more of the following events:

1. If Contractor refuses or fails to prosecute the Work under any Job Order with such diligence as will ensure its completion within the Contract Time for that Job Order; or if the Contractor fails to complete the Work under any Job Order within the Contract Time for that Job Order;
2. If Contractor or any of its key Subcontractors under any Job Order is adjudged a bankrupt or insolvent or makes a general assignment for the benefit of creditors, or if Contractor or any of its key Subcontractors under any Job Order or a third party files a petition to take advantage of any debtor's act or to reorganize under the bankruptcy or similar laws concerning Contractor or any of its key Subcontractors under any Job Order, or if a trustee or receiver is appointed for Contractor or any of its key Subcontractors under any Job Order or for any of Contractor's property on account of Contractor or a Subcontractor under any Job Order, and, in each case, Contractor or its successor in interest or its respective key Subcontractor under any Job Order does not provide reasonably adequate assurance of future performance in accordance with the Contract Documents within 10 days after receipt of a request for assurance from the County;
3. If Contractor persistently fails to supply sufficient skilled workmen or suitable materials or equipment for the Work under any Job Order;
4. If, as to any Job Order, Contractor fails to make prompt payments to Subcontractors or Suppliers at any tier, or for labor, materials or equipment;
5. If Contractor fails to comply with laws, ordinances, rules, codes, regulations, orders or similar requirements of any public entity having jurisdiction;
6. If, as to any Job Order, Contractor fails to follow any reasonable instructions by the County, which are consistent with the Construction Documents;
7. If, as to any Job Order, Contractor performs Work which deviates from the Job Order Documents and neglects or refuses to correct rejected Work; or
8. If, as to any Job Order, Contractor otherwise violates in any material way any provisions or requirements of this Agreement or any Job Order Contract Documents.

B. Notice and Cure Period – If County determines that one or more events of default described in Article 10(A) has occurred, the County may elect to terminate any or all Job Orders and/or terminate Contractor's participation in the overall Agreement. To do this, the County must first give Contractor and its Surety written notice of the events of default ("Notice of Default") and allow Contractor and its Surety ten (10) calendar days to cure the events of default. If the events of default are not cured within the ten (10) calendar days, County may terminate any or all Job Orders and/or terminate Contractor's participation in the overall Agreement by written notice to Contractor and its Surety.

C. Completion of Terminated Work

1. If any Job Order or participation in the Agreement is terminated, County may take over the Work under terminated Job Orders and prosecute them to completion, by contract or otherwise, and may exclude Contractor from the sites. County may take possession of the Work under the terminated Job Orders and of all of Contractor's tools, appliances, construction equipment, machinery, supplies and plant which may be on the site of the Work for each terminated Job Order, and use the same to the full extent they could be used by Contractor, all without liability to Contractor.

In exercising the County's right to prosecute the completion of the Work, the County may also take possession of all materials and equipment stored at the site or for which the County has paid Contractor but which are stored elsewhere. County may use the foregoing items to finish the Work as the County deems expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

2. If any Job Order is terminated, the County may demand that Contractor's surety take over and complete the Work under the Job Order. County may require that in so doing, the Contractor's surety not utilize Contractor in performing the Work. Upon the failure or refusal of Contractor's surety to take over and begin completion of the Work within 20 days after the demand, the County may take over the Work and prosecute it to completion as provided above.
3. As to any terminated Job Order, County shall have the option of requiring any, all or none of the Subcontractors and Sub-subcontractors to perform according to their subcontracts and may assign any or all of the subcontracts to a general contractor selected to complete the Work.
4. If County takes over the Work under any terminated Job Order, unexecuted orders entered into by Contractor for performance of any part of the Work will be effective upon acceptance by County in writing and only as to those subcontracts and purchase orders which the County designates in writing.

D. Payment for Terminated Work

1. If, as to any terminated Job Order, the unpaid balance of the Contract Price exceeds the direct and indirect costs and expenses of completing the Work and all County damages including, without limitation, liquidated damages and compensation for additional professional and Contractor services ("**County's Termination Costs**"), such excess shall be used to pay Contractor for the Work it performed and for which Contractor has not been paid previously and the amount shall be determined using the Tasks, Unit Prices, Coefficients, and Other Tasks and Other Prices included in the Job Order. If, as to any terminated Job Order, the County's Termination Costs exceed the unpaid balance of the Contract Price, Contractor shall immediately upon demand pay the difference to the County or the County may set off the amount against any other amounts owing to Contractor for any cause whatsoever, whether current or future. In exercising the County's right to prosecute the completion of the Work under any terminated Job Order, the County shall have the right to exercise its sole discretion as to the manner, methods, and reasonableness of the costs to be incurred in completing the Work, and the County shall not be required to obtain the lowest figure for Work performed in completing the Project. If the County holds a competitive procurement for remedial Work or completion of the Work under a terminated Job Order, Contractor shall not be eligible for the award of such contracts.

2. Contractor shall be liable for any damage to the County resulting from the termination or from Contractor's refusal or failure to complete the Work under any terminated Job Order and for all costs necessary for repair and completion of the Project under each terminated Job Order over and beyond the Contract Price. Contractor shall be liable for all legal fees and costs required to enforce the provisions of the Agreement and/or Job Order Documents.
- E. Nonexclusive Remedies – In the event any Job Order or Contractor's participation in the Agreement is terminated, the termination shall not affect any other rights of the County against Contractor. The rights and remedies of County under this **Article 10** are in addition to any other rights and remedies provided by law or under the Agreement or Job Order Contract Documents. Any retention or payment of monies to Contractor by County will not release Contractor from liability.
- F. Erroneous Termination for Cause – If any Job Order or participation in the overall Agreement is terminated under this **Article 10**, and it is determined for any reason that there was no default under **Article 10**, the termination shall be deemed a Termination for Convenience of the County.

ARTICLE 11 – TERMINATION FOR CONVENIENCE OF THE COUNTY

County, by written notice to Contractor, may terminate any Job Order or the overall Agreement in whole or in part if sufficient appropriated or other funds are not available or the County determines, in the sole discretion of the County, that such termination is in the County's best interest. In such case, Contractor shall be paid for all Work under each Job Order for which Contractor has not been paid previously. Contractor shall also be paid reasonable termination expenses. In no event shall such payments as to any Job Order, exclusive of termination expenses, exceed the total Contract Price for the Job Order as reduced by payments previously made to Contractor and as further reduced by the value of the Work as yet not completed. Since profit and overhead are built into the Contract Price for each Job Order, Contractor shall not be entitled any additional profit or overhead on Work performed and in addition, Contractor shall not be entitled to any profit or overhead on Work not performed.

(The remainder of this page intentionally left blank)

ATTACHMENT 1 TO EXHIBIT C (2 pages) PERFORMANCE EVALUATION FORM

FOR OFFICIAL USE ONLY (WHEN COMPLETED)

| | | | |
|---|--|--|--------------------------------------|
| PERFORMANCE EVALUATION (CONSTRUCTION) | | 1. CONTRACT NUMBER | |
| | | 2. CEC NUMBER | |
| IMPORTANT: Be sure to complete Part III - Evaluation of Performance Elements on reverse. | | | |
| PART I - GENERAL CONTRACT DATA | | | |
| 3. TYPE OF EVALUATION (X one) | | 4. TERMINATED FOR DEFAULT | |
| <input type="checkbox"/> INTERIM (List percentage %) <input type="checkbox"/> FINAL | | <input type="checkbox"/> AMENDED | |
| 5. CONTRACTOR (Name, Address, and ZIP Code) | | 6.a. PROCUREMENT METHOD (X one) | |
| | | <input type="checkbox"/> SEALED BID <input type="checkbox"/> NEGOTIATED | |
| | | b. TYPE OF CONTRACT (X one) <input type="checkbox"/> FIRM FIXED PRICE <input type="checkbox"/> COST REIMBURSEMENT <input type="checkbox"/> OTHER (Specify) | |
| 7. DESCRIPTION AND LOCATION OF WORK | | | |
| 8. TYPE AND PERCENT OF SUBCONTRACTING | | | |
| 9. FISCAL DATA | | a. AMOUNT OF BASIC CONTRACT | b. TOTAL AMOUNT OF MODIFICATIONS |
| | | \$ | \$ |
| | | c. LIQUIDATED DAMAGES ASSESSED | d. NET AMOUNT PAID CONTRACTOR |
| | | \$ | \$ |
| 10. SIGNIFICANT DATES | | a. DATE OF AWARD | b. ORIGINAL CONTRACT COMPLETION DATE |
| | | c. REVISED CONTRACT COMPLETION DATE | d. DATE WORK ACCEPTED |
| PART II - PERFORMANCE EVALUATION OF CONTRACTOR | | | |
| 11. OVERALL RATING (X appropriate block) | | | |
| <input type="checkbox"/> OUTSTANDING <input type="checkbox"/> ABOVE AVERAGE <input type="checkbox"/> SATISFACTORY <input type="checkbox"/> MARGINAL <input type="checkbox"/> UNSATISFACTORY (Explain in Item 20 on reverse) | | | |
| 12. EVALUATED BY | | | |
| a. ORGANIZATION (Name and Address (Include ZIP Code)) | | b. TELEPHONE NUMBER (include Area Code) | |
| c. NAME AND TITLE | | d. SIGNATURE | e. DATE |
| 13. EVALUATION REVIEWED BY | | | |
| a. ORGANIZATION (Name and Address (Include ZIP Code)) | | b. TELEPHONE NUMBER (include Area Code) | |
| c. NAME AND TITLE | | d. SIGNATURE | e. DATE |
| 14. AGENCY USE (Distribution, etc.) | | | |

DD FORM 2626, JUN 94

EXCEPTION TO SF 1420 APPROVED BY OSA/IRMS 6-94
Admin Professional 7.0

FOR OFFICIAL USE ONLY (WHEN COMPLETED)

PART III - EVALUATION OF PERFORMANCE ELEMENTS

N/A = NOT APPLICABLE O = OUTSTANDING A = ABOVE AVERAGE S = SATISFACTORY M = MARGINAL U = UNSATISFACTORY

| 15. QUALITY CONTROL | | | | | | | 16. EFFECTIVENESS OF MANAGEMENT | | | | | | |
|---|-----|---|---|---|---|---|---|-----|---|---|---|---|---|
| | N/A | O | A | S | M | U | | N/A | O | A | S | M | U |
| a. QUALITY OF WORKMANSHIP | | | | | | | a. COOPERATION AND RESPONSIVENESS | | | | | | |
| b. ADEQUACY OF THE CQC PLAN | | | | | | | b. MANAGEMENT OF RESOURCES/ PERSONNEL | | | | | | |
| c. IMPLEMENTATION OF THE CQC PLAN | | | | | | | c. COORDINATION AND CONTROL OF SUBCONTRACTOR(S) | | | | | | |
| d. QUALITY OF QC DOCUMENTATION | | | | | | | d. ADEQUACY OF SITE CLEAN-UP | | | | | | |
| e. STORAGE OF MATERIALS | | | | | | | e. EFFECTIVENESS OF JOB-SITE SUPERVISION | | | | | | |
| f. ADEQUACY OF MATERIALS | | | | | | | f. COMPLIANCE WITH LAWS AND REGULATIONS | | | | | | |
| g. ADEQUACY OF SUBMITTALS | | | | | | | g. PROFESSIONAL CONDUCT | | | | | | |
| h. ADEQUACY OF QC TESTING | | | | | | | h. REVIEW/RESOLUTION OF SUBCONTRACTOR'S ISSUES | | | | | | |
| i. ADEQUACY OF AS-BUILTS | | | | | | | i. IMPLEMENTATION OF SUBCONTRACTING PLAN | | | | | | |
| j. USE OF SPECIFIED MATERIALS | | | | | | | 18. COMPLIANCE WITH LABOR STANDARDS | | | | | | |
| k. IDENTIFICATION/CORRECTION OF DEFICIENT WORK IN A TIMELY MANNER | | | | | | | a. CORRECTION OF NOTED DEFICIENCIES | | | | | | |
| 17. TIMELY PERFORMANCE | | | | | | | b. PAYROLLS PROPERLY COMPLETED AND SUBMITTED | | | | | | |
| a. ADEQUACY OF INITIAL PROGRESS SCHEDULE | | | | | | | c. COMPLIANCE WITH LABOR LAWS AND REGULATIONS WITH SPECIFIC ATTENTION TO THE DAVIS-BACON ACT AND EEO REQUIREMENTS | | | | | | |
| b. ADHERENCE TO APPROVED SCHEDULE | | | | | | | 19. COMPLIANCE WITH SAFETY STANDARDS | | | | | | |
| c. RESOLUTION OF DELAYS | | | | | | | a. ADEQUACY OF SAFETY PLAN | | | | | | |
| d. SUBMISSION OF REQUIRED DOCUMENTATION | | | | | | | b. IMPLEMENTATION OF SAFETY PLAN | | | | | | |
| e. COMPLETION OF PUNCHLIST ITEMS | | | | | | | c. CORRECTION OF NOTED DEFICIENCIES | | | | | | |
| f. SUBMISSION OF UPDATED AND REVISED PROGRESS SCHEDULES | | | | | | | | | | | | | |
| g. WARRANTY RESPONSE | | | | | | | | | | | | | |

20. REMARKS (Explanation of unsatisfactory evaluation is required. Other comments are optional. Provide facts concerning specific events or actions to justify the evaluation. These data must be in sufficient detail to assist contracting officers in determining the contractor's responsibility. Continue on separate sheet(s), if needed.)

