

ARNTZ BUILDERS, INC.

Arntz Job No: _____

LONG FORM STANDARD SUBCONTRACT

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THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES; CONSULTATION WITH AN ATTORNEY IS ENCOURAGED WITH RESPECT TO ITS USE OR MODIFICATION. SOME CONSTRUCTION PRIME CONTRACTS MAY REQUIRE THE USE OF SPECIALIZED PROVISIONS NOT INCLUDED IN THIS FORM.

LONG FORM STANDARD SUBCONTRACT

Job No.: _____

This Agreement is made at Petaluma, California

this _____ day of _____, 20____, between:

CONTRACTOR

ARNTZ BUILDERS, INC.
431 Payran Street
Petaluma, CA 94952

And

SUBCONTRACTOR:

Name: _____

Address: _____

On or about the _____ day of _____, 20____, Contractor entered into a contract with:

OWNER (Includes Prime Contractor or Upper-tier Subcontractor if Contractor's contract is with such person.)

Name: _____

Address: _____

PRIME CONTRACTOR (or "Direct Contractor") (If Contractor's contract is not with Owner.)

Name: _____

Address: _____

LENDER (if there is a construction lender)

Name: _____

Address (including branch): _____

Said work is to be performed in accordance with the prime contract and the plans and specifications. Said plans and specification have been prepared by or on behalf of:

ARCHITECT

Name: _____

Address: _____

SECTION 1. ENTIRE CONTRACT

The phrase "Contract Documents" is defined to mean, without limitation, this Agreement, the plans, specifications, all general and special conditions, drawings, addenda, bulletins, amendments, modifications, exhibits, and all other documents forming or by reference made a part of the contract between Owner and Contractor or, if applicable, Prime Contractor (the "prime contract"):

For the project known as: _____

Owner Project (#s): _____

Addendums: _____

Alternates: _____

Unit Prices: _____

Subcontractor certifies and agrees that it has read and is fully familiar with all of the terms of the Contract Documents, all of which Subcontractor acknowledges have been made available to it, is familiar with the location of the job site, and the conditions under which the work is to be performed, and enters into this Agreement based upon its investigation of all such matters and is not relying on any opinions or representations of Contractor. This Agreement represents the entire agreement between Contractor and Subcontractor, and supersedes any prior oral or written agreements or representations. The Contract Documents are incorporated in this Agreement by reference, and Subcontractor, and its subcontractors and suppliers, will be and are bound by the Contract Documents insofar as they relate in any way, directly or indirectly, to the work covered by this Agreement. Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the Contract Documents, including, but not limited to, all applicable terms and provisions thereof. Where, in the Contract Documents, reference is made to Contractor, and the work or specifications therein pertain to Subcontractor's trade, craft or type of work, such work or specifications shall be interpreted to apply to Subcontractor instead of to Contractor. The parties intend that all terms of this Agreement be considered as complementary. However, in the event of a conflict between or among the terms of this Agreement or the Contract Documents, the higher standard or greater responsibility for Subcontractor shall prevail.

Exhibits attached to this Agreement:

Exhibit A – Insurance and OCIP Disclosures

Exhibit B – DIR Registration Information and Prevailing Wage Laws applicable to State and local projects

Exhibit C – Subcontractor's list of tier subcontractors, suppliers, vendors, and unions

Exhibit D – Subcontractor's Safety Information

Exhibit E – Project Labor Agreement – Letter of Ascent (if applicable)

OTHER EXHIBITS USED: None _____

SECTION 2. SCOPE

Subcontractor agrees to furnish all labor, services, materials, installation, cartage, hoisting, supplies, insurance, equipment, scaffolding, tools, and other facilities of every kind and description for prompt and efficient execution of work described herein and required to complete:

All work of any nature specified in *Spec. Section 00000* including, but not limited to, all _____ **Complete** shown on the plans and/or specifications, whether in the above section(s) or not, in full compliance with the "Contract Documents" Subject to the following;

1) Exclusions: _____ 2) NO OTHER EXCLUSIONS

In the event of any dispute between Contractor and Subcontractor over the scope of Subcontractor's work under the Contract Documents, Subcontractor will not stop work but will prosecute the work diligently to completion, the dispute to be submitted for resolution in accordance with Section 17 below.

SECTION 3. CONTRACT PRICE

Contractor agrees to pay Subcontractor for the strict performance of its work the sum of: _____ (\$ _____), or as set out in Section 26 below, subject to adjustments for changes in the work as may be directed in writing by Contractor, and to make payment in accordance with the Payment Schedule, Section 4.

SECTION 4. PAYMENT SCHEDULE

Contractor agrees to pay to Subcontractor monthly progress payments for labor and materials which have been placed in position, with funds received by Contractor from Owner for work performed by Subcontractor as reflected in Contractor’s applications for payment. The Owner’s estimate as to the amount of work done by Subcontractor (work in place), or the Contractor’s estimate if Owner makes no separate estimate, shall be binding on Subcontractor. Contractor may withhold retention of ten percent (10%) from all progress payments, or such amount as may be provided by law, if less. Monthly progress payments shall be made seven (7) days after receipt of payment from the Owner by Contractor, except where applicable law requires payment to be made sooner. Final payment to Subcontractor shall be made ten (10) days after the entire work required by the prime contract has been fully completed in strict conformity with the Contract Documents and has been delivered to and accepted by Owner, Architect, and Contractor, with funds received by Contractor from Owner in final payment for work under the prime contract. If and when required Contractor, Subcontractor agrees to promptly furnish payroll affidavits, receipts, vouchers, statutory and other releases of claims for labor, and material, and agrees to furnish same from its subcontractors and suppliers performing work or furnishing materials under this Agreement, all in a form satisfactory to Contractor, and it is agreed that no payment hereunder shall be made, except at Contractor’s option, until and unless such documents have been furnished.

As an express condition precedent to any payment being made, Subcontractor shall first provide all required Certified Payroll Reports and all Conditional Releases for progress payment and/or Conditional Release for Final Payment that are compliant with California Civil Code Section 8136. Subcontractor shall provide Unconditional Releases for prior payments prior to receiving any additional payments. Upon receipt of final payment, Subcontractor agrees to provide Unconditional Final Release compliant with California Civil Code Section 8138.

If Subcontractor submits any invoice or progress payment application, that invoice and/or payment application shall be electronically provided to the Project Manager at the email address(es) provided with the Subcontract Transmittal letter.

Contractor, at its option, may make any payment due hereunder by check made payable jointly to Subcontractor and any of its subcontractors and suppliers who have performed work or furnished materials under this Agreement. Any payment made hereunder prior to completion and acceptance of the work, as referred to above, shall not be construed as evidence of acceptance or acknowledgement of completion of any part of Subcontractor’s work. Payments made to Subcontractor shall be deemed to be held in trust for benefit of Contractor and of all persons who furnished labor, equipment, and materials for or on behalf of Subcontractor, as well as for the benefit of trust funds and apprenticeship programs to the extent of contributions or other payments required to be made in connection with the project. In addition to any other rights and remedies that it may have, Contractor shall be entitled to pursue a claim for breach of fiduciary duty against Subcontractor in the event that Subcontractor violates its obligations with respect to funds paid to it. Without derogation of any other rights and remedies, Contractor shall be entitled to set off against any amounts owed to Subcontractor any debts, claims, demands, liabilities or other sums owed to Contractor by Subcontractor, including to the extent permitted by law, those that arise from other projects or contracts or that are contingent or not yet accrued. Subcontractor agrees that amounts set off constitute payments for purposes of this Agreement and applicable law.

On public works projects with the State of California or any subdivision thereof, the time period for payment of amounts (if any) which Contractor is obligated by this Agreement to pay as retention shall be within seven (7) days after receipt of retention by Contractor, subject to Contractor’s right to withhold for the grounds set forth in this Agreement or otherwise provided by law.

If Owner or other responsible party delays in making any payment to Contractor from which payment to Subcontractor is to be made, Contractor and its sureties shall have a reasonable time to make payment to Subcontractor. “Reasonable time” shall be determined based upon all relevant circumstances, but in no event shall payment be due later than applicable law would permit.

Subcontractor *pass-through* claims to the Owner are required to comply with the Prime Contract claims procedures, provided, however, that if the applicable notice period required under this Agreement is shorter than the notice provision contained in the Prime Contract, the shorter notice period shall apply in order for Contractor to provide sufficient notice to the Owner. Subcontractor agrees to use its best efforts to segregate its claims against the Owner from any claims against Artzt, and to the extent reasonably feasible, to identify which claims result from the Owner’s wrongdoing.

If the Subcontractor asserts a claim which involves, in whole or in part, acts or omissions which are the responsibility of the Owner or another party, including but not limited to claims for failure to pay, an extension of time, delay damages, or extra work, subject Subcontractor’s timely presentation of such claims, Contractor may present the Subcontractor’s claim to the Owner or other responsible party, at Contractor’s sole option. Alternatively, Contractor may, at Contractor’s sole option, request that Subcontractor present and

prosecute such claim against Owner, with Contractor's reasonable cooperation, and at Subcontractor's sole expense. The Subcontractor shall cooperate fully with the Contractor in all steps taken in connection with prosecuting such a claim and shall hold harmless and reimburse the Contractor for all expense, including legal expense, incurred by Contractor which arise out of Contractor's submission of Subcontractor's claim to Owner or other responsible party. Subcontractor shall be bound by any adjudication or award in any action or proceeding resolving such a claim.

Subcontractor agrees that any claims or requests for compensation submitted to Contractor, including but not limited to "*pass through claims*" to the Owner, will be certified by Subcontractor to the effect that such claims or requests for compensation conform to the requirements of the False Claims Act, (either Federal or State of California). In the event Subcontractor's claim or request for compensation is alleged to be a false claim by the Owner, Subcontractor agrees to defend and indemnify Contractor in any and all actions or proceedings brought by Owner or Owner's representative with respect to the alleged false claim. Subcontractor further agrees to indemnify and hold Contractor harmless for any and all damages and/or penalties incurred by Contractor due to Subcontractor's alleged and/or actual false claim, including for any attorney fees and costs incurred by Contractor as a result of the Subcontractor's alleged and/or actual false claim.

Subcontractor, prior to initiating any proceeding against Contractor or Contractor's Surety, agrees to participate, join in, and be bound by any proceedings with the Owner and/or other subcontractors, including any judicial, administrative, arbitration, or other proceeding, resulting from, or required by, work identified in the Contract Documents, including but not limited to any "*pass-through claim*" that Subcontractor may have for delay and/or inefficiency, and for which Contractor demands, by written notice that Subcontractor participate.