EXHIBIT D (17 pages)
SUPPLEMENTAL PROVISIONS FOR FEDERAL AID
CONSTRUCTION CONTRACTS

These provisions apply only to work subject to Federal Aid. A copy of this Exhibit D and a current Wage Determination shall be attached to the Job Order for any federally funded project. Current wage determinations may be found at <http://www.wdol.gov/dba.aspx>

ARTICLE 1 – FEDERAL HIGHWAY ADMINISTRATION (FHWA) AID PROJECTS

Job Orders for projects subject to FHWA financial aid shall physically incorporate Form FHWA 1273, "Required Contract Provisions for Federal Aid Construction Contracts" (**Attachment 1 to Exhibit D**), into each FHWA funded Job Order's terms and conditions. Furthermore, Contractor shall physically incorporate the provisions into any subcontract or purchase orders per Section I of Form FHWA 1273. The form may not be incorporated by reference or modified in any way. Additionally, Contractor agrees to display all federally-required posters. Information regarding this requirement is available at: <http://www.fhwa.dot.gov/programadmin/contracts/poster.cfm>

ARTICLE 2 – DAVIS BACON ACT WAGE DETERMINATION

Contractor shall pay wages in accordance with the most current Davis Bacon rates in effect in Pima County, Arizona at the time the Job Order is negotiated. Contractor shall provide to County at the time of Job Order negotiation, an adjustment to each of the unit prices for the line items that require payment Davis-Bacon wages. Contractor shall include a copy of the most recent Davis-Bacon Wage Determination in their proposal for incorporation into the Job Order's terms and conditions. The most current Davis-Bacon Act Wage Determinations may be found online at <http://www.wdol.gov/dba.aspx>

ARTICLE 3 – SUBCONTRACTORS

In addition to the requirements set forth in Article VIII of the Master Agreement, Contractor shall ensure that no subcontracts are awarded at any tier, to any individual, firm, partnership, joint venture, or any other entity regardless of the form of business organization, listed in the Federal Government's System for Award Management (SAM) system (<https://sam.gov/content/home>) with an active exclusion.

NOTE: The following ARTICLE 4 – INSURANCE clause applies to projects NOT in or adjacent to the ADOT right of way:

ARTICLE 4 – INSURANCE

In order for County to enter into a Contract with a Contractor for services, Contractor shall meet the insurance requirements prior to the execution of the Contract as evidenced by a Certificate of Insurance with the required endorsements.

1. Contractor shall have the capability and experience to perform and be responsible for negligent acts which may occur in the course and scope of the Contractor's performance under the Contract.
2. Contractor is responsible for certifying that any Subcontractor, included as part of their Contract, meet the insurance requirements outlined in the Contract. Any variations to current insurance requirements shall be submitted to County and the State of Arizona, for review and approval.
3. An "indemnification" clause will be included in the Contract which will be signed by Contractor, to protect County, State of Arizona, ADOT, FHWA and their employees (see Article 5).

Contractor's insurance will be placed with companies licensed in the State of Arizona or hold approved non-admitted status on the Arizona Department of Insurance List of Qualified Unauthorized Insurers. Insurers will have an—A.M. Best rating of not less than A-VII. County in no way warrants that the above-required minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.

Contractor and all Subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Contract, are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by Contractor, its agents, representatives, employees or Subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The State of Arizona in no way warrants that the minimum limits contained herein are sufficient to protect Contractor from liabilities that might arise out of the performance of the work under this Contract by Contractor, its agents, representatives, employees or Subcontractors, and the Contractor is free to purchase additional insurance.

Contractor may purchase an excess or umbrella policy to secure these limits. If Contractor or Subcontractor uses any excess or umbrella insurance to meet the required limits then this excess or umbrella insurance must be "follow form" equal to or broader in coverage than the underlying insurance requirements, including but not limited to, additional insured endorsements and waiver of subrogation endorsements.

A. Minimum Scope and Limits of Insurance:

Contractor will procure and maintain, until all of their obligations have been discharged, coverage with limits of liability not less than those stated below.

1. Commercial General Liability (CGL) – Occurrence Form with limits of \$1,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy will include bodily injury, property damage, and broad form contractual liability coverage.
2. Business Automobile Liability – Bodily Injury and Property Damage for any owned, hired, and/or non-owned automobiles used in the performance of this Contract with a Combined Single Limit (CSL) of \$1,000,000.
3. Workers' Compensation and Employers' Liability - Statutory requirements and benefits. Coverage is compulsory for employers of one or more employees. Employer's Liability - \$1,000,000. Note: The Workers' Compensation requirement will not apply to a Contractor that is exempt under A.R.S. § 23-901, and when such Contractor executes the appropriate County Sole Proprietor or Independent Contractor waiver form.
4. Professional Liability (Errors and Omissions) Insurance – Professional Liability to include professional misconduct and negligent acts of anyone performing professional services under this Contract with policy limits not less than \$2,000,000 Each Claim and \$2,000,000 Annual Aggregate. A Claims-Made policy is acceptable.

In the event that the Professional Liability insurance required by this Contract is written on a claims-made basis, Contractor warrants that any retroactive date under the policy will precede the effective date of this Contract and, either continuous coverage will be maintained, or an extended discovery period will be exercised, for a period of two (2) years beginning at the time work under this Contract is completed.

B. Additional Insurance Requirements:

The policies will include, or be endorsed to include, as required by this written agreement, the following provisions:

1. Additional Insured Endorsement: The General Liability and Business Automobile Liability Policies will each be endorsed to include Pima County, State of Arizona, Arizona Department of Transportation, FHWA, their departments, districts, boards, commissions, officers, officials, agents, and employees as additional insureds with respect to liability arising out of the activities performed by or on behalf of Contractor.

2. Subrogation Endorsement: The General Liability, Business Automobile Liability and Workers' Compensation Policies will each contain a waiver of subrogation endorsement in favor of County, and its departments, districts, boards, commissions, officers, officials, agents, and employees for losses arising from work performed by or on behalf of Contractor.
 - a. Primary Insurance Endorsement: Contractor's policies will stipulate that the insurance afforded Contractor will be primary and that any insurance carried by the Department, its agents, officials, employees or County, or FHWA will be excess and not contributory insurance, as provided by A.R.S. § 41-621 (E).
 - b. Insurance provided by Contractor will not limit Contractor's liability assumed under the indemnification provisions of this Contract.

C. Notice of Cancellation:

Contractor's insurance policies and endorsements shall not be permitted to expire, be cancelled, suspended or materially changed from the agreed upon Insurance Requirements for any reason without thirty (30) days advance written notice to County of the policy cancellation, suspension or material change. Contractor must provide written notice to County within 2 business days of receipt of notice. For cancellation of non-payment, Insurer is to provide County with written notice 10 days prior to cancellation of policy. Such notice will be mailed, emailed, hand-delivered or sent by facsimile transmission to Pima County Procurement, Design and Construction Division, 150 W. Congress, 5th Floor, Tucson, AZ 85701.

D. Verification of Coverage:

Contractor will furnish County with certificates of insurance (valid ACORD form or equivalent approved by County) as required by this Contract. An insurance certificate submitted to County representing insurance coverage must include an original signature from an authorized representative.

1. All certificates and endorsements, as required by this written agreement, are to be received and approved by County before work commences. Each insurance policy required by this Contract must be in effect at, or prior to, commencement of work under this Contract. Failure to maintain the insurance coverages or policies as required by this Contract, or to provide evidence of renewal, is a material breach of contract.
2. All certificates required by this Contract will be sent directly to County. County project or Contract number and project description will be noted on the certificate of insurance. County reserves the right to require complete copies of all insurance policies required by this Contract at any time.

E. Approval and Modifications:

Pima County Risk Management reserves the right to review or make modifications to the insurance limits, required coverages, or endorsements throughout the life of this Contract, as deemed necessary. Such action will not require a formal Contract amendment but may be made by administrative action.

ARTICLE 5 – INDEMNIFICATION

To the fullest extent permitted by law, Contractor will indemnify and hold harmless County, the State of Arizona, ADOT, and FHWA their officers, employees and agents from and against any and all suits,

actions, legal administrative proceedings, claims or demands and costs attendant thereto, including reasonable attorney's fees and court costs, to the extent caused by any negligent, reckless or intentionally wrongful act or omission of Contractor, its agents, employees or anyone acting under its direction or control or on its behalf in connection with performance of this Contract. The obligations under this Article shall not extend to the negligence of County, the State of Arizona, ADOT, and FHWA their agents, employees or indemnitees.

All warranty and indemnification obligations under this contract shall survive expiration or termination of the contract, unless expressly provided otherwise. The Parties agree that any indemnification provision inconsistent with State statute will be interpreted and applied as if it were consistent with State statute.

Upon request, Contractor may fully indemnify and hold harmless any private property owner granting a right of entry to Contractor for the purpose of completing the project. The obligations under this Article do not extend to the negligence of County, the State of Arizona, ADOT, and FHWA their agents, employees or indemnitees.

ARTICLE 6 – OWNERSHIP OF DOCUMENTS

In addition to the requirements set forth in Article 24 of the Master Agreement, The Granting Agency reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes: (a) the copyright in any work developed under this Agreement or any subcontract; and (b) Any rights of copyright to which Contractor or County acquires ownership under this Agreement.

ARTICLE 7 – BOOKS AND RECORDS

In addition to the requirements set forth in Article 24 of the Master Agreement, Contractor shall also keep and maintain proper and complete books, records and accounts, which shall be open at all reasonable times for inspection and audit by the Granting Agency and the Comptroller General of the United States.

ARTICLE 8 – CHANGED CONDITIONS

(1) Differing site conditions.

- (i) During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
- (ii) Upon written notification, County will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the Contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. County will notify Contractor of the determination whether or not an adjustment of the contract is warranted.
- (iii) No contract adjustment which results in a benefit to Contractor will be allowed unless Contractor has provided the required written notice.
- (iv) No contract adjustment will be allowed under this clause for any effects caused on unchanged work.

(2) Suspensions of work ordered by County.

- (i) If the performance of all or any portion of the work is suspended or delayed by County in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and Contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, Contractor shall submit to County in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
- (ii) Upon receipt, County will evaluate Contractor's request. If County agrees that the cost and/or time required for the performance of the Contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of Contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, County will make an

adjustment (excluding profit) and modify the contract in writing accordingly. Contractor will be notified of County's determination whether or not an adjustment of the Contract is warranted.

- (iii) No contract adjustment will be allowed unless Contractor has submitted the request for adjustment within the time prescribed.
 - (iv) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this Contract.
- (3) Significant changes in the character of work.
- (i) County reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the Contract nor release the surety, and Contractor agrees to perform the work as altered.
 - (ii) If the alterations or changes in quantities significantly change the character of the work under the Contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the Contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against Contractor in such amount as County may determine to be fair and equitable.
 - (iii) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the Contract, the altered work will be paid for as provided elsewhere in the Contract.
 - (iv) The term "significant change" shall be construed to apply only to the following circumstances:
 - (A) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
 - (B) When a major item of work, as defined elsewhere in the Contract, is increased in excess of 125 percent or decreased below 75 percent of the original Contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original Contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

(The remainder of this page intentionally left blank)

EXHIBIT D – ATTACHMENT 1 (12 pages)

FHWA-1273 -- Revised May 1, 2012

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety; Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments; withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27, and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27, and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are

applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(b).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualified minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epis.gov/>), which is compiled by the General Services Administration.

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

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the

department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification; (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT E (1 page)
**SUPPLEMENTAL PROVISIONS FOR REGIONAL TRANSPORTATION
AUTHORITY FUNDED CONSTRUCTION CONTRACTS**

ARTICLE 1 – BASIC TERMS

Any changes to the Project which result in the final project cost deviating by ten or more percent from the RTA's budget amount for the Project must be approved by the RTA in advance of those changes being made, regardless of whether the RTA is funding the change or not. For the purposes of this paragraph only, the term "project" refers specifically and exclusively to the project as defined and funded by the Agreement between County and RTA.

ARTICLE 2 – INSURANCE

In addition to the requirements set forth in Article 5 of the Master Agreement, Both County and the RTA shall be endorsed as "Additional Insured" under the Commercial General Liability Policy. All certificates of insurance must provide for guaranteed thirty (30) days written notice to County of cancellation, non-renewal or material change.

ARTICLE 3 – INDEMNIFICATION

In addition to the requirements set forth in Article 6 of the Master Agreement, Contractor shall indemnify, defend, and hold harmless the RTA, its officers, employees and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs attendant thereto, arising out of any omission, fault or negligence by Contractor, its agents, employees, subcontractors, or anyone under its direction or control or on its behalf in connection with performance of this Master Agreement. This obligation shall survive termination or expiration of this Master Agreement. The obligations under this Article shall not extend to the negligence of the RTA, its agents, employees or indemnitee.

ARTICLE 4 – BONDING REQUIREMENTS

In addition to the requirements set forth in Article 7 of the Master Agreement, Contractor shall name the RTA as a beneficiary in any payment and performance related assurances in addition to County.

**END OF EXHIBIT E – SUPPLEMENTAL PROVISIONS FOR REGIONAL TRANSPORTATION AUTHORITY
FUNDED CONSTRUCTION CONTRACTS**

CHECK SHEET & TRANSMITTAL
DURAZO CONSTRUCTION CORPORATION

DATE: February 17, 2022

PROJECT: Job Order Master Agreement: Park Development Services

X Performance Bond
(In accordance with the terms in the contract)
X **By initialing here, Our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.**

X Payment Bond
(In accordance with the terms in the contract)
X **By initialing here, Our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.**

A Certified copy of Power of Attorney of the person signing for the Surety Company must be dated and filed with the bonds.

KINDLY HAVE RESIDENT AGENT COUNTERSIGN THE BONDS (other than the "Attorney in Fact"), AS PROVIDED FOR ON THE BOND FORMS.

INSURANCE

- X Certificate of Evidence of Workers' Compensation for Prime Contractor (in the amount as stated in the original contract).
- X Certificate of Commercial General Liability Insurance (in the amount as stated in the original contract) for Prime Contractor. **IMPORTANT: CERTIFICATE SHALL SHOW PIMA COUNTY AS ADDITIONAL INSURED AND ADDED ON POLICY BY ENDORSEMENT FOR COMMERCIAL GENERAL LIABILITY.**
- X Certificate of Comprehensive Automobile Liability Insurance (in the amount as stated in the original contract). **IMPORTANT: CERTIFICATE SHALL SHOW PIMA COUNTY AS ADDITIONAL INSURED AND ADDED ON POLICY BY ENDORSEMENT FOR COMPREHENSIVE AUTOMOBILE LIABILITY.**
- N/A Certificate of Professional Liability Insurance
- X Builder's Risk Insurance (as stated in the original contract)
The policy should list Pima County as a loss payee.

OTHER REQUIREMENTS

Please remember that Pima County needs to be added as an additional insured to the general liability AND automobile liability policy. Addition of the name "Pima County" at the bottom of the general and auto certificates is NOT sufficient to add Pima County as additional insured. We require either an endorsement adding Pima County as additional insured to each policy (general and auto), a blanket endorsement or completion of the attached additional insured form. Your insurance company should be able to complete this additional insured requirement for you; they can contact me if they have questions.

Judy Cooper
Procurement Design & Construction
Ph.: (520) 724-3727 / Email: Judy.Cooper@pima.gov

Additional Insured for Commercial General Liability and Comprehensive Automobile Liability Endorsement Form (attached)



PROCUREMENT DEPARTMENT

DESIGN & CONSTRUCTION DIVISION • 150 W. CONGRESS STREET, 5th FLOOR • TUCSON, ARIZONA 85701-1317
TELEPHONE (520) 724-3727 • FAX (520) 724-3646

INSURANCE CARRIER VERIFIES PIMA COUNTY IS NAMED AS ADDITIONAL INSURED TO THE COMPREHENSIVE COMMERCIAL GENERAL LIABILITY POLICY AND THE COMPREHENSIVE AUTOMOBILE LIABILITY POLICY REFERENCED BELOW, THE COUNTY BEING ADDED BY ENDORSEMENT TO THE POLICIES.

Name of Contractor - Durazo Construction Corporation
INSURICA Southwest
Insured Firm

TRA7885883
Policy Number

Westfield National Insurance Company
Insurance Carrier

Nicole Nessen
Authorized Carrier Signature

Nicole Nessen
Printed Name

2/21/2022
Date of Signature

NOTE: This document must be included with Insurance Certificates at time of signing contract or renewing contract.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/18/2022

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).

| | | | |
|---|---|------------------------|------------------------------------|
| PRODUCER INSURICA Southwest Insurance Services LLC 4646 E. Van Buren St., #200 Phoenix AZ 85008 | CONTACT NAME: Certificates PHONE (A/C, No, Ext): 602-273-1625 E-MAIL ADDRESS: certs@INSURICA.com | | FAX (A/C, No): 602-273-0212 |
| | INSURER(S) AFFORDING COVERAGE | | |
| INSURED Durazo Construction Corporation P.O. Box 629 Tucson AZ 85709 | INSURER A : Westfield Insurance Company | NAIC # 24112 | DURACON02C |
| | INSURER B : CopperPoint General Insurance Company | 13043 | |
| | INSURER C : Transportation Insurance Company | 20494 | |
| | INSURER D : | | |
| | INSURER E : | | |
| INSURER F : | | | |

COVERAGES **CERTIFICATE NUMBER: 1542038143** **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 \$500 PD Ded GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: | Y | Y | TRA7885883 | 7/1/2021 | 7/1/2022 | EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$ |
| A | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY | Y | Y | TRA7885883 | 7/1/2021 | 7/1/2022 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ |
| A | <input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$ | Y | Y | TRA7885883 | 7/1/2021 | 7/1/2022 | EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$ |
| B | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | | N/A | 1002525 | 7/1/2021 | 7/1/2022 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |
| C | Builders Risk* Monthly Reporting | | | QT6606H939480TIL21 | 7/1/2021 | 7/1/2022 | Limit \$2,500,000* Transit/Temp \$250,000 Deductible \$1,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 *Builders Risk Sub-limits: Frame and Joisted Masonry: \$1,000,000 / Non-Combustible, Masonry Non-Combustible, Fire Resistive: \$2,500,000. Coverage is subject to monthly reporting to insurance carrier until referenced project is complete and subject to the total project value you report for each such project - Special Form and Replacement Cost coverages apply. Certificate Holder is defined as additional insured with respects to the general, auto and umbrella liability if required or agreed to in a written contract subject to all provisions and limitations of the policy. General and Auto Liability coverage is primary and non-contributory. A Waiver of subrogation in favor of Certificate Holder applies to the general, auto and umbrella liability and employers liability/workers compensation if required or agreed to in a written contract subject to all provisions and limitation of the policy. Per attached forms: CG2010 12/19; CG2037 12/19; CA7077 10/13; CG2001 12/19; CA0449 11/16; CG7137 12/17; CA0444 10/13; WC000313 4/84; CG2503 05/09.
 RE: Solicitation No. IFB-PO-2200007 - Job Order Master Agreement for Park Development Services. Additional Insured: Pima County, and the RTA, their See Attached...

CERTIFICATE HOLDER

Pima County - Procurement
 Design & Construction Division
 150 W Congress St., 5th Floor
 Tucson AZ 85701-1207

CANCELLATION

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



ADDITIONAL REMARKS SCHEDULE

| | | | |
|---|-----------|---|--|
| AGENCY INSURICA Southwest Insurance Services LLC | | NAMED INSURED Durazo Construction Corporation P.O. Box 629 Tucson AZ 85709 | |
| POLICY NUMBER | | EFFECTIVE DATE: | |
| CARRIER | NAIC CODE | | |

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
FORM NUMBER: 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

departments, districts, boards, commissions, officers, officials, agents, and employees. Waiver of subrogation in favor of the additional insured. Pima County is loss payee on the Builders Risk.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

| Name Of Additional Insured Person(s) Or Organization(s) | Location(s) Of Covered Operations |
|---|-----------------------------------|
| All persons or organizations when you have agreed in writing in a contract or agreement that such persons or organizations be added as an additional insured. | All Locations |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | |

- A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
1. Your acts or omissions; or
 2. The acts or omissions of those acting on your behalf;
- in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.
- However:
1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:
- This insurance does not apply to "bodily injury" or "property damage" occurring after:
1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
 2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- C. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:
- If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:
1. Required by the contract or agreement; or
 2. Available under the applicable limits of insurance;
- whichever is less.
- This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

SCHEDULE

| Name Of Additional Insured Person(s) Or Organization(s) | Location(s) And Description Of Covered Operations |
|---|---|
| All persons or organizations when you have agreed in writing in a contract or agreement that such persons or organizations be added as an additional insured. | All Locations |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | |

A. Section II - Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the

contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III - Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.



BUSINESS AUTO ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SCHEDULE

The coverage provided by this endorsement is summarized below and is intended to provide a general coverage description only. For the details affecting each coverage, please refer to the terms and conditions in this endorsement.

- A. Who Is An Insured broadened:**
 - Additional Insured by Contract, Agreement or Permit
 - Legally Incorporated Subsidiaries
 - Newly Acquired Organizations
- B. Supplementary Payments**
 - Bail Bonds - \$500
 - Loss of Earnings - \$500
- C. Fellow Employee Exclusion Amendment**
- D. Coverage Extensions**
 - Transportation Expenses
 - Personal Effects (Excess Basis)
- E. Additional Coverages**
 - Expenses paid for returning a stolen covered auto
 - Fire Department Service Charge
- F. Airbag Coverage - Accidental Discharge**
- G. Glass Repair - Waiver of Deductible**
- H. Knowledge and Notice of an Accident, Claim or Suit**
- I. Unintentional Failure To Disclose Hazards**
- J. Worldwide Coverage**
- K. Definitions**
 - Bodily Injury Redefined

In addition to the policy amendments contained in A. through K. listed above, the endorsements listed below will automatically be attached to your policy to complete the coverage provided by the Signature Series Business Auto Endorsement:

- Audio, Visual and Data Electronic Equipment Coverage Added Limits - CA 99 80
- Auto Loan/Lease Gap Coverage - CA 20 71
- Drive Other Car Coverage - Broadened Coverage For Named Individuals - (Executive Officers/Spouses) - CA 98 10
- Employee Hired Autos - CA 20 54
- Employees As Insureds - CA 99 33
- Hired Auto Physical Damage (Refer to Auto Declarations page)
- Rental Reimbursement Coverage - CA 99 23
- Waiver of Transfer of Rights of Recovery (Waiver of Subrogation) - CA 04 44

A. WHO IS AN INSURED BROADENED

SECTION II - COVERED AUTOS LIABILITY COVERAGE, Item A. Coverage, 1. Who Is An Insured is amended to include the following additional paragraphs:

- d. Any legally incorporated subsidiary of yours in which you own more than

50% of the voting stock on the effective date of this endorsement.

However, "insured" does not include any subsidiary that is an "insured" under any other liability policy or would be an "insured" under such a policy but for its termination or the exhaustion of its limit of insurance.

Coverage under this provision is afforded only for the first 180 days after you acquire or form the organization or until the end of the policy period, whichever comes first.

- e. Any organization you newly acquire or form, other than a partnership or joint venture, and over which you maintain ownership or a majority interest. However, coverage under this provision:

- (1) Does not apply if the organization you acquire or form is an "insured" under another auto liability policy or would be "insured" under such a policy but for its termination or the exhaustion of its limits of insurance;
- (2) Does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
- (3) Is afforded only for the first 180 days after you acquire or form the organization or until the end of the policy period, whichever comes first.

- f. Any person or organization with whom you agreed in writing in a contract, agreement or permit, to provide insurance such as is afforded under this policy.

This provision only applies if the written contract or agreement has been executed or permit has been issued, prior to the "bodily injury" or "property damage".

B. SUPPLEMENTAL PAYMENTS

SECTION II - COVERED AUTOS LIABILITY COVERAGE, Item A. Coverage, 2. Coverage Extensions, a. Supplementary Payments, subparagraphs (2) and (4) are deleted and replaced with the following:

- (2) Up to \$5,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 per day because of time off from work.

C. FELLOW EMPLOYEE EXCLUSION AMENDMENT

SECTION II - COVERED AUTOS LIABILITY COVERAGE, Item B. Exclusions, 5. Fellow Employee does not apply if the "bodily injury" results from the use of a covered "auto" you own or hire.

D. COVERAGE EXTENSIONS

SECTION III - PHYSICAL DAMAGE COVERAGE, Item A. Coverage, 4. Coverage Extensions, a. Transportation Expenses is replaced with the following:

a. Transportation Expenses

We will pay up to \$100 per day to a maximum of \$1,800 for transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type. We will pay only for those covered "autos" for which you carry either Comprehensive or Specified Causes of Loss Coverage. We will pay for transportation expenses incurred during the period beginning 48 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".

The following is added to Item 4. Coverage Extensions:

c. Personal Effects

We will pay up to \$500 for the "loss" of your personal effects that are contained in a covered "auto" due to the total theft of the covered "auto." We will pay only for those personal effects that are contained in covered "autos" for which you carry either Comprehensive or Specified Causes Of Loss Coverage.

Our payment for "loss" of or damage to personal effects will apply only on an excess basis over other collectible insurance.

E. ADDITIONAL COVERAGES

SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, is amended to include the following additional coverage items:

5. We will pay the expense of returning a stolen covered "auto" to you.
6. Fire Department Service Charge

When a fire department is called to save or protect a covered "auto", its equipment, its contents or occupants from a Covered Cause Of Loss, we will pay up to \$1,000 for your liability for Fire Department Service Charges:

(a) Assumed by contract or agreement prior to loss; or

(b) Required by local ordinance.

No deductible applies to this additional coverage.

F. AIRBAG COVERAGE - ACCIDENTAL DISCHARGE

SECTION III - PHYSICAL DAMAGE COVERAGE, Item B. Exclusions, subparagraph 3a. is deleted and replaced with the following:

a. Wear and tear, freezing, mechanical or electrical breakdown.

Mechanical breakdown does not apply to the accidental discharge of an airbag.

G. GLASS REPAIR - WAIVER OF DEDUCTIBLE

SECTION III - PHYSICAL DAMAGE COVERAGE, Item D. Deductible the following paragraph is added:

No deductible shall apply to glass damage if the glass is repaired rather than replaced.

H. KNOWLEDGE AND NOTICE OF AN ACCIDENT, CLAIM OR SUIT

SECTION IV - BUSINESS AUTO CONDITIONS, Item A. Loss Conditions is amended as follows:

Subparagraph a. under Item 2. Duties In The Event Of Accident, Claim, Suit Or Loss, is amended to include the following paragraphs:

This requirement applies when the "accident," claim, "suit" or "loss" is first known to:

- (1) You, if you are an individual;
- (2) A partner, if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

Subparagraph b.(2) under 2. Duties In The Event Of Accident, Claim, Suit Or Loss is amended as follows:

- (2) Immediately send us copies of any request, demand, order, notice, summons or legal paper received concerning the claim or "suit."

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, any of your executive officers or partners or your insurance manager.

I. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Under **SECTION IV - BUSINESS AUTO CONDITIONS**, B. General Conditions, 2. Concealment, Misrepresentation Or Fraud is amended to include the following additional paragraph:

If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure.

J. WORLDWIDE COVERAGE

Under **SECTION IV - BUSINESS AUTO CONDITIONS**, B. General Conditions, 7. Policy Period, Coverage Territory, subparagraph (5) is deleted and replaced with the following:

(5) Anywhere in the world, if:

(a) A covered "auto" of the private passenger type is leased, hired, rented or borrowed without a driver for a period of 45 days or less; and

(b) The "insured's" responsibility to pay damages is determined in a "suit" on the merits, in the United States of America, Puerto Rico or Canada or in a settlement we agree to.

(c) If, for such "autos" a "suit" is brought outside the territory described in 7.(1) through 7.(4) above, we will reimburse the insured for defense expenses incurred with our written consent, but we will make no payment, nor will we reimburse the insured for damages.

K. DEFINITIONS

Under **SECTION V - DEFINITIONS**, Item C. is replaced by the following:

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

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY - OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
LIQUOR LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the Other Insurance Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**PRIMARY AND NONCONTRIBUTORY -
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

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

- A. The following is added to the Other Insurance Condition in the Business Auto Coverage Form and the Other Insurance - Primary And Excess Insurance Provisions in the Motor Carrier Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage is primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contrib-

ution from any other insurance available to such "insured".