In any proceeding by Contractor to recover on behalf of Subcontractor against the Owner for Subcontractor's Claim, in which Subcontractor is determined to be entitled to recovery for its Claim or some part of its Claim, then Subcontractor shall be entitled only to its actual net recovery on all or any part of its claims, less (i) fifteen percent (15%) for Contractor's overhead, (ii) the actual cost to Contractor of expert witnesses and consultants, and (iii) thirty-three percent (33%) of the gross amount recovered on Subcontractor's behalf to reimburse Contractor for its attorney's fees in handling the Subcontractor's Claim. Acceptance by Subcontractor of payment of the allocated Claim amount shall be a full accord and satisfaction of all of Subcontractor's claims against Contractor relating to Owner action or inaction.

SECTION 5. TIME

Time is of the essence. Subcontractor shall provide Contractor with scheduling information and a proposed schedule for performance of its work in a form acceptable to Contractor, and sufficient to enable Contractor to comply with its obligations under the Contract Documents and this Section 5. Subcontractor shall conform to Contractor's progress schedule and all revisions or changes made thereto. Subcontractor shall prosecute its work in a prompt and diligent manner in accordance with Contractor's progress schedule, and any revisions thereto, without delaying or hindering Contractor's work or the work of other contractors, subcontractors, or Owner. Subcontractor shall coordinate the work covered by this Agreement with that of all other contractors, subcontractors, suppliers and of the Contractor, in a manner that will facilitate the efficient completion of the entire work. In the event Subcontractor fails to maintain its part of the Contractor's schedule, it shall, without additional compensation, accelerate the work as Contractor may direct until Subcontractor's work is in accordance with such schedule. Contractor shall have complete control of the premises on which the work is to be performed and shall have the right to decide the time and order in which various portions of the work shall be installed and the relative priority of the work of Subcontractor and other subcontractors, and, in general, all other matters pertaining to the timely and orderly conduct of the work of Subcontractor on the premises. Should Subcontractor be delayed in the prosecution or completion of the work by the act, neglect or default of Owner, Architect or Contractor, or should Subcontractor be delayed waiting for materials, if required by this Contract to be furnished by Owner or Contractor, or by damage caused by fire or other casualty for which Subcontractor is not responsible, or by the combined action of the workmen, in no way caused by or resulting from fault or collusion on the part of the Subcontractor, or in the event of a lock-out by Contractor, then the time herein fixed for the completion of the work shall be extended the number of days that Subcontractor has thus been delayed, but no allowance or extension shall be made unless a claim therefore is presented in writing to Contractor within **forty-eight (48) hours** of the commencement of such delay, and under no circumstances shall the time of completion be extended to a date which will prevent Contractor from completing the entire project within the time allowed Contractor by Owner for such completion. No claims for additional compensation or damages for delays, whether caused in whole or in part by any conduct on the part of Contractor, including, but not limited to, conduct amounting to a breach of this Agreement, or delays by other subcontractors or Owner, shall be recoverable from Contractor, and the above-mentioned extension of time for completion shall be the sole remedy of Subcontractor, provided, however, that in the event Contractor obtains additional compensation from Owner on account of such delays, Subcontractors shall be entitled to such portion of the additional compensation so received by Contractor from Owner as is equitable under all of the circumstances. In the event that Contractor prosecutes a claim against Owner for additional compensation for any delay, Subcontractor shall cooperate fully with Contractor in the prosecution thereof and shall pay costs and expenses incurred in connection therewith, as set forth in Section 4, to the extent that said claim is made by Contractor at the request of Subcontractor.

Subcontractor shall prepare and obtain approval as required by the Contract Documents for all shop drawings, details, samples, and do all other things necessary and incidental to the prosecution of its work in conformance with Contractor's progress schedule.

Subcontractor acknowledges that it will have to perform work in areas occupied by other forces, and that it will have to perform its work in a sequence or manner to accommodate and facilitate the progress of the work as a whole, rather than in the manner most efficient or desirable for Subcontractor. Subcontractor's price is based upon the foregoing, as well as Contractor exercising the rights indicated in Section 6, as well as those indicated above, and upon Subcontractor having planned to perform its work under such circumstances. Milestone or completion dates of segments of Subcontractor's work within the overall schedule shall be met. Failure to meet such milestone or completion dates shall be considered a breach of contract. To the greatest extent permitted by law, Subcontractor's sole remedy for delay, disruption or suspension of the work, including without limitation any delay, disruption or suspension caused by the fault or negligence of Owner, Contractor (or any agent or representative thereof), or from any other cause whatsoever, shall be an extension of the time for performance. Subcontractor shall not be entitled to, and hereby waives any and all claims for any productivity losses, efficiency losses, increased supervisory costs, home office overhead, extended job site overhead, disruption costs, "ripple effect" costs, trade stacking, compression, acceleration, consequential damages, damages of any other type, lost profits, lost opportunity costs, or similar damages or costs, however denominated, as well as any other monetary relief, for any delay, disruption or suspension of the work (collectively, "Impact Costs And Consequential Damages"), except to the extent of such sums as may be recovered on Subcontractor's account from Owner. Subcontractor further waives any and all claims against Contractor for damages or additional compensation which is related to, caused or contributed to by delay and/or disruption of Subcontractor's performance, or by any act, omission, or other conduct causing or contributing any Impact Costs and Consequential Damages (including negligent conduct on the part of Contractor or any other person). If Subcontractor wishes to seek compensation for Impact Costs and Consequential Damages of any kind, or for any other increase in the Contract Sum, it must give the Contractor written notice no later than ten (10) days after the beginning of the underlying cause thereof, or such shorter period of time as may be provided by this Agreement, including, without limitation, the Contract Documents. Failure to provide such written notice shall be a waiver of, and a conclusive defense to, any claim by Subcontractor. The requirement to give such notice in no way shall be deemed to authorize or provide entitlement to recovery for Impact Costs and Consequential Damages or for any other form of relief which may be sought by Subcontractor.

SECTION 6. CHANGES IN WORK

Subcontractor shall make no changes in the work described in the Contract Documents and this Agreement except as directed by Contractor in writing. Such change or written direction shall not invalidate this Agreement. Contractor is authorized to make changes in the Work, including deletion, additions, and other modifications.

If necessary, the contract price stated in Section 3 and the time for Subcontractor's performance shall be adjusted by appropriate additions or deductions mutually agreed upon before the Subcontractor performs the changed work. Subcontractor shall supply Contractor with all documentation necessary to substantiate the amount of the addition to or deduction from the price or time.

If Contractor and Subcontractor cannot agree on the amount of the addition or deletion, Subcontractor shall nonetheless timely, promptly, and diligently perform the work as changed by Contractor's written direction. Once Subcontractor receives Contractor's written direction, Subcontractor is solely responsible for timely performance of the work as changed by the written direction.

Payment for changed work shall be made in accordance with Section 4.

Subcontractor shall not make any changes in the work described in Section 2 or in any way cause or allow that work to deviate from the Contract Documents without written direction from Contractor. If Subcontractor makes any changes in the work described in Section 2 without written direction from Contractor, such change constitutes an agreement by Subcontractor that it will not be paid for that changed work, even if it received verbal direction from Contractor or any form of direction, written or otherwise, from Owner or any other person or entity. In addition, Subcontractor shall be liable for any and all losses, costs, expenses, and liability of any nature whatsoever associated with or in any way arising out of any such change it makes without written direction from Contractor. If a dispute arises between Contractor and Subcontractor about whether particular work is a change in the work described in Section 2, Subcontractor shall timely perform the disputed work. If Subcontractor intends to submit a claim for the disputed work, it shall give prompt written notice to Contractor before proceeding with the work. In addition, Subcontractor shall submit its written claim for additional compensation for that work within **five (5) days** after such work is performed in sufficient detail for Contractor to make an evaluation of the merits of the claim. Subcontractor's failure to either give the written notice before proceeding with the work or to submit the written claim within the **five (5) days** constitutes an agreement by it that it will not be paid for the disputed work.

No change, alteration, or modification to or deviation from this Agreement, the Contract Documents, including the prime contract, plans, or specifications, whether made in the manner provided in this section or not, shall release or exonerate, in whole or in part, any bond or any surety on any bond given in connection with this Agreement, and no notice is required to be given to such surety of any such change, alteration, modification, or deviation.

SECTION 7. DAMAGES CAUSED BY DELAYS

If Subcontractor should default in performance of the work described in Section 2 or should otherwise commit any act which causes delay to the prime contract work, Subcontractor shall be liable for all losses, costs, expenses, liabilities and damages, including consequential damages, liquidated damages, and other costs, liabilities, losses, expenses or damages sustained by Contractor, including, without limitation, attorney’s fees, consultant costs, and other legal costs arising from Subcontractor’s default or other wrongful act, or for which Contractor may be liable to Owner or any other party because of Subcontractor’s default, in whole or in part.

SECTION 8. BONDING OF SUBCONTRACTOR

Concurrently with the execution of this Agreement, Subcontractor shall, if required by Contractor, execute a labor and material bond and performance bond, in an amount equal to one hundred percent (100%) of the Contract Price. Said bonds shall be executed by a corporate surety acceptable to Contractor and shall be in a form satisfactory to Contractor. Contractor shall pay the premium on said bonds unless otherwise provided herein or in the Contract Documents.

The failure or inability of Subcontractor to provide the bonds described above shall be considered a valid and just cause for the termination of this Subcontract. In the event Subcontractor does not provide a performance and payment bond for its work then Arntz, at its option, shall be entitled to withhold 10% (ten percent) retention and Subcontractor waives its right to any reduction in the retained amount over the life of the Subcontract Agreement.

SECTION 9. LIENS

In case suit is brought on any claim or mechanic’s lien, payment bond claim, or stop payment notice (“lien”), for labor performed or materials used on or furnished to the project, Subcontractor shall pay and satisfy any such lien or judgment as may be established by the decision or the court in said suit. Subcontractor agrees within ten (10) days after written demand to cause the effect of any such suit or lien to be removed from the premises, and in the event Subcontractor shall fail so to do, Contractor is authorized to use whatever means in its discretion it may deem appropriate to cause said lien or suit to be removed or dismissed and the cost thereof, together with actual attorney’s fees, shall be immediately due and payable to Contractor by Subcontractor. Subcontractor may litigate any such lien or suit provided it causes the effect thereof to be removed, promptly in advance, from the premises, and shall further do such things as may be necessary to cause Owner not to withhold any monies due to Contractor from Owner by reason of such liens or suits.

It is understood and agreed that the full and faithful performance of this Agreement on the part of Subcontractor (including the payment of any obligations due from Subcontractor to Contractor, and any amounts due to labor or material suppliers furnishing labor or material for the work) is a condition precedent to Subcontractor’s right to receive payment for the work performed.

SECTION 10. PROVISIONS FOR INSPECTION

Subcontractor shall at all times furnish to Contractor and its representatives safe and ample facilities for inspecting materials at the site of construction, shops, factories or any place of business of Subcontractor and its subcontractors and suppliers where materials under this Agreement may be in course of preparation, process, manufacture or treatment. Subcontractor shall furnish to Contractor as often as required by Contractor, full reports of the progress of the work at any place where materials under this Agreement may be in the course of preparation or manufacture. Such reports shall show the progress of such preparation and manufacture in such details as may be required by Contractor, included, but not limited to, any plans, drawings or diagrams in the course of preparation.

SECTION 11. MATERIALS AND WORK FURNISHED BY OTHERS

In the event the scope of work includes installation of materials or equipment furnished by others or work to be performed in areas to be constructed or prepared by others, it shall be the responsibility of Subcontractor to carefully examine and accept, at the time of delivery or first access, the items so provided and thereupon handle, store and install the items with such skill and care as to ensure a satisfactory completion of the work by Subcontractor in such areas shall be deemed to constitute acceptance thereof by Subcontractor. Failure to conduct an inspection or to give notice of any discrepancies or problems shall be deemed to constitute acceptance by Subcontractor of items of work of others. Loss or damage due to acts of Subcontractor shall be charged to the account of Subcontractor and deducted from monies otherwise due under this Agreement. Subcontractor is responsible for all damages or losses it causes to others or to work, equipment or property of others.

SECTION 12. PROTECTION OF WORK

Subcontractor shall effectually secure and protect the work done hereunder and assume full responsibility and risk of loss for the condition thereof until final acceptance by Architect, Owner and Contractor. Subcontractor further agrees to provide such protection as necessary to protect the work and the workmen of Contractor, Owner and other subcontractors from its operations.

Subcontractor shall be liable for any loss or damage to work in place or to any equipment and materials on the job site caused by it or its agents, employees or guests.

SECTION 13. LABOR RELATIONS

13.1 Subcontractor shall keep a representative at the job site during all times when Subcontractor's work is in progress, fluent in written and spoken English, and such representative shall be authorized to represent and bind Subcontractor as to all phases of the work. Prior to commencement of the work, Subcontractor shall notify Contractor who Subcontractor's representative is to be, and in the event of any change of representative. Subcontractor shall notify Contractor who the new representative is to be prior to such change becoming effective. Subcontractor's representative shall conduct him/herself at all times in a professional manner. Employment of labor shall be effected under terms and conditions that are satisfactory to Contractor. To the greatest extent permitted by law, Subcontractor shall at all times take all reasonable steps to ensure labor harmony and to prevent picketing.

Subcontractor acknowledges that Contractor has entered into labor agreements covering work at its construction job sites with the labor unions listed in Section 25 below and incorporated herein by reference.

Subcontractor agrees to be bound to and comply with all the terms and conditions of such labor agreements, including payments into the employee benefit trust funds set forth in such labor agreements, insofar as Subcontractor may lawfully do so. Subcontractor agrees to comply with the terms and provisions of said agreements setting forth the jurisdiction and scope of work claimed by each craft, and the procedure contained in such agreements for resolution of jurisdictional disputes. In the absence of any such procedure, or if such procedure fails to promptly resolve any jurisdictional dispute, Subcontractor agrees, at its own cost and expense, upon request of Contractor to take any and all lawful steps to secure a binding and final determination of said jurisdictional dispute by the National Labor Relations Board.

Subcontractor acknowledges that terms and conditions of the labor agreements with the unions listed herein below may require that Subcontractor comply with additional labor agreements with unions affiliated with such unions but not listed. When the terms and conditions of the below-referenced labor agreements so require, Subcontractor shall perform its job site work pursuant to all terms and conditions of an appropriate labor agreement with a union affiliated with such unions.

Should there be picketing on Contractor's job site, and Contractor establishes a reserved gate for Subcontractor's purpose, it shall be the obligation of Subcontractor to continue the proper performance of its work without interruption or delay.

Subcontractor further promises and agrees that it will bind and require all of its subcontractors and their subcontractors performing job site work of the type covered by any of the labor agreements specified below to agree to all of the foregoing promises and undertakings, to the same effect as herein provided with respect to it.

13.2 Subcontractor hereby acknowledges that it is thoroughly familiar with all DBE/MBE/WBE/DVBE requirements pertaining to the project. If the Subcontractor claims status as a DBE/MBE/WBE/DVBE, the Subcontractor shall take all steps necessary and shall make all necessary records available to the Contractor and the Owner to assure that Subcontractor is in compliance with such requirements. In the event that any subcontractor or supplier of the Subcontractor is designated as or is required to be a DBE/MBE/WBE/DVBE, Subcontractor agrees to be responsible for ensuring that said sub-subcontractor or supplier meets all applicable requirements. Subcontractor acknowledges that Contractor is relying upon Subcontractor's representations regarding the validity of Subcontractor's status, if any, as a DBE/MBE/WBE/DVBE, and that misrepresentation of the status of Subcontractor or any of its sub-subcontractors or material suppliers is a material breach of this Agreement and grounds for immediate termination. In the event of termination as the result of material misrepresentation of the status of the Subcontractor as a DBE/MBE/WBE/DVBE, Subcontractor shall not be entitled to any compensation not already paid.

13.3 Subcontractor shall comply with and agrees to be bound by all applicable federal, state and local laws and regulations, including, but not limited to, all provisions of the Fair Labor Standards Act, the Americans with Disabilities Act, the federal Family and Medical Leave Act, the California Labor Code, the California Fair Employment and Housing Act, and the California Family Rights Act. Upon request, Subcontractor shall submit certified payroll records to contractor no later than three (3) working days after labor has been paid. Subcontractor acknowledges that it has conducted its own independent investigation of the wage rates to be paid and whether its work will be subject to prevailing wage requirements or the requirements of the Davis-Bacon Act and that it has not relied upon any statements or representations by Contractor with respect to such matters. On all projects subject to state or local prevailing wage requirements, Subcontractor shall comply with any applicable California prevailing wage laws. With respect to such projects, the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813 and 1815 are attached hereto and incorporated herein by this reference. On all such projects, as a condition precedent to final payment, Subcontractor agrees to provide an affidavit that complies with the terms of Labor Code Section 1775(b)(4).

Within three (3) days of Contractor's request, and regardless of whether a project is public or private, Subcontractor shall submit certified payroll records for itself and for any of its subcontractors, of any tier, as well as any additional documentation or information that may be needed to verify that Subcontractor and all of its subcontractors, regardless of tier, have paid all wages, benefits, contributions, apprenticeship council payments, and/or amounts owed to unions or trust funds. Subcontractor acknowledges that it is aware of the requirements of Labor Code Section 218.7 (AB 1701) and agrees to comply fully with its requirements, and in accordance with the indemnity provisions of this Agreement, Subcontractor shall defend, hold harmless, and/or indemnify Contractor and its sureties from any claim arising from the actual or alleged failure of Subcontractor or any of its subcontractors, regardless of tier, to have paid all wages,

benefits, contributions, apprenticeship council payments, and/or amounts owed to unions or trust funds. Subcontractor shall incorporate the foregoing requirements into all of its subcontracts for the Project and shall likewise require all lower tier subcontracts to incorporate this requirement. Subcontractor further agrees to cooperate fully in any effort by Contractor to verify compliance with labor laws and regulations, including requirements under the Davis-Bacon Act or the California Labor Code. Such cooperation shall include, without limitation, furnishing copies and originals of records and providing access to employees or witnesses for interviews and statements. In addition to and without derogation of any other rights that Contractor may enjoy, Contractor may withhold sufficient funds to protect Contractor against any claims related to labor requirements, including without limitation, requirements under the Davis-Bacon Act or the California Labor Code.

Section 1720.9 of the Labor Code (AB 219) requires that any person or entity that engages in “the hauling and delivery of ready-mixed concrete” must: (1) comply with prevailing wage laws, including payment of prevailing wages and the submission of certified payroll reports; (2) register with the Department of Industrial Relations, even if the person or entity is not a licensed contractor; and (3) with the submission of certified payroll reports, provide a written time record that shall be certified by each driver. Subcontractor agrees strictly to comply with these requirements, and Subcontractor’s failure to comply shall constitute a material breach. In particular, and without limitation, Subcontractor agrees to comply with Division 2, Part 7, Chapter 1 of the California Labor Code, Section 1720 et seq.

Subcontractor agrees that the Subcontract Price shall be deemed to be full compensation for compliance with all such laws, regulations, or requirements, including payment of all applicable wage rates, and that no additional compensation will be owed to Subcontractor in the event that Subcontractor is required thereunder to pay higher wages or incur additional costs that Subcontractor contends that it did not anticipate.

Subcontractor shall comply, and shall cause any of its subcontractors and independent contractors (regardless of tier) to comply, with all statutes, regulations, orders, court decisions, and other laws relating to classification of individuals as employees or independent contractors, including without limitation and to the extent applicable, Labor Code Section 2750.3 (AB 5) and *Dynamex Operations West, Inc. v. Superior Court*, 4 Cal. 5th 903 (2018).

If Subcontractor, or its subcontractors and independent contractors (regardless of tier), utilize subcontractors who are natural persons and who are not compensated and otherwise treated as employees, Subcontractor shall ensure that any such person qualifies as an independent contractor and (i) is hired pursuant to a written contract; (ii) is licensed by the Contractors State License Board and performs work only within the scope of that license; (iii) has a business license and has registered for business taxes, if the person is domiciled in a jurisdiction that requires such a license and/or registration; (iv) maintains a business location that is separate from the company that has hired it; (v) has authority to hire and fire other persons who provide and/or assist in providing the services in question; (vi) has financial responsibility for errors and omissions in connection with the labor or services provided, as evidenced by insurance, indemnity obligations, bonds, and/or warranties; and (vii) is customarily engaged in an independently established business of the same nature as that involved with the work performed by such person.

If Subcontractor, or its subcontractors and independent contractors (regardless of tier), directly or indirectly obtain construction trucking services, as defined by Labor Code Section 2750.3, from natural persons who are not compensated and otherwise treated as employees, Subcontractor shall ensure that any such person providing the construction trucking services qualifies as an independent contractor and, unless the requirements Labor Code Section 2750.3 (AB 5) and *Dynamex Operations West, Inc. v. Superior Court*, 4 Cal. 5th 903 (2018) continue to be enjoined, shall ensure that such person: (i) is hired pursuant to a written contract; (ii) is a business entity formed as a sole proprietorship, partnership, limited liability company, limited liability partnership, or corporation; (iii) has registered with the Department of Industrial Relations as a public works contractor; (iv) utilizes his or her own employees to perform the construction trucking services, unless the person is a sole proprietor who operates his or her own truck to perform all of the work required by his or her contract and holds a valid motor carrier permit issued by the Department of Motor Vehicles; (v) negotiates and contracts with, and is compensated directly by, a licensed contractor; (vi) has a business license and has registered for business taxes, if the person is domiciled in a jurisdiction that requires such a license and/or registration; (vii) maintains a business location that is separate from the company that has hired him or her; (viii) has authority to hire and fire other persons who provide and/or assist in providing the services in question; (ix) has financial responsibility for errors and omissions in connection with the labor or services provided, as evidenced by insurance, indemnity obligations, bonds, and/or warranties; and (x) is customarily engaged in an independently established business of the same nature as that involved with the work performed by any such person.