- B. The following is added to the Other Insurance Condition in the Auto Dealers Coverage Form and supersedes any provision to the contrary:

This Coverage Form's Covered Autos Liability Coverage and General Liability Coverages are primary to and will not seek contribution from any other insurance available to an "insured" under your policy provided that:

1. Such "insured" is a Named Insured under such other insurance; and
2. You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to such "insured".

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.



COMMERCIAL GENERAL LIABILITY CONTRACTORS ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE

The coverage provided by this endorsement is summarized below and is intended to provide a general coverage description only. For the details effecting each coverage please refer to the terms and conditions in this endorsement.

- A. **Expected or Intended Injury**
 - Reasonable force
- B. **Liquor Liability Coverage Extension**
- C. **Non-Owned Watercraft**
 - Increased to 60 feet
- D. **Non-Owned Aircraft**
- E. **Damage To Property - Borrowed Equipment**
- F. **Damage To Premises Rented To You**
- G. **Personal And Advertising Injury**
 - Contractual Personal and Advertising Injury
 - Exclusions
- H. **Supplementary Payments**
 - Ball Bonds - \$2,500
 - Loss of Earnings - \$1,000
- I. **Additional Insureds - Automatic Status**
 - State or Governmental Agency or Subdivision or Political Subdivision Controlling Interest
 - Managers or Lessors of Premises
 - Mortgagee, Assignee or Receiver
 - Owners or Other Interests From Whom Land Has Been Leased
 - Co-Owners of Insured Premises
 - Lessor of Leased Equipment
- J. **Who Is An Insured broadened**
 - Joint Ventures / Partnership / Limited Liability Company
 - Health Care Professionals (Incidental Medical Malpractice)
 - Individual Owners of Building are Insured's
 - Newly Formed or Acquired Entities
- K. **Knowledge and Notice of Occurrence**
- L. **Other Insurance Condition Amended**
- M. **Unintentional Failure To Disclose Hazards**
- N. **Waiver of Transfer Of Rights Of Recovery Against Others To Us - Automatic Status**
- O. **Liberalization**
- P. **Definitions**
 - Bodily Injury redefined
 - Insured Contract redefined
 - Expanded Personal and Advertising Injury definition

A. EXPECTED OR INTENDED INJURY

Under SECTION 1, COVERAGES, COVERAGE
A. BODILY INJURY AND PROPERTY DAMAGE
 exclusion a. is replaced with the following:

- a. **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 for the purpose of protecting persons or property.

B. LIQUOR LIABILITY COVERAGE EXTENSION

SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions c. Liquor Liability is deleted.

C. NON-OWNED WATERCRAFT

Under **SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions g.2(a)** is replaced with the following:

- (a) Less than 60 feet long; and

D. NON-OWNED AIRCRAFT

Under **SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions g. Aircraft, Auto or Watercraft, the following is added:**

- (6) An aircraft you do not own provided that:

- (a) 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;

- (b) It is rented with a trained, paid crew; and

- (c) It does not transport persons or cargo for a charge.

E. DAMAGE TO PROPERTY - BORROWED EQUIPMENT

Under **SECTION 1, COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions j.** is deleted and replaced by the following:

J. Damage To Property:

- (1) Property you own, rent or occupy;

- (2) Premises you sell, give away or abandon, if the "property damage" arises out of any part of those premises;

- (3) Property loaned to you;

- (4) Personal property in the care, custody or control of the insured;

- (5) That particular part of any real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations; or

- (6) That particular part of any real property that must be restored, replaced, or repaired because "your work" was incorrectly performed on it.

Paragraphs (1), (3) and (4) of this exclusion do not apply to:

- (i) "property damage" to tools or equipment loaned to you if the tools or equipment are not being used to perform operations at the time of loss; or

- (ii) "property damage" (other than damage by fire) to premises rented to you or temporarily occupied to you with the permission of the owner or to the contents of premises rented to you for a period of seven (7) or fewer consecutive days. A separate limit of insurance applies to Damage To Premises Rented To You as described in **Section III - Limits Of Insurance.**

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were not occupied, rented or held for rental by you beyond one year from the date "your work" was completed.

Paragraph (2) of this exclusion does not apply if the premises are "your work" and were never occupied, rented or held for rental by you.

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."

F. DAMAGE TO PREMISES RENTED TO YOU

Under **SECTION 1 - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, Item 2. Exclusions,** the last paragraph of Item 2. Exclusions is replaced with the following:

Exclusion c. through n. do not apply to damage by fire or explosion to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **Section III - LIMITS OF INSURANCE.**

G. PERSONAL AND ADVERTISING INJURY

Under SECTION 1, COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, Item 2. Exclusions e. Contractual Liability is deleted.

Under SECTION 1 - COVERAGES, COVERAGE B PERSONAL AND ADVERTISING INJURY LIABILITY, the following are added to Item 2. Exclusions:

q. Discrimination Relating To Room, Dwelling or Premises

Caused by discrimination directly or indirectly related to 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.

r. Fines or Penalties

Fines or penalties levied or imposed by a governmental entity because of discrimination.

H. SUPPLEMENTARY PAYMENTS

Under SECTION 1 - SUPPLEMENTARY PAYMENTS COVERAGES A AND B, item 1.b. is replaced with the following:

- b. Up to \$2,500 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the "Bodily Injury" Liability Coverage applies. We do not have to furnish these bonds.

Under SECTION 1 - SUPPLEMENTARY PAYMENTS COVERAGES A AND B, item 1.d. is replaced with the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

I. ADDITIONAL INSURED - AUTOMATIC STATUS

SECTION II - WHO IS AN INSURED is amended to include as an insured any person or organization (called additional insured) described in paragraphs a. through g. below whom you are required to add as an additional insured on this policy under a written contract or written agreement. However the written contract or written agreement must be:

1. Currently in effect or becoming effective during the term of the policy; and
2. Executed prior to the "bodily injury", "property damage" or "personal injury and advertising injury", but

Only the following persons or organizations are additional insureds under this endorsement and coverage provided to such additional insureds is limited as provided herein:

a. State or Governmental Agency or Subdivision or Political Subdivisions

A state or governmental agency or subdivision or political subdivision subject to the following provisions:

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

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

(b) The construction, erection, or removal of elevators.

- (2) This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality.

b. Managers or Lessors of Premises

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

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises; or

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

c. Mortgagee, Assignee or Receiver

A mortgagee, assignee or receiver but only with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance, or use of a premises by you.

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

d. Owners Or Other Interests From Whom Land Has Been Leased

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

This insurance does not apply to:

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

e. Co-owner of Insured Premises

A co-owner of a premises co-owned by you and covered under this insurance but only with respect to the co-owners liability as co-owner of such premises.

f. Lessor of Equipment

Any person or organization from whom you lease equipment. Such person or organization are insureds only with respect to their liability arising out of the maintenance, operation or use by you of equipment leased to you by such person or organization.

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

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

This insurance does not apply:

- (1) To any "occurrence" which takes place after the equipment lease expires; or
- (2) To "bodily injury", "property damage", or "personal and advertising injury" arising out of the sole negligence of such additional insured.

Any insurance provided to an additional insured designated under paragraphs a. through f. above does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard".

As respects the coverage provided under this provision, Paragraph 4.b.(1) of Section IV - Commercial General Liability Conditions is deleted and replaced with the following:

4. Other Insurance

b. Excess Insurance

- (1) This insurance is excess over:

Any other insurance naming the additional insured as an insured whether primary, excess, contingent or on any other basis unless a written contract or written agreement specifically requires that this insurance be either primary or primary and non-contributing. Where required by written contractor written agreement, we will consider any other insurance maintained by the additional insured for injury or damage covered by this endorsement to be excess and non-contributing with this insurance.

J. WHO IS AN INSURED BROADENED

Under SECTION II - WHO IS AN INSURED the following is added to item 1:

f. Joint Ventures / Partnership / Limited Liability Company Coverage

You are an insured when you had an interest in a joint venture, partnership or limited liability company which is terminated or ended prior to or during this policy period but only to the extent of your interest in such joint venture, partnership or limited liability company. This coverage does not apply:

- (1) Prior to the termination date of any joint venture, limited liability company or partnership; or

- (2) If there is other valid and collectible insurance purchased specifically to insure the joint venture, legal liability company or partnership.

Under **SECTION II - WHO IS AN INSURED, 2.a.(1)(d)** is deleted and replaced with the following:

- (d) Arising out of his or her providing or failing to provide professional health care services.

This does not apply to nurses, emergency medical technicians or paramedics employed by you to provide health care services, but only if you are not in the business or occupation of providing such professional services.

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

4. For **COVERAGE A** and **COVERAGE B** only, the owner of any building leased to you, but only if the building owner is a shareholder in your corporation or a partner in your partnership insured by this policy, and only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you. However, this insurance does not apply:
- a. To any "occurrence" or offense which takes place after you cease to be a tenant in the premises; or
 - b. To structural alterations, new construction or demolition operations performed by or on behalf of the building owner.

Under **SECTION II - WHO IS AN INSURED, 3.a.** is deleted and replaced with the following:

- a. Coverage under this provision is afforded only until the end of the policy period or the next anniversary of this policy's effective date after you acquire or form the organization whichever is earlier.

Under **SECTION II - WHO IS AN INSURED** the last paragraph in this section is deleted and replaced with the following:

Except as provided in 3. above, no person or organization is an insured with respect to the conduct of any current or past joint venture, limited liability company or partnership that is not shown as a named insured in the Declarations.

K. KNOWLEDGE AND NOTICE OF OCCURRENCE

Under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, 2. Duties in the Event of Occurrence, Offense, Claim Or Suit**, the following is added:

- e. The requirement in Condition 2.a. applies only when the "occurrence" or offense is known to:
 - (1) You, if you are an individual;
 - (2) A partner, if you are a partnership;
 - (3) An "executive officer" or insurance manager, if you are a corporation; or
 - (4) A manager, if you are a limited liability company.
- f. The requirement in Condition 2.b. will not be breached unless the breach occurs after such claim or "suit" is known to:
 - (1) You, if you are an individual;
 - (2) A partner, if you are a partnership;
 - (3) An "executive officer" or insurance manager, if you are a corporation; or
 - (4) A manager, if you are a limited liability company.
- g. Your rights under this Coverage Part will not be prejudiced if you fail to give us notice of an "occurrence," offense, claim, or "suit" and that failure is solely due to your reasonable belief that the "bodily injury" or "property damage" is not covered under this Coverage Part. However, you shall give written notice of this "occurrence," offense, claim, or "suit" to us as soon as you are aware this insurance may apply to such "occurrence," offense, claim or "suit."

L. OTHER INSURANCE CONDITION AMENDED

When required by written contract with any additional insured owner, lessee, or contractor to provide insurance on a primary and noncontributory basis, **Condition 4 of Section IV - Commercial General Liability Conditions** is deleted and replaced by the following:

4. Other Insurance

If other valid and collectible insurance is available for a loss we cover under Coverage A or B of this Coverage Part, our obligations are limited as follows:

a. Primary Insurance

This insurance is primary and non-contributory except when b. below applies.

b. Excess Insurance

This insurance is excess over any of the other insurance, whether primary, excess, contingent, or on any other basis:

- (1) That is Fire, Extended Coverage, Builders Risk, Installation Risk, or similar coverage for your work;
- (2) That is Fire insurance for premises rented to you or temporarily occupied by you with permission of the owner; or
- (3) If the loss arises out of the maintenance or use of aircraft, "autos," or watercraft to the extent not subject to Exclusion g. of Section I - Coverage A.
- (4) If the loss is caused by the sole negligence of any additional insured, owner, lessee, or contractor.

When this insurance is excess, we will have no duty under Coverage A or B to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit." If no other defends, we will undertake to do so, but we will be entitled to the other insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of loss, if any, that exceeds the sum of:

- (1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and
- (2) The total of all deductibles and self-insured amounts under all that other insurance.

We will share the remaining loss, if any with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the limits of insurance shown in the declarations of this Coverage Part.

M. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Under SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, item 6. Representations, the following is added:

- d. Your failure to disclose all hazards or prior "occurrences" existing as of the inception date of this policy shall not prejudice the coverage afforded by this policy, provided such failure to disclose all hazards or prior "occurrences" is not intentional.

N. WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US - AUTOMATIC STATUS

Under SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS, item 8. Transfer Of Rights Of Recovery Against Others To Us is deleted and replaced by the following:

We waive any right of recovery we may have against any person or organization with respect to which the insured has waived its right of recovery.

It is further agreed that work commenced under letter of intent or work order, subject to subsequent reduction to writing, with customers whose customary written contracts would require a waiver of recovery rights against them also falls within this blanket waiver of recovery rights.

O. LIBERALIZATION

If we adopt a change in our forms or rules which would broaden coverage for contractors under this coverage form without an additional premium charge, your policy will automatically provide the additional coverage's as of the date the broadened coverage is effective in your state.

P. DEFINITIONS

Under SECTION V - DEFINITIONS, item 3. is deleted and replaced with the following:

3. "Bodily Injury" means bodily injury, disability, sickness, or disease sustained by a person, including death resulting from any of these at any time. "Bodily injury" includes mental anguish or other mental injury resulting from "bodily injury".

Under SECTION V - DEFINITIONS, item 9. is deleted and replaced with the following:

9. "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 you or temporarily occupied by you with permission of the owner is not an "insured contract";
 - b. A sidetrack agreement;
 - c. Any easement or license agreement;

- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume 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; or

- (2) Under which the insured If an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insureds rendering or failure to render professional services including those listed in (1) above and supervisory, inspection, architectural or engineering, activities.