Subcontractor shall fully document its compliance with applicable law relating to the classification of natural persons as independent contractors and shall cause its subcontractors and independent contractors (regardless of tier) to document their compliance. At Contractor’s request, Subcontractor and its subcontractors and independent contractors (regardless of tier) shall execute and furnish written declarations under penalty of perjury, in a form satisfactory to Contractor, that establish their compliance with applicable laws, including without limitation, those relating to the classification of natural persons as independent contractors. Contractor shall be entitled to audit whether or not there has been compliance by Subcontractor and its subcontractors and independent contractors (regardless of tier) with the requirements of this Section 13.

Subcontractor agrees that the amounts set forth as the agreement Price shall be deemed to be full compensation for compliance with such laws, regulations, or requirements, including payment of all applicable wage rates, and that no additional compensation will be

owed to Subcontractor in the event that Subcontractor is required thereunder to pay higher wages or incur additional costs that Subcontractor contends that it did not anticipate.

SECTION 14. RECOURSE BY CONTRACTOR

14.1 Failure of Performance.

14.1.1 Right to Adequate Assurance. When reasonable grounds for insecurity arise with respect to Subcontractor's performance. Contractor may in writing demand adequate assurance of due performance. Subcontractor's failure to provide within fifteen (15) days of the demand, or within such shorter time as may be reasonable under the circumstances, such assurance of due performance as is adequate under the circumstances of the particular case is a default under Section 14.1.2 of this Agreement.

14.1.2 Notice to Cure. If Subcontractor at any time refuses or neglects to supply enough properly skilled workers and proper materials, or fails to properly and diligently prosecute the work covered by this Agreement (including disputed work), or fails to make prompt payment to its workers, sub-subcontractors or suppliers, or becomes delinquent with respect to contributions or payments required to be made to any health and welfare, pension, vacation, apprenticeship or other employee benefit program or trust, or fails to provide adequate assurance pursuant to Section 14.1.4, or is otherwise guilty of a material breach of a provision of this Agreement, and fails within forty-eight (48) hours after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, and to complete the cure of such default within the time period stated in Contractor's default notice, then Contractor, without prejudice to any rights or remedies, shall have the right to any or all of the following remedies:

- (a) supply such number of workers and quantity of materials, equipment and other facilities as Contractor deems necessary for the completion of Subcontractor's work, or any part thereof which Subcontractor has failed to complete or perform, and charge the cost thereof to Subcontractor, who shall be liable for the payment of same including fifteen (15) percent overhead, ten (10) percent profit, and actual attorney's fees incurred as a result of Subcontractor's failure of performance;
- (b) contract with one or more additional contractors to perform such part of Subcontractor's work as Contractor shall determine will provide the most expeditious completion of the total work and charge the cost thereof to Subcontractor; and
- (c) withhold payment of any monies due Subcontractor pending corrective action to the extent required by and to the satisfaction of Contractor.

In the event of an emergency affecting the safety of persons or property, Contractor may proceed as above without notice.

In addition to any other remedies Contractor may have, upon written notice Contractor shall be entitled to perform using its own or other forces those cleanup duties that Subcontractor has failed to perform, to remedy safety deficiencies, or otherwise to remedy Subcontractor's failure to have complied with requirements of this Agreement or directives by Contractor. In such an event, Contractor shall be entitled to recover from Subcontractor, back-charge against Subcontractor, and/or set-off against amounts owed to Subcontractor the actual direct and indirect costs that Contractor has incurred (including attorney's fees, consultant fees, and other legal costs) plus fifteen (15) percent overhead and ten (10) percent profit).

14.1.3 Termination for Default. If Subcontractor fails to commence and satisfactorily continue correction of a default within forty-eight (48) hours after receipt by Subcontractor of the notice issued under Section 14.1.2., and/or fails to complete the cure of such default within the time period stated in Contractor's default notice, then Contractor may terminate Subcontractor's right to perform under this Agreement and use any materials, implements, equipment, appliances or tools furnished by or belonging to Subcontractor without any further compensation to Subcontractor for such use. Contractor may also furnish those materials and equipment, and/or employ such workers or subcontractors, as Contractor deems necessary to maintain the orderly progress of the work.

In such case, Subcontractor shall be entitled to no further payment until the balance of Subcontractor's work has been completed. At that time, all of the costs incurred by Contractor in performing Subcontractor's work, including a reasonable markup of twenty-five (25%) for overhead and profit on such expenses, plus actual attorney's fees, consultant fees, and other legal costs arising out of Subcontractor's default, as provided above, shall be deducted from any monies due or to become due Subcontractor. Subcontractor shall be liable for the payment of any amount by which such expenses may exceed the unpaid balance of the Contract Price.

14.1.4 Termination for Convenience. Contractor may at any time and for any reason terminate Subcontractor's services and work at Contractor's convenience. Cancellation shall be by service of written notice to Subcontractor's place of business.

Upon receipt of such notice, Subcontractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement, and shall, if requested, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to Contractor or, at the option of Contractor, give Contractor the right to assume those obligations directly, including all benefits to be derived therefrom. Subcontractor shall thereafter do only such work as may be necessary to preserve and protect the work already in progress and to protect material and equipment on the job site or in transit thereto.

Upon such termination, Subcontractor shall be entitled to payment in accordance with Section 4 only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Subcontractor as are permitted by the prime contract and approved by Owner; plus (3) a reasonable mark-up not to exceed twenty-five percent (25%) of the cost of the work referred to in item (1) above for overhead and profit, or such rate as may be specified in the Prime Contract, whichever is less. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Subcontractor prior to the date of the termination of this Agreement. In no event shall payment due hereunder exceed the amount due for approved units of work or percentage of completion. Subcontractor shall not be entitled to any claim or claim of lien for any lost profits for work performed against Contractor or Owner, or for any other additional compensation or damages, consequential, incidental or special damages, in the event of such termination and payment.

In the event that any termination, other than one for convenience is later determined to have been improper or without cause, Subcontractor's sole remedy shall be to have the termination converted to a termination for convenience, and Subcontractor's recovery shall be limited in accordance with the terms of Section 14.1.4 hereof. Subcontractor expressly waives any and all other rights and remedies which it may have whether at law or in equity. Nothing hereunder shall be construed to prevent Contractor from withholding monies from Subcontractor under other provisions of this Agreement.

14.1.5 Grounds for Withholding Payment. Contractor may reduce or withhold payments, in whole or in part, reject a Subcontractor payment application, or nullify a previously approved Subcontractor payment application, in whole or in part, to the extent necessary to protect Contractor from loss, including costs and actual attorney's fees, consultant fees, and litigation costs, on account of (1) defective work not remedied; (2) claims filed or reasonable evidence indicating probable filing of claim; (3) failure of Subcontractor to make payments properly to its subcontractors or for material, labor or fringe benefits; (4) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (5) damage to another subcontractor; (6) penalties assessed against Contractor or Subcontractor for failure of Subcontractor to comply with state, federal or local laws and regulations; or (7) any other ground for withholding payment allowed by state or federal law, or as otherwise provided in this Agreement. When the above matters are rectified, such amounts as then due and owing shall be paid or credited to Subcontractor.

14.2 Bankruptcy.

14.2.1 Termination Absent Cure. Upon the appointment of a receiver for Subcontractor or upon Subcontractor making an assignment for the benefit of creditors, or if Subcontractor seeks protection under the Bankruptcy Code or commits any other acts of insolvency, Contractor may, absent any applicable legal limitation, terminate this Agreement upon giving forty-eight (48) hours written notice, by certified mail, to Subcontractor and its surety, if any. If an order for relief is entered under the Bankruptcy Code with respect to Subcontractor, Contractor may terminate this Agreement upon giving forty-eight (48) hours written notice, by certified mail, to Subcontractor, its trustee, and its surety, if any, unless Subcontractor, the surety, or the trustee:

- (a) promptly cures all defaults;
- (b) provides adequate assurance of future performance;
- (c) compensates Contractor for actual pecuniary loss resulting from such defaults; and
- (d) assumes the obligations of Subcontractor within statutory time limits.

14.2.2 Interim Remedies. If Subcontractor is not performing in accordance with the schedule of work at the time of entering an order for relief or at any subsequent time, Contractor, while awaiting the decision of Subcontractor or its trustee to reject or to accept this Agreement and provide adequate assurance of its ability to perform hereunder, may avail itself of such remedies under this Section as are reasonably necessary to maintain the schedule or work.

Contractor may offset against any sums due or to become due Subcontractor all costs incurred in pursuing any of the remedies provided hereunder, including, but not limited to, reasonable overhead, profit and actual attorney's fees, consultant fees, and other legal costs incurred as a result of Subcontractor's non-performance. Subcontractor shall be liable for the payment of any amount by which such expense may exceed the unpaid balance of the Contract Price.

SECTION 15. INDEMNIFICATION

Subcontractor agrees as follows:

- (a) To the greatest extent permitted by law, Subcontractor shall defend, indemnify and hold harmless Contractor, Owner, and Owner's architect and engineer, and any of their respective directors, officers, agents, employees, parents, affiliates, subsidiaries, partners, and representatives, and any other persons or entities designated by any of them (collectively, the "Indemnitees") from and against all causes of action, penalties, assessments, fines, actions by governmental authorities, demands, liabilities, claims, damages, costs, losses and expenses, including but not limited to attorney's fees, consultant fees, and other legal costs ("Claims"), which arise out of or are in any way related (i) to this Agreement; (ii) to actual or alleged actions or omissions by Subcontractor or any of its subcontractors, suppliers, vendors, employees, or persons for whom it is responsible, or (iii) Subcontractor's presence at the Project site and/or its Work. Notwithstanding the foregoing, if any of the Contract Documents impose more stringent defense, indemnity, contribution or hold harmless obligations than are set forth herein, then the more stringent provisions shall apply, and Subcontractor shall owe the same defense, indemnity, contribution, and hold harmless obligations to Contractor as Contractor owes to Owner. Subcontractor's duty to defend Indemnitees shall

apply, and Subcontractor shall be required to furnish a defense, notwithstanding that there has not yet been a determination, adjudication or finding of liability or fault on the part of Subcontractor or any party or person to be indemnified.

- (b) To the greatest extent permitted by law, the obligations of this Section 15 shall apply regardless of whether or not the Claims were caused in part or contributed to by Indemnitees; however, obligations specified above shall not extend to: (a) Claims that arise out of, pertain to, relate to the active negligence or willful misconduct of Contractor, of a subcontractor to Contractor, a construction manager who is an Indemnitee, or any of their other agents, other servants, or other independent contractors who are responsible to them (b) to defects in design furnished by the Indemnitee, or (c) to the extent Claims do not arise out of the scope of work of Subcontractor. Items (a) through (c) in the preceding sentence shall be referred to in this provision as "Indemnity Limitations." Upon written tender by any Indemnitee, including Contractor, of a Claim, Subcontractor shall:
1. Defend the claim with counsel of its choice, who is reasonably qualified and experienced in such matters and does not have a conflict of interest in representing the tendering party, and Subcontractor shall maintain control of the defense for any claim or portion of claim to which the defense obligation applies. If Subcontractor elects to defend under this subparagraph 15(b)1, Subcontractor shall provide written notice of the election to the tendering party a reasonable time period following receipt of the written tender, and in no event later than 30 days following that receipt. Subject only to the limitations set forth above, the defense provided by Subcontractor shall be a complete defense of tendering party of all Claims or portions thereof to the extent alleged to be caused by Subcontractor, including any vicarious liability claims the tendering party resulting from Subcontractor's scope of work, but not including claims resulting from the scope of work, actions, or omissions of the tendering party, or any other party. Any vicarious liability imposed upon the tendering party for Claims caused by Subcontractor electing to defend under this paragraph shall be directly enforceable against Subcontractor. Subcontractor shall promptly provide the tendering party with all information, documentation, or evidence, if any, relating to any assertion by Subcontractor that another party is responsible for the tendered Claim.
 2. Pay, within 30 days of receipt of an invoice from the tendering party, no more than a reasonable allocated share of the tendering party's defense fees and costs, on an ongoing basis during the pendency of the claim, subject to reallocation consistent with the limitations set forth above, and including any amounts reallocated upon final resolution of Claim, either by settlement or judgment. The tendering party shall allocate a share to itself to the extent a Claim is alleged to be caused by its work, actions, or omissions, and a share to each subcontractor to the extent that the Claim is alleged to be caused by Subcontractor's work, actions, or omissions, regardless of whether the party seeking a defense from Subcontractor actually tenders the claim to any particular subcontractor, and regardless of whether that Subcontractor is participating in the defense. Any amounts not collected from any particular subcontractor may not be collected from any other subcontractor.
- (c) Notwithstanding any other provision of law, if Subcontractor fails timely and adequately to perform its obligations under Section 15(b)1, the party tendering the Claim shall have the right to recover from Subcontractor for any resulting compensatory damages, consequential damages, reasonable attorney's fees, consultant fees, and other legal costs. If Subcontractor fails to timely perform its obligations under Section 15(b)2, the party tendering the Claim shall have the right to recover from Subcontractor for any resulting compensatory damages, interest on defense and indemnity costs, from the date incurred, at the rate set forth in subdivision (g) of former Civil Code Section 3260 (now recodified at Civil Code Section 8818), consequential damages, and reasonable attorney's fees incurred to recover these amounts. The party tendering the Claim shall bear the burden of proof to establish both Subcontractor's failure to perform under either Section 15(b)1 or 2, and any resulting damages. In addition to the foregoing remedies, and without limitation or derogation of them, Subcontractor agrees to pay liquidated damages of \$100 per each day that Subcontractor fails to perform its obligations under either Section 15(b)1 or 2, which are intended to compensate the tendering party for loss of reputation, administrative costs, and other losses that are difficult to quantify and that are not adequately compensated under this provision and Section 2782.05 of the Civil Code. Subcontractor agrees that the sum of \$100 per day constitutes a reasonable estimate of such damages or losses.
- (d) The obligations under this Section 15 are in no way limited or relieved by Subcontractor having obtained insurance, by the Insurance or other provisions of this Agreement, and/or to the extent permitted by law, by the provisions of any workers compensation law, regulation or arrangement. The obligations of Section 15 shall survive the expiration or termination of this Agreement, as well as Subcontractor's completion of its other obligations.
- (e) If and only if a claim for defense or indemnity relates to a project that is governed by California Civil Code Sections 895 et seq. and Contractor is determined to be a "Builder" for purposes of California Civil Code Section 2782(d), then as to claims of construction defects ("Defect Claims") only, the foregoing indemnity is modified such that Subcontractor is not obligated to indemnify Owner to the extent that such Defect Claims arise out of, pertain to, or relate to the negligence of the Owner, or the Owner's other agents, other servants, or other independent contractors who are directly responsible to Owner, or for defects in design furnished by those persons, or to the extent the Defect Claims do not arise out of, pertain to, or relate to the scope of work covered by this Agreement; however, Subcontractor shall nevertheless be obligated to defend Owner and Contractor from any such Defect Claims, within five (5) days of obtaining knowledge of any such Defect Claims, subject to reallocation after final resolution of the claims pursuant to Civil Code Section 2782(d). Indemnity and defense obligations not affected or restricted by Civil Code Section 2782(d) or (e), such as for property damage not caused by construction defects or other matters not involving Defect Claims, shall not be limited, impaired or modified by the foregoing sentence, and such indemnity and defense obligations shall remain in full force and effect.

SECTION 16. INSURANCE

Subcontractor and its lower-tier subcontractors and suppliers shall comply with the insurance requirements and provisions of **Exhibit A**, which is incorporated herein.

The failure of Contractor to enforce in a timely manner any of the provisions of this Section 16 shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Contract.

SECTION 17. DISPUTE RESOLUTION PROCEDURE.

17.1 Preliminary Dispute Resolution Procedure and Agreement to Arbitrate

17.1.1 Disputes under Prime Contract. Any dispute resolution procedure in the prime contract shall be deemed incorporated in this Agreement, and shall apply to any disputes arising hereunder, except disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, those which have been waived by the making or acceptance of final payment, and questions regarding the licensure of the Subcontractor. Subject to compliance with all applicable laws, including but not limited to those relating to false claims, dispute and claim certifications, and cost and pricing data requirements, Contractor's sole obligation is to present any timely-filed claims by Subcontractor to Owner under such procedure and, subject to the other provisions of this Agreement, to pay to Subcontractor the proportionate part of any sums paid by the Owner to which Subcontractor is entitled.

17.1.2. Settlement Negotiations. Subject to prime contract disputes under Section 17.1.1, and as for disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, promptly upon notification by the Subcontractor of a dispute, the Contractor and Subcontractor shall meet to informally resolve such dispute. In the event that no resolution is achieved, the parties, prior to the initiation of any action or proceeding under this section, shall make a good faith effort to resolve the dispute by negotiation between representatives with decision-making power, who, to the extent possible, shall not have had substantive involvement in the matters of the dispute, unless the parties otherwise agree. To facilitate the negotiation, the parties agree either to fashion a procedure themselves or seek the assistance of a person or organization experienced in alternative dispute resolution procedures such as meditation, mini trial or other similar procedures.

For those matters in which the aggregate amount in dispute is \$75,000 or greater, and in the absence of an agreement on the manner in which alternate dispute resolution is to be accomplished, the parties shall submit their disputes to a neutral third party construction mediator. The mediation shall be nonbinding and shall be conducted as follows. Contractor shall propose a list of three mediators, from which Subcontractor within five working days of receipt of the list shall select the proposed mediator. The mediation shall be scheduled for a date within 60 days of Contractor's proposal of the candidates for mediator, unless Contractor agrees to a longer period before mediation. The cost of the mediation shall be shared pro rata.

17.2. Arbitration Procedures. In the event the prime contract contains an arbitration provision or for disputes not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, the following shall apply:

17.2.1. Notice of Demand. For arbitration under the prime contract, notice of the demand for arbitration shall be filed in writing with the other party to this Agreement and shall conform to the requirements of the arbitration provision set forth in the prime contract. For claims not involving the acts, omissions or otherwise the responsibility of the Owner under the prime contract, the parties hereto shall submit any and all disputes arising under or relating to the terms and conditions of the Subcontract to arbitration in accordance with the Construction Industry Rules of the American Arbitration Association. Notwithstanding the foregoing, the arbitrator(s) shall be furnished by and the arbitration shall be administered by Judicial Arbitration And Mediation Services ("JAMS"), unless the parties mutually agree to another service provider. In either case, the demand for arbitration shall be made within a reasonable time after written notice of the claim, dispute or other matter in question has been given, and in no event shall it be made after the date when the institution of legal or equitable proceedings based on such claim dispute or other matter in question would be barred by the statute of limitations.

17.2.2. Award. The award rendered by the arbitrator(s) shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

17.2.3. Work Continuation and Payment. Notwithstanding any dispute, and to the greatest extent permitted by law, Subcontractor agrees to continue with its performance and maintain the schedule of work pending resolution of any and all disputes, including disputes regarding payment, or whether the work is within Subcontractor's scope. The foregoing sentence constitutes an advance waiver by Subcontractor of any actual or alleged right to stop work, rescind, or abandon the project.

17.2.4. Consolidated Arbitration Proceedings. To the extent not prohibited by their contracts with others, the claims and disputes of Owner, Prime Contractor, if applicable, Contractor, Subcontractor and other subcontractors and/or suppliers involving a common question of fact or law shall be heard by the same arbitrator(s) in a single proceeding. In this event, it shall be the responsibility of Subcontractor to prepare and present Contractor's case, to the extent the proceedings are related to this Agreement. Should Contractor enter into arbitration with the Owner or others regarding matters relating to this Agreement, Subcontractor shall be bound by the result of the arbitration to the same degree as the Contractor.

17.2.5. No Limitation of Rights or Remedies. This Section shall not be deemed a limitation of any rights or remedies which Subcontractor may have under any federal or state mechanics lien laws or under any applicable labor and material payment bonds unless such rights or remedies are expressly waived by it.

SECTION 18. COMPLIANCE WITH ALL LAWS AND SAFETY PRACTICES

Subcontractor shall comply fully with all laws, orders, citations, rules, regulations, standards and statutes affecting or relating to this Agreement or its performance, including but not limited to those with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices including the accident prevention and safety program of Owner and Contractor.

Subcontractor shall conduct inspections to determine that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for its employees of its subcontractors and suppliers of material and equipment, for adequacy of and required use of all safety equipment and for full compliance with the aforesaid laws, orders, citations, rules, regulations, standards and statutes.

At its sole expense, Subcontractor will comply with all provisions of "Proposition 65" (California State Drinking Water Act of 1986, California statutes) which shall include, but not be limited to, posting with the prior written submissions to, at the time submittals are made and with the written permission of Contractor, any required notices. Subcontractor shall not use or bring on to the project any of the chemical compounds listed by the California State Attorney General from time to time under the provisions of Proposition 65 (the List) without delivering a clear written notice, at the time submittals are written, to Contractor and Owner informing them of the dates and locations where such items shall be delivered, used, or stored. Notwithstanding anything to the contrary contained or indicated herein or in any of the Contact Documents or purchase orders or anywhere else, Subcontractor shall not incorporate into the work, or allow to be incorporated into the work, any of the items on such list without specific advanced written notice having first been delivered to Contractor prior to Subcontractor becoming actually contractually obligated to purchase or take delivery thereof from its suppliers, and then only to the extent the Contractor gives clear written approval of the uses proposed in the notice. The notice shall contain clear descriptions of the type, amount, uses, locations and content of such items incorporated into or used in said work. Subcontractor expressly acknowledges and agrees that it shall indemnify and hold harmless Contractor and the Owner from any and all claims, demands, suits, or liability of whatsoever nature by reason of the use or possession of the items set forth on the list on the subject project, including, without limitation, attorney's fees, consultant fees, and other legal costs arising from such use or possession.