Under **SECTION V - DEFINITIONS**, item 14. the following is added to the definition of "Personal and advertising injury":

- h. Discrimination or humiliation that results in injury to the feelings or reputation of a natural person, but only if such discrimination or humiliation is:
 - (1) Not done intentionally by or at the direction of:
 - (a) The insured; or
 - (b) Any "executive officer", director, stockholder, partner, member or manager (if you are a limited liability company) of the insured;
 - (2) Not directly or indirectly related to the employment, prospective employment, past employment or termination of employment of any person or persons by any insured.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**WAIVER OF TRANSFER OF RIGHTS OF
RECOVERY AGAINST OTHERS TO US
(WAIVER OF SUBROGATION)**

This endorsement modifies insurance provided under the following:

**AUTO DEALERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM**

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

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Named Insured: Durazo Construction Corporation

Endorsement Effective Date: 07/01/2021

SCHEDULE

Name(s) Of Person(s) Or Organization(s):

AUTOMATIC STATUS WHEN REQUIRED BY CONTRACT

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

The Transfer Of Rights Of Recovery Against Others To Us Condition does not apply to the person(s) or organization(s) shown in the Schedule, but only to the extent that subrogation is waived prior to the "accident" or the "loss" under a contract with that person or organization.

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 applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

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

Schedule

Blanket Waiver: Anyone for whom you have agreed to provide this Waiver subject to the terms of this endorsement.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective 07/01/2021
Insured Durazo Construction Corp

Policy No. 1002525

Endorsement No.
Premium \$

Insurance Company CopperPoint General Insurance Company

Countersigned by



THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**DESIGNATED CONSTRUCTION PROJECT(S)
GENERAL AGGREGATE LIMIT**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Designated Construction Projects:

All Projects

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I - Coverage A and for all medical expenses caused by accidents under Section I - Coverage C, which can be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:**
1. A separate Designated Construction Project General Aggregate Limit applies to each designated construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 2. The Designated Construction Project General Aggregate Limit is the most we will pay for the sum of all damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage C regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 3. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the Designated Construction Project General Aggregate Limit for that designated construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Designated Construction Project General Aggregate Limit for any other designated construction project shown in the Schedule above.
 4. The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Designated Construction Project General Aggregate Limit.
- B. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I - Coverage A and for all medical expenses caused by accidents under Section I - Coverage C, which cannot be attributed only to ongoing operations at a single designated construction project shown in the Schedule above:**
1. Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-Completed Operations Aggregate Limit, whichever is applicable; and
 2. Such payments shall not reduce any Designated Construction Project General Aggregate Limit.

- C. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Designated Construction Project General Aggregate Limit.
- D. If the applicable designated construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- E. The provisions of Section - III Limits of insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

CHECK SHEET & TRANSMITTAL

Name of Contractor

DATE: February 17, 2022

PROJECT: Job Order Master Agreement: Park Development Services

X Performance Bond
(In accordance with the terms in the contract)
JK By initialing here, Our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.

X Payment Bond
(In accordance with the terms in the contract)
JK By initialing here, Our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.

A Certified copy of Power of Attorney of the person signing for the Surety Company must be dated and filed with the bonds.

KINDLY HAVE RESIDENT AGENT COUNTERSIGN THE BONDS (other than the "Attorney in Fact"), AS PROVIDED FOR ON THE BOND FORMS.

INSURANCE

X Certificate of Evidence of Workers' Compensation for Prime Contractor (in the amount as stated in the original contract).

X Certificate of Commercial General Liability Insurance (in the amount as stated in the original contract) for Prime Contractor. **IMPORTANT: CERTIFICATE SHALL SHOW PIMA COUNTY AS ADDITIONAL INSURED AND ADDED ON POLICY BY ENDORSEMENT FOR COMMERCIAL GENERAL LIABILITY.**

X Certificate of Comprehensive Automobile Liability Insurance (in the amount as stated in the original contract). **IMPORTANT: CERTIFICATE SHALL SHOW PIMA COUNTY AS ADDITIONAL INSURED AND ADDED ON POLICY BY ENDORSEMENT FOR COMPREHENSIVE AUTOMOBILE LIABILITY.**

N/A Certificate of Professional Liability Insurance

X Builder's Risk Insurance (as stated in the original contract)
The policy should list Pima County as a loss payee.

OTHER REQUIREMENTS

Please remember that Pima County needs to be added as an additional insured to the general liability AND automobile liability policy. Addition of the name "Pima County" at the bottom of the general and auto certificates is NOT sufficient to add Pima County as additional insured. We require either an endorsement adding Pima County as additional insured to each policy (general and auto), a blanket endorsement or completion of the attached additional insured form. Your insurance company should be able to complete this additional insured requirement for you; they can contact me if they have questions.

Judy Cooper

Procurement Design & Construction
Ph.: (520) 724-3727 / Email: Judy.Cooper@pima.gov

Additional Insured for Commercial General Liability and Comprehensive Automobile Liability Endorsement Form (attached)



PROCUREMENT DEPARTMENT

DESIGN & CONSTRUCTION DIVISION • 150 W. CONGRESS STREET, 5th FLOOR • TUCSON, ARIZONA 85701-1317
TELEPHONE (520) 724-3727 • FAX (520) 724-3646

INSURANCE CARRIER VERIFIES PIMA COUNTY IS NAMED AS ADDITIONAL INSURED TO THE COMPREHENSIVE COMMERCIAL GENERAL LIABILITY POLICY AND THE COMPREHENSIVE AUTOMOBILE LIABILITY POLICY REFERENCED BELOW, THE COUNTY BEING ADDED BY ENDORSEMENT TO THE POLICIES.

Name of Contractor

Kapp-Con, Inc.

Insured Firm

RKA0400065

Policy Number

Contractors Bonding and Insurance Company

Insurance Carrier

DocuSigned by:

Elizabeth Mascolino

BE4CCAC9AA3140D

Elizabeth Mascolino

Authorized Carrier Signature

Printed Name

02/21/2022

Date of Signature

NOTE: This document must be included with Insurance Certificates at time of signing contract or renewing contract.



KAPPING-02

CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 2/18/2022

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).

| | | | | | | | | | | | | | |
|---|---|--|---------------|--|-------|---|-------|---|-------|--------------------|--|--------------------|--|
| PRODUCER 1201 S. Alma School Road, Suite 14700 Mesa, AZ 85210 | CONTACT NAME: Elizabeth Mascolino PHONE (A/C, No, Ext): (602) 612-6101 FAX (A/C, No): E-MAIL ADDRESS: emascolino@libertycompany.com | | | | | | | | | | | | |
| INSURER(S) AFFORDING COVERAGE | | | | | | | | | | | | | |
| INSURED Kapp-Con, Inc. 4847 N. Daisy Dawn Pl. Ste. 101 Tucson, AZ 85705 | <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%;">INSURER A : RLI Insurance Company</td> <td style="width: 20%; text-align: right;">NAIC #</td> </tr> <tr> <td>INSURER B : Contractors Bonding & Insurance Company</td> <td style="text-align: right;">37206</td> </tr> <tr> <td>INSURER C : Service American Indemnity Company</td> <td style="text-align: right;">39152</td> </tr> <tr> <td>INSURER D : ACE American Insurance Company</td> <td style="text-align: right;">22667</td> </tr> <tr> <td>INSURER E :</td> <td></td> </tr> <tr> <td>INSURER F :</td> <td></td> </tr> </table> | INSURER A : RLI Insurance Company | NAIC # | INSURER B : Contractors Bonding & Insurance Company | 37206 | INSURER C : Service American Indemnity Company | 39152 | INSURER D : ACE American Insurance Company | 22667 | INSURER E : | | INSURER F : | |
| INSURER A : RLI Insurance Company | NAIC # | | | | | | | | | | | | |
| INSURER B : Contractors Bonding & Insurance Company | 37206 | | | | | | | | | | | | |
| INSURER C : Service American Indemnity Company | 39152 | | | | | | | | | | | | |
| INSURER D : ACE American Insurance Company | 22667 | | | | | | | | | | | | |
| INSURER E : | | | | | | | | | | | | | |
| INSURER F : | | | | | | | | | | | | | |

| | | |
|------------------|----------------------------|-------------------------|
| 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 | | | RKA0400065 | 1/1/2022 | 1/1/2023 | EACH OCCURRENCE \$ 1,000,000 | | | |
| | <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 | | | |
| | | | | | | | MED EXP (Any one person) \$ 5,000 | | | |
| | | | | | | | PERSONAL & ADV INJURY \$ 1,000,000 | | | |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE \$ 2,000,000 | | | |
| | <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC | | | | | | PRODUCTS - COMP/OP AGG \$ 2,000,000 | | | |
| | OTHER: | | | | | | \$ | | | |
| B | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY | | | CKA0400083 | 1/1/2022 | 1/1/2023 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 | | | |
| | <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY | <input type="checkbox"/> SCHEDULED AUTOS | | | | | | | | BODILY INJURY (Per person) \$ |
| | <input type="checkbox"/> HIRED AUTOS ONLY | <input type="checkbox"/> NON-OWNED AUTOS ONLY | | | | | | | | BODILY INJURY (Per accident) \$ |
| | | | | | | | PROPERTY DAMAGE (Per accident) \$ | | | |
| | | | | | | | \$ | | | |
| B | <input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR | | | CKA0400087 | 1/1/2022 | 1/1/2023 | EACH OCCURRENCE \$ 5,000,000 | | | |
| | <input checked="" type="checkbox"/> EXCESS LIAB CLAIMS-MADE | | | | | | AGGREGATE \$ 5,000,000 | | | |
| | DED RETENTION \$ 0 | | | | | | \$ | | | |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY | | | SAMTWC0016402 | 1/1/2022 | 1/1/2023 | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER | | | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) | Y/N N | N/A | | | | E.I. EACH ACCIDENT \$ 1,000,000 | | | |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.I. DISEASE - EA EMPLOYEE \$ 1,000,000 | | | |
| | | | | | | | E.I. DISEASE - POLICY LIMIT \$ 1,000,000 | | | |
| A | Equipment Floater | | | RKA0400065 | 1/1/2022 | 1/1/2023 | Limit 100,000 | | | |
| D | Installation / Build | | | I21058865 011 | 1/1/2022 | 1/1/2023 | Limit 10,000,000 | | | |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Certificate Holder and Project Owner as Additional Insured if required per written contract subject to all policy terms, conditions and exclusions. Coverage shall be primary and non contributory. Waiver of subrogation shall apply. Per forms RGL350, RGL365, RAU300, and WC00313

Re: Job Order Master Agreement for Park Development Services

| | |
|---------------------------|---------------------|
| CERTIFICATE HOLDER | CANCELLATION |
|---------------------------|---------------------|

| | |
|---|--|
| Judy Cooper – Buyer-Senior Pima County Procurement, Design and Construction Division 150 W. Congress, 5th Floor Tucson, AZ 85701 | <p>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</p> <p>AUTHORIZED REPRESENTATIVE</p> |
|---|--|

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – WHERE REQUIRED BY CONTRACT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE (Optional)

| Name of Additional Insured Persons or Organizations (as required by "written contract" per Paragraph A. below) | Locations of Covered Operations (per "written contract", provided the location is within the "coverage territory" of this Coverage Part) |
|---|---|
| | |

A. WHO IS AN INSURED (Section II) is amended to include as an insured:

1. Any person(s) or organization(s) whom you are required pursuant to a "written contract" to add as an additional insured on this policy; and
2. The particular person or organization, if any, scheduled above.

B. When required in the "written contract", the coverage provided to the additional insured under this policy shall be primary and non-contributory to the additional insured subject to the limitations set forth below.

C. The insurance provided to the additional insured is limited as follows:

1. The person or organization is an additional insured only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by:
 - a. Your acts or omissions; or
 - b. The acts or omissions of those acting on your behalf;

In the performance of your ongoing operations as specified in the "written contract".

When required in the "written contract", the coverage provided to the additional insured by this endorsement will apply to "bodily injury" or "property damage" arising out of the "products-completed operations hazard".

2. The Limits of Insurance applicable to the additional insured are the lesser of the

available limits in this policy, or those limits you agreed to provide in the "written contract".

3. With respect to the coverage provided under this endorsement, the following duties are added to **Section IV – Commercial General Liability Conditions**, paragraph 2. **Duties In The Event of Occurrence, Offense, Claim or Suit:**

e. An additional insured under this endorsement will as soon as practicable:

- (1) Give written notice of an "occurrence" to us which may result in a claim or "suit" under this insurance;
- (2) Agree to trigger or activate any other insurance which the additional insured has for a loss we cover under this Coverage Part by tendering the defense to the insurers of all such other insurance.

4. If required by the "written contract", we waive the right of recovery we may have against the additional insured to which this endorsement applies for payments we make for "bodily injury" or "property damage" arising out of "your work" on the "written contract".

5. Unless otherwise agreed in the "written contract", this insurance is excess over any other insurance whether primary, excess, contingent or on any other basis that is available to the additional insured.

D. SECTION V – DEFINITIONS is amended to include the following definition:

Policy Number: RKA0400065

"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 is:

1. Valid and legally enforceable;
2. Currently in effect or becoming effective

during the term of this policy; and

3. Executed prior to an "occurrence" resulting in "bodily injury" or "property damage" for which the additional insured seeks coverage under this Coverage Part.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

CONTRACTORS GENERAL LIABILITY ENHANCEMENT

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE OF COVERAGES ADDRESSED BY THIS ENDORSEMENT

This schedule is provided only as a convenience. It should not be assumed to provide a reference to every provision that can affect a question, claim or coverage. To determine the full scope of coverage and pertinent restrictions and exclusions, the policy, including endorsements, must be read in its entirety.