Subcontractor acknowledges that the EPA and California regulatory authorities, including without limitation, the State and Regional Water Quality Control Boards, have mandated certain requirements for permits under the National Pollutant Discharge Elimination System (NPDES), including Storm Water Pollution Prevention Plan (SWPPP) requirements. Subcontractor has undertaken its own independent and thorough investigation of all such matters, including without limitation, a thorough review of all requirements under the Contract Documents and/or that are imposed by any permits that apply to the Project, and Subcontractor warrants that it is not relying upon any statements or representations by Contractor or Owner with respect to such matters. Subcontractor agrees, at its sole cost, to conform to any and all requirements of any environmental, air and water pollution statutes, regulations and measures, and/or permits, including NPDES permits, and Subcontractor also shall conform to any and all SWPPP requirements applicable to the Project. For example, on projects subject to the California Standard Specifications, such as Caltrans projects, Subcontractor's attention is directed to **California Standard Specifications Sections 13.1.01 through 13-10.03, "Water Pollution," and Sections 14-1.01 through 14.204, "Environmental Stewardship"**, and on all projects, to any special provisions or other contract provisions concerning NPDES, Department of Fish & Game, and other permits, air and water pollution statutes, regulations, and measures, and SWPPP requirements, and Subcontractor at its own cost agrees to comply fully therewith.

At its sole expense, Subcontractor shall institute and maintain a reasonable and adequate safety program to the extent in full compliance applicable law. Subcontractor at its sole expense shall fully cooperate with and adhere to any safety program or requirements of Contractor, whether such program is a stand-alone program or is a program modified to conform to Owner's safety program. All personnel of Subcontractor, its subcontractors and suppliers are required to wear hard hats, safety vests, and any other necessary safety garments or devices, visiting or working at a construction site in any way related to this Agreement. Failure to comply with safety requirements may result in termination under this Agreement.

Subcontractor shall comply with all patent, copyright, or other intellectual property laws or requirements that may be applicable to its work, labor, equipment, materials and services, and shall pay all royalties and license fees that may be necessary. Pursuant to Section 15, Subcontractor shall defend, indemnify and hold harmless Owner, Contractor, and their respective agents against all Claims for actual or alleged violation or infringement of any patent, copyright, or other intellectual property laws or similar requirements in any way related Subcontractor's work.

Arntz Builders maintains a drug free and zero tolerance work place. Violations or use of any drugs and/or alcohol are strictly prohibited. Any workman, supervisor or employee of Subcontractor or lower tier subcontractors, suppliers, or other agents that violate this policy will be required to leave the Project premises, and shall not return except upon Contractor's written consent, which may be provided in the Contractor's sole discretion.

SECTION 19. WARRANTY

Subcontractor warrants to Owner and Contractor that all materials furnished shall be new unless otherwise specified and that all work under this Agreement shall be performed in a substantial, good and workmanlike manner, shall be of best quality, free from faults and defects, and in strict conformance with the Contract Documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The warranty provided in this Section 19 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

SECTION 20. USE OF CONTRACTOR'S EQUIPMENT

In the event Subcontractor shall use Contractor's equipment, materials, labor, supplies or facilities, Subcontractor shall reimburse Contractor at a predetermined rate, except as provided in Section 14.1.2. or as otherwise stated herein. Further, Subcontractor assumes all responsibility for physical damage to such equipment, materials, labor, supplies, or facilities used by Subcontractor or its agents, employees, or permittees. By using Contractor's supplied equipment, Subcontractor certifies its employees are fully trained and certified in the use of Contractor's equipment. Subcontractor further agrees to defend, indemnify, and hold harmless Contractor and equipment rental company in connection with Subcontractor's use of equipment. In the event that Contractor's employees are used by Subcontractor, Subcontractor shall have full responsibility for all acts or omissions of Contractor's employees with regard to Subcontractor's use or employment of them. Subcontractor accepts any all of Contractor's equipment, materials, labor, supplies or facilities as furnished.

SECTION 21. ASSIGNMENT OF CONTRACT

Subcontractor shall not, without written consent of Contractor, assign, transfer, or sublet to others its rights under this Agreement, any portion or part of the work required by this Agreement, nor assign any payment or proceeds hereunder to others. Contractor may assign this Subcontract to its bonding company, or to Owner if required under the terms of the prime contract. Any purported assignment by Subcontractor without Contractor's written consent, even where Contractor may be aware of or on notice of the purported assignment, shall be void and ineffective. In the event Contractor's surety takes over the completion of the Project, whether directly or through surety's completion contractor, Subcontractor agrees to complete all of its obligations to Contractor under this Agreement for the benefit of the surety, at no additional increase in subcontract price.

Contractor may withhold from Subcontractor sufficient funds to cover any anticipated expense. In the event of any assignment, delegation, and/or transfer of Subcontractor's obligation, with or without Contractor's written consent, the Subcontractor shall in all events keep a superintendent and/or representative on site during the course of the Subcontractor's Work under this Agreement. Contractor shall have no obligation to supervise, coordinate, or otherwise direct any workmen in their duties under this Agreement and Contractor shall not have any liability for any of Subcontractors assignees, transferees and/or delegates extra work and/or costs except as otherwise provided for in this Agreement. In no event does Contractor waive any rights under this Paragraph 21 if Subcontractor fails to obtain Contractor's written consent.

SECTION 22. INDEPENDENT CONTRACTOR

Subcontractor is an independent contractor and shall, at its sole cost and expense, and without increase in the Contract Price, comply with all laws, rules, ordinances and regulations of all governing bodies having jurisdiction over the work: obtain all necessary permits and licenses therefore, pay all manufacturers' taxes, sales taxes, use taxes, processing taxes, and all federal and state taxes, insurance and contributions for social security and unemployment which are measured by wages, salaries, or other remuneration's paid to Subcontractor's employees, whether levied under existing or subsequently enacted laws, rules or regulations. Subcontractor upon request shall furnish evidence satisfactory to Contractor that any or all of the foregoing obligations have been fulfilled.

SECTION 23. CLEAN-UP

At all times during the course of construction, Subcontractor shall perform its work so as to maintain the site in a clean, safe and orderly condition. Upon completion of the work under this Agreement, Subcontractor shall remove from the site all hazardous materials, temporary structures, debris and waste incident to its operation and clean all surfaces, fixtures, equipment, etc., relative to the performance of this Agreement. If Subcontractor fails to perform a clean-up function within four hours after notification from Contractor to do so, Contractor may proceed with that function as it judges necessary and in the manner it deems expedient, and the cost thereof shall be charged to Subcontractor and deducted from monies due to Subcontractor.

SECTION 24. WAIVER OF ATTORNEY'S FEES

Notwithstanding any other provision of this Agreement or applicable law, or any provisions of the Contract Documents that may be incorporated, neither Subcontractor nor Contractor shall be permitted to recover attorney's fees or costs of suit in any dispute or litigation. Subcontractor expressly waives the right to recover attorney's and consultant fees, and other legal expenses, from Owner, Contractor and from Contractor's sureties. This waiver of the right to fees and costs, to the greatest extent permitted by law, shall be effective as to statutory rights such as those afforded by Civil Code Sections 8558 or 9550 through 9566. This provision shall not limit,

impair or waive Contractor's rights to be defended by, to be indemnified by, to be held harmless by, to receive contribution from Subcontractor, and to receive the benefits of insurance furnished by Subcontractor or any other persons, with respect to attorney's and consultant fees, costs and other legal expenses. No arbitrator or referee shall have jurisdiction to award fees, costs or expenses waived by this provision, but if for any reason this waiver of fees and costs is found to be invalid or unenforceable, then Contractor and its sureties shall be afforded the same rights as Subcontractor with regard to attorney's and consultant fees, costs and other legal expenses.

SECTION 25. LABOR AGREEMENTS

Employment of labor by Subcontractor shall be effected under conditions that are satisfactory to Contractor. Subcontractor shall keep a representative at the jobsite during all times when Subcontractor's work is in progress, and such representative shall be authorized to represent Subcontractor as to all phases of the work. Prior to commencement of the work, Subcontractor shall identify to Contractor who Subcontractor's on site representative is to be, and in the event of any change of representative, Subcontractor shall notify Contractor who the new representative is to be prior to such change becoming effective.

Subcontractor acknowledges that Contractor has entered into labor agreements covering work at its construction job sites with the United Brotherhood of Carpenters and Laborers International Union of North America. Subcontractor hereby expressly agrees that all of the provisions of the applicable labor agreements are incorporated into this Agreement as if they were set forth in their entirety.

Subcontractor agrees to comply with all of the terms and conditions of those labor agreements as if it were a party to said agreements including signatory status if required. Subcontractor further agrees to pay the wage rates, make the required trust fund payments into the respective labor trust funds, and observe the hours and all other terms and conditions set forth in the respective labor agreements referenced above. Subcontractor agrees to comply with the terms and provisions of said agreements setting forth the grievance and arbitration provisions. Furthermore, Subcontractor agrees to comply with the terms and provisions of said agreements setting forth the jurisdiction and scope of work therein for resolution of jurisdictional disputes. In the absence of any such procedure or if such procedure fails to promptly resolve the jurisdictional dispute, Subcontractor agrees, at its own cost and expense and upon request by Contractor, to take any and all lawful steps to secure a binding and final determination of said jurisdictional dispute by the National Labor Relations Board.

Subcontractor acknowledges that terms and conditions of the labor agreements with the unions listed above may require that Subcontractor comply with additional labor agreements with unions affiliated with the AFL-CIO but not listed herein. When the terms and conditions of the above-referenced labor agreements so require, Subcontractor shall perform its job site work pursuant to all terms and conditions of an appropriate labor agreement with a union affiliated with the AFL-CIO.

Should there be picketing on the Contractor's job site, and the Contractor establishes a reserved gate for the Subcontractor's purposes, it shall be the obligation of the Subcontractor to continue the proper performance of its work without interruption or delay.

Subcontractor further promises and agrees that he will bind and require all of its subcontractors and their subcontractors performing job site work of the type covered by any of the labor agreements specified above to agree to all of the foregoing promises and undertakings, to the same effect as herein provided with respect to Subcontractor.

Subcontractor shall comply with all equal employment opportunity and affirmative action requirements promulgated by any government authority, including, without limitation, the requirements of the Civil Rights Act of 1964, Presidential Executive Orders No. 10925, 11114 and 11246, the California Fair Employment Practices Act, the Americans with Disabilities Act of 1991 and the Family and Medical Leave Act of 1993. Subcontractor shall comply with and agrees to be bound by all applicable Federal, State and local laws and regulations, including, but not limited to, all Fair Labor Standards Act provisions and California Labor Code provisions covering the work. Upon request, Subcontractor agrees to submit certified payroll reports to contractor no later than three (3) working days after labor has been paid.

Subcontractor will indemnify and hold harmless Contractor from and against any liability, loss, damage, cost, claims, awards, judgments, fines, expenses, including litigation expenses, reasonable attorney's fees and any other costs which may be incurred by the Contractor resulting from Subcontractor's failure to fulfill the covenant set forth in this Section 25.

SECTION 26. SPECIAL PROVISIONS (Including unit pricing, if applicable):

Layout and Finish Responsibility: Contractor shall establish principal axis lines and levels and Subcontractor shall lay out and shall be strictly responsible for the accuracy of Subcontractor's work and for loss and damage to others engaged in work on the site by reason of any failure by Subcontractor to set out or perform its work correctly. Subcontractor shall exercise prudence so that actual final conditions and details shall result in perfect alignment of finish surfaces.

CONTRACTOR'S JOB SUPERINTENDENT: The Contractor's Job Superintendent is not authorized to act as an agent of the Contractor in any way that will alter or relieve the Subcontractor of his legal responsibility for the performance of the work herein above described, except as specifically provided for in this Agreement.

CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS STATE LICENSE BOARD, WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CA 95826.

Dated: _____

Dated: _____

GENERAL CONTRACTOR
ARNTZ BUILDERS, INC.

SUBCONTRACTOR

Signature

Signature

By:

By:

Name & Title

Name & Title

431 Payran Street

Address

Address

Petaluma, CA 94952

City, State, Zip

City, State, Zip

856393

Contractor's License No.

Contractor's License No.

Contractor DIR No. 1000003147

Subcontractor DIR No. _____

Federal I.D. No. _____

Corporation YES: ____ NO: ____

EXHIBIT A

INSURANCE REQUIREMENTS

Casualty Insurance. Subcontractor shall, at its expense, procure and maintain insurance on all of its operations, with companies acceptable to Contractor, as follows:

Workers Compensation and Employer's Liability Insurance. Workers Compensation insurance shall be provided as required by any applicable law or regulation. Employer's Liability insurance shall be provided in amounts not less than:

- \$1,000,000 each accident for bodily injury by accident
- \$1,000,000 policy limit for bodily injury by disease
- \$1,000,000 each employee for bodily injury by disease

If there is an exposure of injury to Subcontractor's employees under the U.S. Longshoreman and Harbor Workers' Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

General Liability Insurance. Subcontractor shall carry primary Commercial General Liability insurance covering all operations by or on behalf of Subcontractor providing insurance for bodily injury and property damage liability for the limits of liability indicated below and including but not limited to coverage for:

- (1) premises and operations
- (2) products and completed operations will be maintained for three years following project completion.
- (3) contractual liability insuring tort obligations assumed by Subcontractor in this Contract
- (4) broad form property damage (including completed operations)
- (5) explosion, collapse and underground hazards (including subsidence and any other earth movement)
- (6) personal injury liability

The limits of liability shall be not less than the amounts required of Subcontractor under the Contract Documents, but in no event less than:

- \$2,000,000 each occurrence (combined single limit for bodily injury and property damage)
- \$2,000,000 for personal injury liability
- \$2,000,000 aggregate for products-completed operations
- \$2,000,000 general aggregate

The general aggregate limit shall apply separately to Subcontractor's work under this Contract. For subcontracts in excess of \$250,000 an additional \$5,000,000 Excess Liability Insurance policy shall be maintained over the General Liability coverage that shall, at a minimum, include coverage for the exposures set forth in items 1-6 above.

Contractor, its officers, directors and employees, and Owner shall be named as additional insureds under the Commercial General Liability policy and Excess Liability policy and such insurance afforded the additional insureds shall apply as primary insurance. Any other insurance maintained by Contractor or Owner shall not be called upon to contribute with this insurance.

Coverage for the Contractor, its officers, directors and employees and the Owner as additional insureds shall be provided by an endorsement providing coverage at least as broad as Additional Insured (Form B) endorsement form CG 2010 1185 as published by the Insurance Services Office (ISO) (or equivalent). Additional insured endorsement will be provided for four years following project completion.

Claims Made and Self Insurance Provisions. Subcontractor shall not provide general liability insurance under any Claims Made General Liability form without the express prior written consent of Contractor. Any self-insurance program providing coverage in excess of \$25,000 per occurrence requires the prior written consent of Contractor.

Automobile Liability Insurance. Subcontractor shall carry automobile liability insurance, including coverage for all owned hired and non-owned automobiles. The limits of liability shall be not less than \$1,000,000 combined single limit each accident for bodily injury and property damage. Contractor and Owner shall be named as additional insureds.

Additional Requirements. All insurance under this provision (including, but not limited to general liability, automobile liability, and workers' compensation and employer's liability insurance) shall be provided by a California admitted carrier with an A.M. Best's Rating of A- or better, financial capacity VII or greater (except for State Fund of California for workers' compensation coverage). General liability insurance shall be written on a form at least as broad as ISO occurrence form CG 0001; Automobile Liability Insurance shall be provided pursuant to a coverage form at least as broad as ISO form CA 0001. Contractor reserves the right, in its sole and subjective discretion, to reject an insurer and require Subcontractor to obtain policies from another insurer.

Certificates of insurance, as evidence of the insurance required by this Contract and including the required "additional insured" endorsement(s) shall be furnished by Subcontractor to Contractor with its bid. Certificates shall set forth deductible amounts applicable to each policy and all exclusions or limitations not set forth in ISO Commercial General Liability Form CG 00 01. The Contractor may allow deductible provisions if Subcontractor is willing to increase retentions accordingly. Standard ISO Form CG 0001 exclusions will also be allowed. Allowance of any additional exclusions or coverage limiting endorsements is at the discretion of the Contractor, and Subcontractor's bid shall be subject to upward adjustment to compensate for the existence of such exclusions.

Subcontractor's insurance and additional insured coverage shall not include the following exclusions or provisions: cross-suits and/or cross-insureds exclusion of coverage, mold, water damage and/or earth movement exclusions, requirements by the insurer

EXHIBIT A - CONTINUED

that subcontractors or suppliers maintain insurance or agree to defend or indemnify Contractor or Owner, residential work exclusions or limitations. Subcontractor shall cause its policies to be amended or endorsed to remove any such exclusions, provisions or limitations.

Regardless of the allowance of exclusions, coverage limitations or deductibles by the Subcontractor, Subcontractor shall be responsible for any deductible amount or any loss arising out of coverage denials by his insurance carrier(s). Certificates of insurance shall provide that there will be no cancellation or reduction of coverage without thirty (30) day's prior written notice to Contractor.

Subcontractor shall take such steps as are necessary to assure Subcontractor's compliance with its obligations. Should any insurance policy lapse or be canceled during the contract period, Subcontractor shall, prior to the effective expiration or cancellation date, furnish the Contractor with evidence of renewal or replacement of the policy. Failure to continuously satisfy insurance requirements as herein provided is a material breach of contract. In the event Subcontractor fails to maintain any insurance coverage required, Contractor may, but is not required to, maintain such coverage and charge the expense to Subcontractor or terminate this contract.

Any acceptance of insurance certificates or endorsements by Contractor shall in no way limit or relieve Subcontractor of its duties and responsibilities under this Contract including the duty to indemnify and hold harmless Contractor.

Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Subcontractor for liability in excess of such coverage nor shall it preclude the Contractor from taking such other actions as is available to it under any other provision of the contract or law. If higher limits or other forms of insurance are required in the Contract Documents, Subcontractor will comply with such requirements.

Subcontractor shall not provide any liability coverage (including auto coverage) under a claims made, "wasting" policy or other form of policy that reduces the amount of coverage, in whole or in part, by amounts expended on defense of claims. Subcontractor shall also satisfy the following additional requirements:

(a) **Hazardous Materials.** If Subcontractor and/or its subcontractors or suppliers, regardless of tier, perform remediation of hazardous materials or if their operations create an exposure to hazardous materials as those terms are defined in federal, state or local law, Subcontractor and its subcontractors and suppliers must obtain a "Contractor's Pollution Liability" policy with limits not less than \$1,000,000 per occurrence and not less than \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage, naming Contractor as an additional insured. If Subcontractor or its subcontractors or suppliers haul hazardous material (including, without limitation, waste), the policy must extend pollution coverage to the transportation of hazardous materials or pollutants by waste hauling vehicles. If Subcontractor is subject to the Motor Carrier Act of 1980, the Motor Carrier Act endorsement MCS-90 must be obtained and attached to the policy.

(b) **Professional Liability.** If Subcontractor (or its subcontractors or suppliers, regardless of tier) performs any design/build work or services, it shall obtain a Professional Liability Insurance Policy. Design/build work includes, without limitation, design/build work with respect to mechanical, electrical, structural, plumbing and fire sprinkler systems. Evidence of coverage in the form of a Certificate of Insurance shall be provided prior to the start of the project. Subcontractor shall obtain coverage for a minimum of three years following completion of the project, either through continued purchase of policies for such years or through purchase of an extended reporting period. If Owner or Contractor elects to purchase a project design policy, Subcontractor's policy shall be endorsed to indicate that Subcontractor's policy shall provide coverage once the project design policy has been exhausted.

(c) **Riggers Liability.** Should Subcontractor's work involve the moving, lifting, lowering, rigging or hoisting of property or equipment, Subcontractor shall carry Rigger's Liability Insurance to insure against physical loss or damage to the property or equipment.

(d) **Aircraft Liability.** If Subcontractor (or its subcontractors or suppliers, regardless of tier) use any owned, leased, chartered or hired aircraft of any type in the performance of this contract, they shall maintain aircraft liability insurance in an amount of not less than \$10,000,000 per occurrence, including Passenger Liability. Evidence of coverage in the form of a certificate of insurance shall be provided prior to the start of the Project.

(e) **Work Near Railroads.** If Subcontractor (including any lower tier subcontractor or supplier) performs any work or conducts any operations within fifty feet of any railroad (including any light rail, fixed rail or other rail system), Subcontractor shall obtain an endorsement of its Commercial General Liability Policy to delete any exclusion, including the "Contractual Liability" exclusion, for work performed within fifty feet of a railroad. A copy of such endorsement shall be provided to Contractor prior to any work or operations by Subcontractor within fifty feet of any railroad. Subcontractor shall also provide any other insurance coverage required by any owner or operator of any rail system.

(f) **Equipment and Property Coverage.** Subcontractor shall procure and maintain at its own expense property and equipment insurance for Subcontractor's tools, equipment, temporary structures, work in progress, work in transit and/or in temporary storage.

If builders' risk insurance is not provided by Owner or Contractor, Subcontractor shall purchase and maintain installation floater coverage written to cover all risks of physical loss except those specifically excluded in the policy, and shall insure at least against the perils of fire and extended coverage, theft, vandalism, malicious mischief and collapse. This insurance shall be written in an amount to provide full protection for Subcontractor's work and equipment. This insurance shall apply on a replacement cost basis. Any deductible shall be the full responsibility of Subcontractor.