- A. Reasonable Force – Bodily Injury Or Property Damage**
- B. Aircraft, Auto or Watercraft**
- C. Damage To Premises Rented To You**
- D. Property damage care, custody or control**
- E. Lost Key Coverage**
- F. Supplementary Payments**
- G. Newly Acquired Or Formed Organizations**
- H. Additional Insured – Owner, Manager or Lessor Of Premises Or Leased Equipment**
- I. Additional Insured – State or Political Subdivisions – Permits Related to Premises or Operations**
- J. Unnamed Partnership Or Joint Venture**
- K. General Aggregate Limit – Per Project or Per Location**
- L. Damage To Premises Rented To You Limit**
- M. Knowledge And Notice Of Occurrence Or Offense**
- N. Unintentional Omission**
- O. Waiver Of Transfer Of Rights Of Recovery Against Others To Us**
- P. Amended Bodily Injury Definition**
- Q. Amended Insured Contract Definition**

SECTION I – COVERAGES

COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

A. Reasonable Force – Bodily Injury Or Property Damage

Paragraph 2.a. **Exclusions; Expected Or Intended Injury**, is deleted and replaced by the following:

a. 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.

B. Aircraft, Auto or Watercraft

1. Paragraph 2.g.(2) **Exclusions; Aircraft, Auto Or Watercraft** is deleted and replaced by the following:

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

- (a) Up to seventy-five (75) feet long; and
- (b) Not being used to carry persons or property for a charge;

2. The following is added to the exceptions to the exclusions:

(6) Any non-owned aircraft chartered to you with a crew including a pilot.

3. The following is added to paragraph 2.g.:

Only as respects to the insurance provided by this provision, **Section II - Who Is An Insured** is amended to include as an insured any person who, with your express consent uses a watercraft owned by you.

The insurance provided by this provision shall be excess over any valid and collectible other insurance available to the insured, whether primary, excess, contingent or on

any other basis, except for the insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the declarations for this Coverage Part.

C. Damage To Premises Rented To You

The last paragraph of 2. **Exclusions** is deleted and replaced by the following:

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

This provision does not apply if coverage for Damage To Premises Rented To You is excluded by another endorsement to this policy.

D. Property damage care, custody or control

1. The following is added to Exclusion 2 j.:

Paragraphs (4), (5) and (6) do not apply for the limited purpose of providing the sub-limits of liability set forth below.

2. We will pay those sums that the insured becomes legally obligated to pay as damages arising out of “property damage” to:

- a. Personal property in the care, custody or control of the insured;
- b. That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the “property damage” arises out of those operations; and
- c. That particular part of any property that must be restored repaired or replaced because “your work” was incorrectly performed on it.

The most we will pay under a, b, and c. above in any one “occurrence” is a sub-limit of \$50,000. The most we will pay for all damages during any one policy period is \$100,000.

These limits are included in and not in addition to The Limits of Insurance shown

in the Declarations of the Commercial General Liability Policy.

Our right and duty to defend the insured against any "suit" for damages under this coverage ends when we have used up the applicable sub-limit of liability in the payment of judgments or settlements under it.

E. Lost Key Coverage

1. Coverage is extended to include the following:

If a customer's master or grand key, excluding electronic key card, is lost while in your care, custody or control we will pay the cost of replacing the keys, including the master lock and all keys used in the same lock, the cost of adjusting locks to accept the new keys, or the cost to replace the locks, whichever is less.

2. The most we will pay for "loss" arising out of any one "occurrence" is \$10,000.
3. The following definition is added:

"Loss" means unintentional physical damage or destruction to tangible property, including theft or disappearance. Tangible property does not include money or securities.

SUPPLEMENTARY PAYMENTS - COVERAGES A AND B.

F. Supplementary Payments

Paragraphs 1.b. and 1.d. are deleted and replaced with the following:

- b. Up to \$2,500 for the cost of bail bonds required because of accidents or traffic violations arising out of any vehicle to which Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.
- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off work.

SECTION II – WHO IS AN INSURED

G. Newly Acquired Or Formed Organizations

The following replaces Paragraph 3.:

3. Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company, over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no other similar insurance available to that organization. However:
 - a. Coverage under this provision is afforded only until the one hundred eightieth (180th) day after you acquire or form the organization or the end of the policy period, whichever is earlier;
 - b. Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization; and
 - c. Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired or formed the organization.
 - d. This provision does not apply to any organization for which coverage is excluded by another endorsement to this policy.

H. Additional Insured – Owner, Manager Or Lessor Of Premises Or Leased Equipment

The following paragraph is added:

4. Any person or organization that you have agreed in a contract or agreement to include as an additional insured on this policy, but:
 - a. Only with respect to liability for "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense committed, after you have entered into that contract or agreement; and
 - (1) Only if the "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by you or any person or organization performing operations on your behalf,

and arises out of the ownership, maintenance or use of that part of any premises leased to you under that contract or agreement; or

- (2) The "bodily injury", "property damage" or "personal and advertising injury" is caused, in whole or in part, by you or any person or organization performing operations on your behalf, and arises out of the maintenance, operation or use of equipment leased to you by such additional insured.

- b. The insurance provided to such additional insured under this provision is subject to the following:

- (1) The limits of insurance afforded to such additional insured shall be the limits which you agreed to provide in the contract or agreement, or the limits shown in the Declarations, whichever are less; and

- (2) The insurance afforded to such additional insured does not apply:

(a) To any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense committed, after you cease to be a tenant in that premises;

(b) To any structural alterations, construction or demolition operations performed by or on behalf of such additional insured;

(c) To any premises for which coverage is excluded by another endorsement to this Coverage Part;

(d) To any "bodily injury" or "property damage" that occurs, or "personal and advertising injury" caused by an offense committed, after the equipment lease expires; or

(e) If the equipment is leased with an operator.

- c. This provision does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this policy.

I. Additional Insured – State Or Political Subdivisions – Permits Related To Premises Or Operations

The following paragraphs are added:

5. Any state or political subdivision that has issued a permit in connection with premises owned or occupied by, or rented or loaned to, you, but only with respect to "bodily injury", "property damage", "personal and advertising injury" arising out of the existence, ownership, use, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, elevators, street banners or decorations for which that state or political subdivision has issued such permit.

6. Any state or political subdivision that has issued a permit, but only with respect to "bodily injury", "property damage", "personal and advertising injury" arising out of operations performed by you or on your behalf for which that state or political subdivision has issued such permit. However, no such state or political subdivision is an insured for:

a. "Bodily injury", "property damage" "personal and advertising injury" arising out of operations performed for that state or political subdivision; or

b. "Bodily injury" or "property damage" included within the "products-completed operations hazard".

J. Unnamed Partnership Or Joint Venture

1. The last paragraph of **Section II – Who Is An Insured** is deleted and replaced by 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. However this limitation does not apply to your liability with respect to your conduct of the business of any current or past partnership or joint venture:

- a. That is not shown as a Named Insured in the Declarations; and
 - b. In which you are a member or partner but only if:
 - (1) Each and every member or partner in that joint venture or partnership is not a construction contractor; and
 - (2) The joint venture or partnership is not providing construction contracting services.
2. This provision does not apply to any person or organization for which coverage is excluded by another endorsement to this policy.
 3. The insurance provided by this provision shall be excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis.

SECTION III – LIMITS OF INSURANCE

K. General Aggregate Limit – Per Project Or Per Location

1. **General Aggregate Limits Of Insurance Per Project**
 - a. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage A, and for all medical expenses caused by accidents under Section I – Coverage C, which can be attributed only to ongoing operations at a single construction project:
 - (1) A separate Construction Project General Aggregate Limit applies to each construction project, and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.

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

- a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
- (3) Any payments made under Coverage A for damages or under Coverage C for medical expenses shall reduce the Construction Project General Aggregate Limit for that construction project. Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Construction Project General Aggregate Limit for any other single construction project
 - (4) The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Construction Project General Aggregate Limit
2. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section I – Coverage A, and for all medical expenses caused by accidents under Section I – Coverage C, which cannot be attributed only to ongoing operations at a single construction project.

- a. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
 - b. Such payments shall not reduce any Construction Project General Aggregate Limit.
3. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Construction Project General Aggregate Limit.
4. If the applicable construction project has been abandoned, delayed, or abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
5. The provisions of **Section III – Limits Of Insurance** not otherwise modified by this endorsement shall continue to apply as stipulated
- 2. General Aggregate Limits Of Insurance – Per Location**
- a. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section **I – Coverage A**, and for all medical expenses caused by accidents under Section **I – Coverage C**, which can be attributed only to operations at a single "location".
 - (1) A separate Location General Aggregate Limit applies to each "location", and that limit is equal to the amount of the General Aggregate Limit shown in the Declarations.
 - (2) The Location General Aggregate Limit is the most we will pay for the sum of all damages under Coverage **A**, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard", and for medical expenses under Coverage **C** regardless of the number of:
 - a. Insureds;
 - b. Claims made or "suits" brought; or
 - c. Persons or organizations making claims or bringing "suits".
 - (3) Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the Location General Aggregate Limit for that designated "location". Such payments shall not reduce the General Aggregate Limit shown in the Declarations nor shall they reduce any other Location General Aggregate Limit for any other single designated "location".
 - (4) The limits shown in the Declarations for Each Occurrence, Damage To Premises Rented To You and Medical Expense continue to apply. However, instead of being subject to the General Aggregate Limit shown in the Declarations, such limits will be subject to the applicable Location General Aggregate Limit.
2. For all sums which the insured becomes legally obligated to pay as damages caused by "occurrences" under Section **I – Coverage A**, and for all medical expenses caused by accidents under Section **I – Coverage C**, which cannot be attributed only to operations at a single "location":
- a. Any payments made under Coverage **A** for damages or under Coverage **C** for medical expenses shall reduce the amount available under the General Aggregate Limit or the Products-completed Operations Aggregate Limit, whichever is applicable; and
 - b. Such payments shall not reduce any Location General Aggregate Limit.

3. When coverage for liability arising out of the "products-completed operations hazard" is provided, any payments for damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard" will reduce the Products-completed Operations Aggregate Limit, and not reduce the General Aggregate Limit nor the Location General Aggregate Limit.
4. For the purposes of this endorsement, the **Definitions** Section is amended by the addition of the following definition:
 "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.
5. The provisions of Section III – Limits Of Insurance not otherwise modified by this endorsement shall continue to apply as stipulated.

L. Damage To Premises Rented To You Limit

Paragraph 6. is deleted and replaced by the following:

6. Subject to paragraph 5. above, which ever applies, the Damage To Premises Rented To You Limit is the most we will pay under Coverage A for damages because of "property damage" to any one premises, while rented to you, or in the case of fire, explosion, lightning, smoke resulting from such fire; or water while rented to you or temporarily occupied by you with permission of the owner.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

M. Knowledge And Notice Of Occurrence Or Offense

Paragraph 2.a. **Duties In The Event Of Occurrence, Offense, Claim Or Suit** is deleted and replaced by the following:

- a. Notice of an "occurrence" or of an offense which may result in a claim must be given as soon as practicable after knowledge of the "occurrence" or offense has been reported to you, one of your "executive officers" (if you are a corporation), one of

your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice.

Knowledge by any other "employee" of an "occurrence" or offense does not imply that you also have such knowledge.

Notice of an "occurrence" or of an offense which may result in a claim will be deemed to be given as soon as practicable to us if it is given in good faith as soon as practicable to your workers' compensation, accident, or health insurer. This applies only if you subsequently give notice of the "occurrence" or offense to us as soon as practicable after you, one of your "executive officers" (if you are a corporation), one of your partners who is an individual (if you are a partnership), one of your managers (if you are a limited liability company), one of your trustees who is an individual (if you are a trust), or an "employee" (such as an insurance, loss control or risk manager or administrator) designated by you to give such notice discovers that the "occurrence" or offense may involve this policy.

To the extent possible, notice should include:

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

N. Unintentional Omission

The following is added to paragraph 6. **Representations:**

However, the unintentional omission of, or unintentional error in, any information provided by you which we relied upon in issuing this policy shall not prejudice your rights under this insurance. This provision does not affect our right to collect additional premium or to exercise our

right of cancellation or nonrenewal in accordance with applicable insurance laws or regulations.

O. Waiver Of Transfer Of Rights Of Recovery Against Others To Us

The following is added to paragraph 8. **Transfer of Rights of Recovery Against Others to Us:**

However, we waive any rights of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage", "personal injury and advertising injury" arising out of:

- a. Premises owned by you, temporarily occupied by you with permission of the owner, or leased or rented to you;
- b. Ongoing and completed operations performed by you, or on your behalf, under a contract or agreement with that person or organization;
- c. Your "work"; or
- d. "Your products".

We waive these rights only where you have agreed to do so as part of a contract or agreement entered into by you before the "bodily injury" or "property damage" occurs or the "personal and advertising injury" offense is committed.

SECTION V - DEFINITIONS

P. Amended Bodily Injury Definition

Paragraph 3. is deleted and replaced by the following:

3. "Bodily injury" means injury to the body, sickness, disease, or death. "Bodily injury" also means mental injury, mental anguish, emotional distress, pain and suffering, or shock resulting from injury to the body, sickness, disease or death of any person.

Q. Amended Insured Contract Definition

1. Paragraph 9.a. is deleted and replaced by the following:

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

2. Paragraph 9.c. is deleted and replaced by the following:

- c. Any easement or license agreement

3. Subsection 9.f.(1) is deleted. 4. The following is added to the end of paragraph 9.: The insurance provided by the above definitions of "Insured Contract" shall be excess over any valid and collectible Railroad Protective Liability insurance available to an insured, whether primary, excess, contingent or on any other basis, except for the insurance purchased specifically by you to apply in excess of the Limits of Insurance shown in the declarations for this Coverage Part.

ALL OTHER TERMS AND CONDITIONS OF THIS POLICY REMAIN UNCHANGED.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO ENHANCEMENT

SCHEDULE OF COVERAGES ADDRESSED BY THIS ENDORSEMENT

- A. Broad Form Named Insured**
- B. Employees As Insureds**
- C. Blanket Additional Insured**
- D. Blanket Waiver Of Subrogation**
- E. Employee Hired Autos**
- F. Fellow Employee Coverage**
- G. Auto Loan Lease Gap Coverage**
- H. Glass Repair – Waiver Of Deductible**
- I. Personal Effects Coverage**
- J. Hired Auto Physical Damage Coverage**
- K. Hired Auto Physical Damage – Loss Of Use**
- L. Hired Car – Worldwide Coverage**
- M. Temporary Transportation Expenses**
- N. Amended Bodily Injury Definition – Mental Anguish**
- O. Airbag Coverage**
- P. Amended Insured Contract Definition – Railroad Easement**
- Q. Coverage Extensions – Audio, Visual And Data Electronic Equipment Not Designed Solely For The Production Of Sound**
- R. Notice Of And Knowledge Of Occurrence**
- S. Unintentional Errors Or Omissions**

This endorsement modifies insurance provided under the following:
BUSINESS AUTO COVERAGE FORM

A. Broad Form Named Insured

The following is added to the **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, Paragraph **A.1. Who Is An Insured** Provision:

Any business entity newly acquired or formed by you during the policy period, provided you own fifty percent (50%) or more of the business entity and the business entity is not separately insured for Business Auto Coverage. Coverage is extended up to a maximum of one hundred eighty (180) days following the acquisition or formation of the business entity.

This provision does not apply to any person or organization for which coverage is excluded by endorsement.

B. Employees as Insureds

The following is added to the **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, Paragraph **A.1. Who Is An Insured** Provision:

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

C. Blanket Additional Insured

The following is added to the **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, Paragraph **A.1. Who Is An Insured** Provision:

Any person or organization that you are required to include as an additional insured on this coverage form in a contract or agreement that is executed by you before the "bodily injury" or "property damage" occurs is an "insured" for liability coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in **SECTION II – COVERED AUTOS LIABILITY COVERAGE**.

The insurance provided to the additional insured will be on a primary and non-contributory basis to the additional insured's own business auto coverage if you are required to do so in a contract or agreement

that is executed by you before the "bodily injury" or "property damage" occurs.

D. Blanket Waiver Of Subrogation

The following is added to the **SECTION IV – BUSINESS AUTO CONDITIONS, A. Loss Condition, 5. Transfer of Rights Of Recovery Against Others To Us:**

We waive any right of recovery we may have against any person or organization to the extent required of you by a contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

E. Employee Hired Autos

1. The following is added to the **SECTION II – COVERED AUTOS LIABILITY COVERAGE**, Paragraph **A.1. Who Is An Insured** Provision:

An "employee" of your 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.

2. Changes In General Conditions:

Paragraph **5.b.** of the **Other Insurance Condition** in the **BUSINESS AUTO CONDITIONS** is deleted and replaced with the following:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business. However any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

F. Fellow Employee Coverage

SECTION II – COVERED AUTOS LIABILITY COVERAGE, Exclusion B.5. does not apply if you have workers compensation insurance in-force covering all of your employees.

G. Auto Loan Lease Gap Coverage

SECTION III – PHYSICAL DAMAGE COVERAGE, C. Limit Of Insurance, is amended by the addition of the following:

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

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

H. Glass Repair – Waiver Of Deductible

SECTION III – PHYSICAL DAMAGE COVERAGE, D. Deductible is amended by adding the following:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

I. Personal Effects Coverage

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions:**

c. Personal Effects Coverage

In the event of a total theft loss of your covered "auto" we will pay up to \$400

for "loss" to wearing apparel and other personal effects which are:

- (1) Owned by an "insured"; and
- (2) In or on your covered "auto";

No deductible applies to Personal Effects Coverage.

J. Hired Auto Physical Damage Coverage

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE, A. Coverage, 4. Coverage Extensions:**

d. Hired Auto Physical Damage Coverage

If hired "autos" are covered "autos" for Liability Coverage and this policy also provides Physical Damage Coverage for an owned "auto", then the Physical Damage Coverage is extended to "autos" that you hire, rent or borrow subject to the following:

- (1) The most we will pay for "loss" in any one "accident" to a hired, rented or borrowed "auto" is the lesser of:
 - (a) \$60,000
 - (b) The actual cash value of the damaged or stolen property as of the time of the "loss"; or
 - (c) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.
- (2) An adjustment for depreciation and physical condition will be made in the event of a total "loss".
- (3) If repair or replacement results in better than like kind or quality, we will not pay for the betterment.
- (4) A deductible equal to the highest Physical Damage deductible applicable to any owned auto will apply.
- (5) This Coverage Extension will not apply to:
 - (a) Any "auto" that is hired, rented or borrowed with a driver; or
 - (b) Any "auto" that is hired, rented or borrowed from your "employee".

K. Hired Auto Physical Damage – Loss Of Use

The following is added to **SECTION II - COVERED AUTOS LIABILITY COVERAGE, A.2. Coverage Extensions:**

c. We will pay sums which you legally must pay to the lessor of a covered "auto" which you have leased without a driver for thirty (30) days or less for the lessor's loss of use of the covered "auto", provided:

- (1) This insurance provides comprehensive, specified causes of loss or collision coverage on the covered "auto";
- (2) The loss of use results from the covered "auto" being damaged in an "accident" while you are leasing it.

We will pay up to a maximum limit of \$1,500 for this coverage extension.

L. Hired Car – Worldwide Coverage

The following is added to **SECTION II - COVERED AUTOS LIABILITY COVERAGE, A.2. Coverage Extensions:**

d. Hired Car – Worldwide Coverage

(1) We will pay all sums an "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, caused by an "accident" which occurs outside of the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada resulting from the maintenance, or use of any covered "auto" of the private passenger type you lease, hire, rent or borrow without a driver for thirty (30) days or less.

(2) With respect to any claim made or "suit" instituted outside the United States of America, the territories and possessions of the United States of America, Puerto Rico, and Canada:

- (a) You shall undertake the investigation, settlement and defense of such claims and "suits" and keep us advised of all proceedings and actions.

(b) You will not make any settlement without our consent.

(c) We will reimburse you:

(i) For the amount of damages because of liability imposed upon you by law on account of "bodily injury" or "property damage" to which this insurance applies, and

(ii) For all reasonable expenses incurred with our consent in connection with the investigation, settlement or defense of such claims or "suits". Reimbursement for expenses will be part of the Limit of Insurance for liability coverage shown in the Business Auto Coverage Declarations, and not in addition to such limits.

(3) The limit of insurance for Liability Coverage shown in the Business Auto Coverage Declarations is the most we will reimburse you for the sum of all damages imposed on you, as set forth in paragraph (2)(c) above, and all expenses incurred by you arising out of any single "accident" or "loss".

(4) You must maintain the greater of the following primary auto liability insurance limits:

(a) Compulsory admitted insurance with limits required to be in force to satisfy the legal requirements of the jurisdiction where the accident occurs; or

(b) Insurance limits required by law and issued by a government entity or by an insurer licensed or permitted by law to do business in the jurisdiction where the "accident" occurs; or

(c) Auto liability insurance limits of at least \$300,000 combined single limit or \$100,000 per person / \$300,000 per accident Bodily Injury, \$100,000 Property Damage.

If you fail to comply with the above this insurance is not invalidated. However in the event of a "loss", we will pay only to the extent that we would have been liable had you so complied.

- (5) The insurance provided by this coverage extension is excess over any other collectible insurance available to you whether on a primary, excess, contingent or any other basis.

M. Temporary Transportation Expenses

SECTION III – PHYSICAL DAMAGE COVERAGE, A.4. Coverage Extensions, subparagraph **a. Transportation Expense** is deleted and replaced by the following:

a. Transportation Expenses

- (1) We will pay up to a maximum of \$1,500 for temporary transportation expense incurred by you because of Physical Damage to a covered "auto".
- (2) We will pay only for those covered "autos" for which you carry Comprehensive, Collision or Specified Cause of Loss Coverage.
- (3) We will pay only for those expenses incurred by you during the period of time that begins twenty-four (24) hours after the covered "loss" and ends at the time when the covered "auto" can be reasonably repaired or replaced.
- (4) This coverage does not apply while there are spare or reserve "autos" available to you for your operations.

N. Amended Bodily Injury Definition - Mental Anguish

The following is added to **SECTION V - DEFINITIONS, Definition C.:**

"Bodily injury" also includes mental anguish, but only when the mental anguish arises from other bodily injury, sickness or disease.

O. Airbag Coverage

The following is added to **SECTION III - PHYSICAL DAMAGE COVERAGE B. Exclusions 3.a.:**

However, this exclusion will not apply to accidental discharge of an airbag due to mechanical or electrical breakdown.

P. Amended Insured Contract Definition – Railroad Easement

SECTION V – DEFINITION paragraph H. "Insured contract" is modified as follows:

1. Paragraph H.3. is replaced by the following:
 3. Any easement or license agreement.
2. Paragraph H.6.a. is deleted.

Q. Coverage Extensions – Audio, Visual And Data Electronic Equipment Not Designed Solely For The Production Of Sound

SECTION III – PHYSICAL DAMAGE COVERAGE B. Exclusions, exception paragraph a. to exclusion 4.c. and 4.d. is deleted and replaced with the following:

- a. Equipment and accessories used with such equipment, except for tapes, records, discs or other electronic media device, provided such equipment is permanently installed in the covered "auto" at the time of the "loss" or is removable from the housing unit which is permanently installed in the covered "auto" at the time of the "loss", and such equipment is designed to be solely operated by use of the power from the "autos" electrical system, in or upon the covered "autos"; or

R. Notice Of And Knowledge Of Occurrence

SECTION IV – BUSINESS AUTO CONDITIONS, A.2. Duties In The Event Of Accident, Claim, Suit or Loss, subparagraph a. is deleted and replaced with the following:

- a. In the event of "accident", claim, "suit" or "loss", you must give us or our authorized representative prompt notice of the "accident" or "loss" including:

- (1) How, when and where the "accident" or "loss" occurred;
- (2) The "insured's" name and address; and
- (3) To the extent possible, the names and addresses of any injured person and witnesses.

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (1) You, if you are an individual;
- (2) A partner if you are a partnership; or
- (3) An executive officer or insurance manager, if you are a corporation.

S. Unintentional Errors Or Omissions

SECTION IV – BUSINESS AUTO CONDITIONS, B. General Conditions; 2. Concealment, Misrepresentation or Fraud is amended by adding the following:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

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 applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

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

Schedule

Blanket Waiver of Subrogation as required by written contract contract

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 01/01/2021 Policy No. SAMTWC0016401 Endorsement No.

Policy Effective Date: 01/01/2021 to 01/01/2022 Premium \$

Insured: Kapp-Con, Inc.

DBA:

Carrier Name / Code: Service American Indemnity Company (Method)


WC 00 03 13 (Ed. 4-84)


Countersigned by [Signature]

CHECK SHEET & TRANSMITTAL
Name of Contractor

DATE: February 17, 2022

PROJECT: Job Order Master Agreement: Park Development Services

X Performance Bond
(In accordance with the terms in the contract)
 By initialing here, Our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.

X Payment Bond
(In accordance with the terms in the contract)
 By initialing here, Our company will supply bonds on a job-order by job-order basis, and the Contracting Department will obtain the appropriate bonds from Contractor upon issuance of a Job Order and release the Delivery Order.

A Certified copy of Power of Attorney of the person signing for the Surety Company must be dated and filed with the bonds.

KINDLY HAVE RESIDENT AGENT COUNTERSIGN THE BONDS (other than the "Attorney in Fact"), AS PROVIDED FOR ON THE BOND FORMS.

INSURANCE

X Certificate of Evidence of Workers' Compensation for Prime Contractor (in the amount as stated in the original contract).

X Certificate of Commercial General Liability Insurance (in the amount as stated in the original contract) for Prime Contractor. **IMPORTANT: CERTIFICATE SHALL SHOW PIMA COUNTY AS ADDITIONAL INSURED AND ADDED ON POLICY BY ENDORSEMENT FOR COMMERCIAL GENERAL LIABILITY.**

X Certificate of Comprehensive Automobile Liability Insurance (in the amount as stated in the original contract). **IMPORTANT: CERTIFICATE SHALL SHOW PIMA COUNTY AS ADDITIONAL INSURED AND ADDED ON POLICY BY ENDORSEMENT FOR COMPREHENSIVE AUTOMOBILE LIABILITY.**

N/A Certificate of Professional Liability Insurance

X Builder's Risk Insurance (as stated in the original contract)
The policy should list Pima County as a loss payee.

OTHER REQUIREMENTS

Please remember that Pima County needs to be added as an additional insured to the general liability AND automobile liability policy. Addition of the name "Pima County" at the bottom of the general and auto certificates is NOT sufficient to add Pima County as additional insured. We require either an endorsement adding Pima County as additional insured to each policy (general and auto), a blanket endorsement or completion of the attached additional insured form. Your insurance company should be able to complete this additional insured requirement for you; they can contact me if they have questions.

Judy Cooper

Procurement Design & Construction
Ph.: (520) 724-3727 / Email: Judy.Cooper@pima.gov

Additional Insured for Commercial General Liability and Comprehensive Automobile Liability Endorsement Form (attached)



PROCUREMENT DEPARTMENT
DESIGN & CONSTRUCTION DIVISION • 150 W. CONGRESS STREET, 5th FLOOR • TUCSON, ARIZONA 85701-1317
TELEPHONE (520) 724-3727 • FAX (520) 724-3646

INSURANCE CARRIER VERIFIES PIMA COUNTY IS NAMED AS ADDITIONAL INSURED TO THE COMPREHENSIVE COMMERCIAL GENERAL LIABILITY POLICY AND THE COMPREHENSIVE AUTOMOBILE LIABILITY POLICY REFERENCED BELOW, THE COUNTY BEING ADDED BY ENDORSEMENT TO THE POLICIES.

Name of Contractor

Lloyd Construction Company, Inc.

Insured Firm

General Liability – 6083145401 Auto Liability – BUA6076312345

Policy Number

Continental Casualty Company

Insurance Carrier

DocuSigned by:
Elizabeth Mascolino
BF4CCAC9AA3140D...

Authorized Carrier Signature

Elizabeth Mascolino_
Printed Name

02/23/2022

Date of Signature

NOTE: This document must be included with Insurance Certificates at time of signing contract or renewing contract.



LLOYCON-01

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
2/17/2022

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).

| | | | |
|--|--|--|----------------|
| PRODUCER | | CONTACT NAME: | |
| One South Church Avenue Suite 1200 Tucson, AZ 85701 | | PHONE (A/C, No, Ext): 520-448-9589 | FAX (A/C, No): |
| | | E-MAIL ADDRESS: | |
| | | INSURER(S) AFFORDING COVERAGE | |
| | | NAIC # | |
| | | INSURER A : Continental Casualty Company | 20443 |
| INSURED | | INSURER B : Benchmark Insurance Company | 41394 |
| Lloyd Construction and Complete Concrete 2180 N. Wilmot Tucson, AZ 85712 | | INSURER C : | |
| | | INSURER D : | |
| | | INSURER E : | |
| | | INSURER F : | |

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 CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER: | X | X | 6083145401 | 5/1/2021 | 5/1/2022 | EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 |
| A | <input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY | X | X | BUA6076312345 | 5/1/2021 | 5/1/2022 | COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ |
| A | <input type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB | | | CUE 6076312359 | 5/1/2021 | 5/1/2022 | EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 |
| B | <input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below | Y/N | N/A | WCB216199-04 | 10/1/2021 | 10/1/2022 | <input checked="" type="checkbox"/> PER STATUTE OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
PROJECT: Job Order Master Agreement: Park Development Services
Certificate Holder and Project Owner as Additional Insured if required per written contract subject to all policy terms, conditions and exclusions; coverage shall be primary and non contributory; waiver of subrogation shall apply; Per attached forms CNA75079XX, CNA74705XX, CNA63359XX, and WC000313

| | |
|---|--|
| CERTIFICATE HOLDER | CANCELLATION |
| Pima County Procurement Department Design & Construction 150 W. Congress Street 5th Floor Tucson, AZ 85701 | 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 |



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

Nat'l Fire Ins Co of Hartford

Insured Name: LLOYD CONSTRUCTION

Policy No: 6083145401

Endorsement No: 3

Effective Date: 05/01/2021

20020000160831454010722



**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.

**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 - Railroads |
| 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 Ventures/Partnership/Limited Liability Companies |
| 15. Legal Liability – Damage To Premises / Alienated 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 |

20020000160831454010712



CNA74705XX (1-15)

Page 1 of 17

Nat'l Fire Ins Co of Hartford

Insured Name: LLOYD CONSTRUCTION

Policy No: 6083145401

Endorsement No: 1

Effective Date: 05/01/2021

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

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

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

(2) was executed prior to:

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

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

for which such additional insured seeks coverage.

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

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

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

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

A. Controlling Interest

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

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

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

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

B. Co-owner of Insured Premises

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

C. Lessor of Equipment

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

D. Lessor of Land

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

**Contractors' General Liability Extension Endorsement**

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

E. Lessor of Premises

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

F. Mortgagee, Assignee or Receiver

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

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

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

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

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

The coverage granted by this paragraph does not apply to:

- a. **Bodily injury, property damage or personal and advertising injury** arising out of operations performed for the state or governmental agency or subdivision or political subdivision; or
- b. **Bodily injury or property damage** included within the **products-completed operations hazard**.

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

H. Trade Show Event Lessor

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



**Contractors' General Liability Extension Endorsement**

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

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

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

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

3. BODILY INJURY – EXPANDED DEFINITION

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

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

4. BROAD KNOWLEDGE OF OCCURRENCE/ NOTICE OF OCCURRENCE

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

A. BROAD KNOWLEDGE OF OCCURRENCE

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

B. NOTICE OF OCCURRENCE

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

5. BROAD NAMED INSURED

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

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



Contractors' General Liability Extension Endorsement

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

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

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

- (a) any partnership, limited liability company or joint venture; or
- (b) any organization for which coverage is excluded by another endorsement attached to this **Coverage Part**.

For the purpose of this provision, management control means:

- A. owning interests representing more than 50% of the voting, appointment or designation power for the selection of a majority of the Board of Directors of a corporation; or
 - B. having the right, pursuant to a written trust agreement, to protect, control the use of, encumber or transfer or sell property held by a trust.
4. With respect to organizations which qualify as **Named Insureds** by virtue of Paragraph 3. above, this insurance does not apply to:
- a. **bodily injury** or **property damage** that first occurred prior to the date of management control, or that first occurs after management control ceases; nor
 - b. **personal or advertising injury** caused by an offense that first occurred prior to the date of management control or that first occurs after management control ceases.
5. The insurance provided by this **Coverage Part** applies to **Named Insureds** when trading under their own names or under such other trading names or doing-business-as names (dba) as any **Named Insured** should choose to employ.

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

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

This insurance does not apply to:

k. Damage to Your Product

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

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

l. Damage to Your Work

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

This exclusion does not apply:

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



**Contractors' General Liability Extension Endorsement**

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

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

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

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

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

7. CONTRACTUAL LIABILITY – RAILROADS

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

Insured Contract means:

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

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

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

8. ELECTRONIC DATA LIABILITY

CNA74705XX (1-15)

Page 6 of 17

Nat'l Fire Ins Co of Hartford

Insured Name: LLOYD CONSTRUCTION

Policy No: 6083145401

Endorsement No: 1

Effective Date: 05/01/2021

**Contractors' General Liability Extension Endorsement**

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

This insurance does not apply to:

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

Damages arising out of:

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

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

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

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

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

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

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

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

Property damage means:

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

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

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

9. ESTATES, LEGAL REPRESENTATIVES, AND SPOUSES

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

CNA74705XX (1-15)

Page 7 of 17

Nat'l Fire Ins Co of Hartford

Insured Name: LLOYD CONSTRUCTION

Policy No: 6083145401

Endorsement No: 1

Effective Date: 05/01/2021



**Contractors' General Liability Extension Endorsement**

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

10. EXPECTED OR INTENDED INJURY – EXCEPTION FOR REASONABLE FORCE

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

This insurance does not apply to:

Expected or Intended Injury

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

11. GENERAL AGGREGATE LIMITS OF INSURANCE - PER PROJECT

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

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

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

B. All:

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

will reduce the General Aggregate Limit shown in the Declarations.

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

D. When coverage for liability arising out of the **products-completed operations hazard** is provided, any payments for **damages** because of **bodily injury** or **property damage** included in the **products-completed operations hazard** will reduce the Products-Completed Operations Aggregate Limit shown in the Declarations, regardless of the number of projects involved.



Contractors' General Liability Extension Endorsement

- E. If a single construction project away from premises owned by or rented to the **Insured** has been abandoned and then restarted, or if the authorized contracting parties deviate from plans, blueprints, designs, specifications or timetables, the project will still be deemed to be the same construction project.
- F. The provisions of **LIMITS OF INSURANCE** not otherwise modified by this endorsement shall continue to apply as stipulated.

12. IN REM ACTIONS

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

13. INCIDENTAL HEALTH CARE MALPRACTICE COVERAGE

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

- A. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Insuring Agreement** is amended to replace Paragraphs **1.b.(1)** and **1.b.(2)** with the following:
 - b. This insurance applies to **bodily injury** provided that the professional health care services are incidental to the **Named Insured's** primary business purpose, and only if:
 - (1) such **bodily injury** is caused by an **occurrence** that takes place in the **coverage territory**.
 - (2) the **bodily injury** first occurs during the **policy period**. All **bodily injury** arising from an **occurrence** will be deemed to have occurred at the time of the first act, error, or omission that is part of the **occurrence**; and
- B. Under **COVERAGES, Coverage A – Bodily Injury and Property Damage Liability**, the paragraph entitled **Exclusions** is amended to:
 - i. add the following to the **Employers Liability** exclusion:

This exclusion applies only if the **bodily injury** arising from a **health care incident** is covered by other liability insurance available to the **Insured** (or which would have been available but for exhaustion of its limits).
 - ii. delete the exclusion entitled **Contractual Liability** and replace it with the following:

This insurance does not apply to:

Contractual Liability

the **Insured's** actual or alleged liability under any oral or written contract or agreement, including but not limited to express warranties or guarantees.
 - iii. add the following additional exclusions:

This insurance does not apply to:

Discrimination

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

Dishonesty or Crime

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

Medicare/Medicaid Fraud

20020000160831454010716



**Contractors' General Liability Extension Endorsement**

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

Services Excluded by Endorsement

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

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

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

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

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

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

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

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

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

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

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

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



Contractors' General Liability Extension Endorsement

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

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

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

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

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

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

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

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

Other Insurance

b. **Excess Insurance**

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

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

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

No person or organization is an **Insured** with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a **Named Insured** in the Declarations, except that if the **Named Insured** was a joint venturer, partner, or member of a limited liability company and such joint venture, partnership or limited liability company terminated prior to or during the **policy period**, such **Named Insured** is an **Insured** with respect to its interest in such joint venture, partnership or limited liability company but only to the extent that:

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

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

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

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

This insurance does not apply to:

20020000160831454010717



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

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

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

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

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

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

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

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

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

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

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



Contractors' General Liability Extension Endorsement

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

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

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

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

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

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

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

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

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

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

16. LIQUOR LIABILITY

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

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

17. MEDICAL PAYMENTS

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

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

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

20020000160831454010718



**Contractors' General Liability Extension Endorsement**

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

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

18. NON-OWNED AIRCRAFT

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

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

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

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

19. NON-OWNED WATERCRAFT

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

This exclusion does not apply to:

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

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

20. PERSONAL AND ADVERTISING INJURY –DISCRIMINATION OR HUMILIATION

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

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

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

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

This insurance does not apply to:

Knowing Violation of Rights of Another

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

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

2. add the following exclusions:

**Contractors' General Liability Extension Endorsement**

This insurance does not apply to:

Employment Related Discrimination

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

Premises Related Discrimination

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

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

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

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

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

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

21. PERSONAL AND ADVERTISING INJURY - CONTRACTUAL LIABILITY

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

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

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

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

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

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

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

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

22. PROPERTY DAMAGE – ELEVATORS

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

CNA74705XX (1-15)

Page 15 of 17

Nat'l Fire Ins Co of Hartford

Insured Name: LLOYD CONSTRUCTION

Policy No: 6083145401

Endorsement No: 1

Effective Date: 05/01/2021

2002000160831454010719



**Contractors' General Liability Extension Endorsement**

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

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

23. SUPPLEMENTARY PAYMENTS

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

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

24. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

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

25. WAIVER OF SUBROGATION - BLANKET

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

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

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

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

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

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

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

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

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

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

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



Contractors' General Liability Extension Endorsement

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**.

B. Condition 4. **Other Insurance** is amended to add the following subparagraph 4.b.(1)(c):

This insurance is excess over:

(c) 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 structure** 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 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.

20020000160831454010720





CONTRACTORS EXTENDED COVERAGE ENDORSEMENT - BUSINESS AUTO PLUS

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

I. LIABILITY COVERAGE

A. Who Is An Insured

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

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

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

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

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

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

B. Bail Bonds and Loss of Earnings

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

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

Form No: CNA63359XX (04-2012)

Endorsement Effective Date:

Endorsement No: 13; Page: 1 of 4

Underwriting Company: National Fire Insurance Company of Hartford, 151 N Franklin St, Chicago, IL 60606

Endorsement Expiration Date:

Policy No: BUA 6076312345

Policy Effective Date: 05/01/2021

Policy Page: 78 of 197



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:

- a. \$60 per day, in lieu of \$20; subject to
- b. \$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:

- a. \$1,000 maximum, in lieu of \$600.

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:

- a. Any covered **auto** you lease, hire, rent or borrow without a driver; and
- b. 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.
- c. 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.
- d. The physical damage coverage as is provided by this provision is equal to the physical damage coverage(s) provided on your owned **autos**.
- e. Such physical damage coverage for hired **autos** will:
 - (1) 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.
 - (2) 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: CNA63359XX (04-2012)

Endorsement Effective Date:

Endorsement Expiration Date:

Policy No: BUA 6076312345

Policy Effective Date: 05/01/2021

Endorsement No: 13; Page: 2 of 4

Policy Page: 79 of 197

Underwriting Company: National Fire Insurance Company of Hartford, 151 N Franklin St, Chicago, IL 60606



F. Electronic Equipment

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

- c. Physical Damage Coverage on a covered **auto** also applies to **loss** to any permanently installed electronic equipment including its antennas and other accessories
- d. 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:

- a. 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
- b. 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.
- c. 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.
- d. The most we will pay for **loss** to a covered **auto** in any one accident is the lesser of:
 - (1) \$5,000; or
 - (2) 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**:

- 1. 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:
 - a. An **auto** owned by that "executive officer" or a member of that person's household; or
 - b. 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.

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

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

Such "executive officers" are **insureds** 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: CNA63359XX (04-2012)

Endorsement Effective Date:

Endorsement Expiration Date:

Endorsement No: 13; Page: 3 of 4

Underwriting Company: National Fire Insurance Company of Hartford, 151 N Franklin St, Chicago, IL 60606

Policy No: BUA 6076312345

Policy Effective Date: 05/01/2021

Policy Page: 80 of 197



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

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

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

B. Transfer Of Rights Of Recovery Against Others To Us

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

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

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

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

C. Concealment, Misrepresentation or Fraud

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

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

D. Other Insurance

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

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

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

E. Policy Period, Coverage Territory

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

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

V. DEFINITIONS

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

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

Form No: CNA63359XX (04-2012)

Endorsement Effective Date:

Endorsement Expiration Date:

Endorsement No: 13; Page: 4 of 4

Underwriting Company: National Fire Insurance Company of Hartford, 151 N Franklin St, Chicago, IL
60606

Policy No: BUA 6076312345

Policy Effective Date: 05/01/2021

Policy Page: 81 of 197

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 applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

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

Schedule

Any person or organization as required by written contract.

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The Information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Date: 10/01/2021

Policy No.: WCB216199-04

Endorsement No.

Insured: Lloyd Construction Company, Inc.

Premium:

Insurance Company: Benchmark Insurance Company