EXHIBIT A - CONTINUED

(g) **Waiver of Subrogation.** Contractor and Subcontractor waive all rights against each other for loss or damage to the extent reimbursed by any insurance applicable to the work, except such rights as they may have to the proceeds of such insurance. If any applicable policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

(h) **Requirements for Sub-subcontractors, Vendors, and Suppliers.** Subcontractor shall ensure that all tiers of its subcontractors, vendors and suppliers shall maintain insurance in like form and amounts, shall comply with the additional insured requirements as set forth above, shall waive subrogation as set forth above, shall otherwise comply with all requirements of this Exhibit A, and shall provide Contractor with evidence of insurance prior to commencing work

(i) **Wrap-Up or OCIP Insurance** (1) If there is no Wrap-Up or Owner Controlled Insurance Program (“OCIP”) for the project, all provisions of this Attachment shall apply; (2) if there is Wrap-up or OCIP coverage, the provisions of this Attachment shall apply only to the extent the OCIP does not provide such coverage and thus the provisions of this Attachment shall require coverage in addition to the coverage provided by the OCIP. For example, and without limitation, if the OCIP does not cover off-site activities or workers compensation, then Subcontractor shall furnish all required insurance with respect to offsite activities and shall also maintain workers compensation coverage, all in accordance with the provisions of this Agreement, including this Section. Subcontractor shall at no additional cost to Contractor comply with all requirements and provisions of any such Wrap-up or OCIP coverage, including any applicable manual or provisions concerning the furnishing of credits, as if such requirements and provisions were incorporated herein.

OCIP or Wrap Policy Disclosures
[**Check Box if applicable:**]

In accordance with Civil Code Section 2782.96, Contractor provides the following disclosures concerning a wrap-up insurance policy or other consolidated insurance program for a public works project or any other project other than a residential construction project as defined by Civil Code Section 895 et seq.:

- Total amount or method of calculation of any credit or compensation for premium required from Subcontractor or another participant (fill in one):
 - \$ _____ or
 - Per Exhibit _____, attached hereto.
- Policy limits: \$ _____.
- Known exclusions: See Exhibit _____, attached hereto.
- Period/length of time policy is to remain in effect: _____.

Upon written request, once Contractor itself obtains a copy of the Wrap-Up policy, a copy of the Wrap-Up policy may be inspected and copied by any person or company covered by the policy. If a policy is not yet available, upon written request, a person or company covered by the Wrap-Up policy shall be provided a copy of the insurance binder or declaration of coverage. Any person or company receiving a copy of the Wrap-Up policy, binder, or declaration (“participant”) agrees not to disclose it to third parties other than the participant’s insurance broker or attorney, unless required to provide or disclose it by law. Any participant who provides a copy of the Wrap-Up policy, binder or declaration to his, her or its insurance broker or attorney shall require the insurance broker or attorney not to disclose it unless required to do so by law.

EXHIBIT B

Labor Code Sections 1771, 1775, 1776, 1777.5, 1813 and 1815

(Applies to State and Local Public Works Projects Only Unless Otherwise Indicated)

SUBCONTRACT ADDENDUM FOR PUBLIC WORKS PROJECTS

In accordance with California Labor Code Section 1725.5, all public works contractors and subcontractors must be registered with the Department of Industrial Relations beginning July 1, 2015. The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public works, as defined in Chapter 1, Public Works, Article 1 Scope and Operation, entered into on or after April 1, 2015.

Contractors may register on line at: <https://efiling.dir.ca.gov/PWCR/ActionServlet?action=displayPWCRRegistrationForm>

This public works project is subject to compliance monitoring and enforcement by the Department of Industrial Relations pursuant to Labor Code 1771.4.

The Subcontractor shall comply with the above statutes and specifically agrees to:

- a. Provide the contractor with a DIR Public Works Registration Number that has been assigned to the Subcontractor: _____
 - b. Maintain accurate payroll records, pursuant to Labor Code §1776, and furnish such records directly to the Labor Commissioner in the following manner:
 - (1) At least monthly or more frequently if specified in the contract with the awarding body.
 - (2) In a format prescribed by the Labor Commissioner.
 - c. Notify any lower-tier subcontractor to your company on this project of its obligation to register and comply with the requirements set forth in the above- referenced statutes.
1. Upon submitting all required subcontract documents to the contractor, the subcontractor agrees to provide a list of work classifications that it plans to utilize on this project as well as its plan for meeting all apprenticeship requirements in Labor Code §1777.5. Subcontractor will also submit this information for any second-tier subcontractor that the subcontractor chooses to use on this project.

The subcontractor plans on using the following classifications:

Work Classification

Warning: Subcontractor shall at all times remain liable to Contractor for any misleading or erroneous information furnished by Subcontractor on this form.

EXHIBIT B - CONTINUED

Apprenticeship Plan

Submit DAS 140, Public Works Contract Award Information to the appropriate apprenticeship committee(s) prior to the beginning of work. Provide proof of submission to prime contractor. 3.

Please explain your plan for meeting the 5:1 ratio, journeyman hours to apprentice hours. And, if subject to a different standard, please provide proof of this standard and the plan for meeting the ratio.

2. The attached California Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815 are incorporated into this Agreement. The Subcontractor agrees to comply with all of the above-referenced Labor Code Sections applicable to the performance of its work on this project.

Specifically, the Subcontractor agrees to:

- a. Pay all workers not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed.

A statutory exception to this requirement is provided in LC 1720.9 (d) for the hauling and delivery of ready – mixed concrete to carry out a public works contract. The applicable prevailing wage rate for these drivers shall be the current prevailing wage, as determined by the director of DIR, for the geographic area in which the factory or batching plant is located.

- b. Pay all workers not less than the general prevailing rate of per diem wages for holiday and overtime work as provided in this chapter.
- c. Adhere to the compliance measures outlined in Labor Code §1775(b) for any second tier Subcontractor that the subcontractor chooses to use on this project.
- d. Submit certified payroll to the contractor within three (3) working days after wages have been paid.

Note: In addition to providing certified payroll records, subcontractors with drivers who haul and deliver ready-mixed concrete, shall submit written time records certified by each driver for the performance of job duties listed in Labor Code 1720.9 (c).

- e. Submit to the contractor within three (3) working days of a written request all payroll records outlined in the notice and defined by the California Code of Regulations §16000, "Payroll Records."
 - f. Comply with all apprenticeship requirements pursuant to Labor Code §1777.5.
2. The Subcontractor, prior to receiving final payment for work performed on this project, shall sign an affidavit under penalty of perjury that the Subcontractor has paid the specified general

prevailing rate of per diem wages for the proper craft needed to fulfill the obligations of the subcontract and has complied with the laws and regulations regarding the use of apprentices. (The attached affidavit is incorporated into this subcontract.)

The Subcontractor agrees to indemnify, hold harmless and defend the contractor for any violations of the above-referenced California Code of Regulations and Labor Code provisions brought against the contractor due to the subcontractor's failure to comply with said provisions.

1771. Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

1775. (a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding

EXHIBIT B - CONTINUED

the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

1776. (a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the Requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of

Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number. (2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

1777.5. Employment of apprentices on public works

EXHIBIT B - CONTINUED

(a) (1) This chapter does not prevent the employment upon public works of properly registered apprentices who are active participants in an approved apprenticeship program.

(2) For purposes of this chapter, "apprenticeship program" means a program under the jurisdiction of the California Apprenticeship Council established pursuant to Section 3070.

(b) (1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body, if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to

EXHIBIT B - CONTINUED

the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2)(A) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The grant funds shall be distributed as follows:

(i) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(ii) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(iii) All training contributions not distributed under clauses (i) and (ii) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship and preapprenticeship standards and requirements under this code.

(B) An apprenticeship program shall only be eligible to receive grant funds pursuant to this subdivision if the apprenticeship program agrees, prior to the receipt of any grant funds, to keep adequate records that document the expenditure of grant funds and to make all records available to the Department of Industrial Relations so that the Department of Industrial Relations is able to verify that grant funds were used solely for training apprentices. For purposes of this subparagraph, adequate records include, but are not limited to, invoices, receipts, and canceled checks that account for the expenditure of grant funds. This subparagraph shall not be deemed to require an apprenticeship program to provide the Department of Industrial Relations with more documentation than is necessary to verify the appropriate expenditure of grant funds made pursuant to this subdivision.

(C) The Department of Industrial Relations shall verify that grants made pursuant to this subdivision are used solely to fund training apprentices. If an apprenticeship program is unable to demonstrate how grant funds are expended or if an apprenticeship program is found to be using grant funds for purposes other than training apprentices, then the apprenticeship program shall not be eligible to receive any future grant pursuant to this subdivision and the Department of Industrial Relations may initiate the process to rescind the registration of the apprenticeship program.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

1815. Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 1/2 times the basic rate of pay.

1813. The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each

EXHIBIT C

List all of tier subcontractors, suppliers, vendors, rental companies, unions, (list all unions to which you or your second tier subcontractors are signatory) or any other entities that may have stop notice lien rights or payment bond claim rights that you will use (or intend to use) for the performance of the subject subcontract scope of work:

Subcontractor Name: _____

Project Name: _____

1. _____, _____
(Name of Company, Business or Union) (Address)

(Phone Number) (Fax Number)
_____, \$ _____
(Email Address) (\$ Value of Performance)

Type of Business: Subcontractor, Supplier, Equipment Rental, Union, Etc.

2. _____, _____
(Name of Company, Business or Union) (Address)

(Phone Number) (Fax Number)
_____, \$ _____
(Email Address) (\$ Value of Performance)

Type of Business: Subcontractor, Supplier, Equipment Rental, Union, Etc.

3. _____, _____
(Name of Company, Business or Union) (Address)

(Phone Number) (Fax Number)
_____, \$ _____
(Email Address) (\$ Value of Performance)

Type of Business: Subcontractor, Supplier, Equipment Rental, Union, Etc.

4. _____, _____
(Name of Company, Business or Union) (Address)

(Phone Number) (Fax Number)
_____, \$ _____
(Email Address) (\$ Value of Performance)

Type of Business: Subcontractor, Supplier, Equipment Rental, Union, Etc.

(If you are using more subcontractors, suppliers, unions, and/or vendors that this page allows you to list, please copy this page and indicate the additional persons or entities on the additional page(s).)

EXHIBIT D

SUBCONTRACTOR'S SAFETY INFORMATION

(This document must be completed and returned with all required information prior to all field work.)

**NAME OF
SUBCONTRACTOR:** _____

PROJECT: _____ **DATE:** _____

1. How often are documented project safety inspections conducted: _____

a. Who conducts safety inspections (title): _____

2. List key personnel planned for this project (include person with safety responsibility and their experience):

3. Does your firm have a written Accident Prevention Program? Y / N

Title of responsible person: _____

4. Describe procedures for selecting and monitoring the subcontractor(s) which you will use on this project:

