

# ICON WEST, INC

Contractors / Engineers  
License No. B747737

520 S. La Fayette Park Place Suite # 503  
Los Angeles, California 90057  
P: (213) 385-0027 / F: (213) 385-0024

Date: XXXXXXXX

JXXXXXXXXXXXXXXXXX  
XXXXXXXXXXXXXXXXXXXXXXXXXXXX.  
XXXXXXXXXXXX,  
XXXXXXXXXXXX

Subject: XX  
Reference: Sub Contract No. XX

Dear Mr. XXXXXXXXXXXXXXX,

Enclosed for execution by an Officer of your company are two (2) copies each of the following:

- Subcontract Agreement
- Attachment A – General Provision
- Attachment B – Special Provision
- Attachment C - Schedule of Quantities, Unit Price, and Scope of Work
- Attachment D – Public Works Attachment to Subcontract
- Form W-9 (please fill in all company information as well as signing)
- Subcontractor EEO Requirements / Safety / Fall Protection
- Other: Prelim Information

Please return both original signed copies. Icon-West, Inc. will then, sign and return one (1) original, fully executed copy to your office.

If the documents are executed by anyone other than an Officer of your company, you must provide a letter of authorization, signed by an Officer of the company, stating that the individual is authorized to execute such documents.

**Also, please submit the following:**

- Certificates of Insurance (specifications and limitations are set forth in your subcontract)
- Workers Compensation Certificate
- Automobile Insurance Certificate

WAIVER OF SUBROGATION REQUIRED

The contract will not be executed until Bonds and Certificates of Insurance, both meeting appropriate requirements, are received. In the event that work shall start without these items no payment will be issued to your company. Upon receipt of these items the contract will be executed and your copy will be returned to you.

Please do not make any changes to this contract until first contacting this office. Feel free to call me at 213-385-0027, or fax a listing of your concerns to my office at 213-385-0024.

Sincerely,

Bernard Ashkar  
CEO  
Cc: file / field

# ICON WEST, INC.

520 La Fayette Park Place Suite 503 Los Angeles, CA 90057  
Contractor's License No. 747737

## **PUBLIC WORKS ATTACHMENT TO SUBCONTRACT**

**A. In entering into this Subcontract for the performance of work on a public works project, Subcontractor agrees to comply with all prevailing wage statutes, including but not limited to Labor Code sections 1775, 1771, 1776, 1777.5, 1813, and 1815, as set forth herein and as may change from time to time:**

Labor Code § 1775. Penalties for violations; action against contractor to recover penalties

“(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 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.”

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Labor Code § 1771. Payment of general prevailing rate

"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."

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Labor Code § 1776. Payroll records; retention; inspection; noncompliance penalties; rules and regulations

"(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, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards 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, the Division of Apprenticeship Standards, 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) 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.

(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) 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, the Division of Apprenticeship Standards, 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 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 name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fees and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

(f) 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.

(g) 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 twenty-five dollars (\$25) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or 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.

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

(i) 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."

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Labor Code § 1777.5. Employment of registered apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions

“(a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) 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.

(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) When 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) Prior to 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 that can supply 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 where the contractor agrees to be bound by those standards, but, 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. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, 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 that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that 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 Chief of the Division of Apprenticeship Standards 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) When 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 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) 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 Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:

(A) 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.

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

(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Division of Apprenticeship Standards.

(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. Notwithstanding Section 13340 of the Government Code, all money in the Apprenticeship Training Contribution Fund is hereby continuously appropriated for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.

(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) All decisions of an apprenticeship program under this section are subject to Section 3081.”

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Labor Code § 1813. Forfeiture for violation; contract stipulation; report of violations

“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 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.”

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Labor Code § 1815. Overtime

"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."

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**B. Subcontractor shall provide to Icon West, Inc. certified payroll documentation in the form required by the public entity and/or Department of Labor with each Request for Payment. However, in addition to the requirements of the public entity and/or Department of Labor, Subcontractor shall provide copies of the payroll checks that are referenced in the certified payroll documentation, with each application for payment, and, within two weeks after the week ending date of said payroll documentation, Subcontractor shall provide canceled checks proving the payment was received by the Subcontractor’s employees. By the 10<sup>th</sup> day of each month, Subcontractor shall provide all union or other fringe benefits statements, and proof of payment of said fringe benefits.**

**C. Subcontractor agrees that in lieu of a Subcontractor Payment Bond, that Subcontractor and the officer signing on its behalf herein, shall each personally guarantee the compliance with the Labor Code by Subcontractor, payment to employees, as well as payment of fringe benefits to any trust fund to which they are owed. In the event that said obligations are breached, the**

Subcontractor and its officer signing herein, shall each individually defend, indemnify and hold Icon West, Inc. and its officers harmless for any claims, demands, suits, Civil Wage and Penalty Assessments, or other type of claim, relating to the non-payment of appropriate wages or fringe benefits by Subcontractors. The officer signing below agrees to be personally bound to said obligations in the event of a default by Subcontractor. This individual obligation shall be waived where Subcontractor has provided Icon West with a Payment Bond issued by an admitted surety, in the full amount of the Subcontract Agreement, for the particular project.

D. The undersigned agree that the Contractor may:

(1) 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 Subcontractor, which shall be provided to Contractor with each Request for Payment.

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

(3) Prior to making final payment to Subcontractor for work performed on the public works project, Contractor shall obtain, and Subcontractor shall provide, an affidavit signed under penalty of perjury from Subcontractor that 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 Labor Code section 1813. Subcontractor shall provide proof required by Subdivision "B" herein prior to final payments being made.

E. It is understood that the following conditions precedent to payment by Contractor to Subcontractor apply to all agreements between the parties:

(1) Receipt of certified payrolls from Subcontractor and all of its sub-subcontractors of every tier shall be an express condition precedent to any payment by Contractor, as well as proof of payment as required under Subdivision "B" herein; and

(2) Subcontractor agrees to impose these same requirements for receipt of certified payrolls on all sub-subcontractors of every tier it contracts with, and to incorporate this Addendum into its sub-subcontracts, and shall make receipt of certified payroll from its sub-subcontractors a condition precedent to those sub-subcontractors' payment.

# SUBCONTRACT AGREEMENT

THIS AGREEMENT, made, November 14, 2012, by and between:

CONTRACTOR  
**Icon-West, Inc.**  
Address: 520 S. La Fayette Park Place Ste. # 503  
  
Phone: 213-385-0027 / Fax: 213-385-0024

and

SUBCONTRACTOR  
**XXXXXXXXXXXXXXXXXXXX**  
Address: XXXXXXXXXXXXXXXX.,  
XXXXXXXXXXXXXXXXXXXX  
Phone: XXXXXXXXXX / Fax: XXXXXXXXX  
a Corporation \_\_\_(State)\_\_\_; Partnership\_\_\_;  
Joint Venture \_\_\_; Sole Proprietorship \_\_\_;

## RECITALS

On or about May 14<sup>th</sup>,2013, ICON WEST, INC, (“Contractor”) entered into a Prime Contract with (Owner) **UCLA Contracts Administration, 1060 Veteran Avenue, Box 951365, University of California, Los Angeles Ca 90095-1365,** for the construction of **:UCLA – HITCH SUITES RENOVATION, Los Angeles Campus, Los Angeles County, Los Angeles Ca 90095, Order No. 9910 Z QB324** (hereinafter “Project”) located in **XXXXXXXXXXXXXXXX** in accordance with the plans and specifications prepared for Owner by **STEINBERG ARCHITECTS, XXXXXXXXXXXXXXXXXXXX** hereinafter “Designer”).

Subcontractor desires to perform a portion of such Prime Contract (hereinafter “Work”) as described more fully below.

**It is agreed as follows:**

### ARTICLE 1: ENTIRE CONTRACT

The phrase "Contract Documents" is defined to mean the plans, specifications and other contract documents attached to or incorporated into the Prime Contract and any changes subsequently incorporated into this Subcontract. Subcontractor certifies that it is fully familiar with all of the terms of the Contract Documents, the location of the job site, and the conditions under which the Work is to be performed and that it enters into this Subcontract based upon its investigation of all such matters and is not relying on any opinions or representations of Contractor. This Subcontract represents the entire agreement between Contractor and Subcontractor, and supersedes any prior oral or written agreements or representations. Further, any provisions of Subcontractor’s bid proposal that are not expressly stated in Attachment C herein are agreed to be superseded by the terms of this Agreement, and therefore void. Contract Documents are incorporated in this Subcontract by reference, and insofar as they relate in any way, directly or indirectly, to the Work covered by this Subcontract. 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.

### ARTICLE 2: SCOPE

Subcontractor agrees to furnish all supervision, labor, materials, tools, equipment, supplies and other facilities required for the prompt and efficient execution of the complete scope of its Work for the project in accordance with the Contract Documents and as more particularly specified in Attachment C. 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 14 of the Subcontract General Provisions.

### ARTICLE 3: CONTRACT PRICE

Contractor agrees to pay Subcontractor for the strict performance of its Work the sum of: **(XXXXXXXXXXXXXXXXXXXX)** as set out in Attachment C, adjusted as required for differences between estimated and actual quantities for unit price work items, and subject to additions and deductions for changes in the work as may be directed in writing by Contractor per the Subcontract General Provisions. Payment shall be made per Section 1 of the Subcontract General Provisions and Contractor shall withhold retention of \_\_\_\_\_% of any progress payments as retainage until Final Payment by the Owner.



**ARTICLE 4: ATTACHMENTS**

The following are attached hereto and are made a part of this Agreement.

- A. Subcontract General Provisions
- B. Subcontract Special Provisions
- C. Schedule of Quantities, Unit Prices and Scope of Work
- D. Public Works Attachment
- E. W-9 Form (4 pages)
- F. Subcontractor E.E.O. Requirements (6 pages)
- G. Prevailing Wage and Labor Code Sections
- H. Equal Employment Opportunity Compliance Certificate Form F-10 (Pages 1-4 of 4)
- I. Fall Protection Certification (1 page)
- J. Subcontractor Safety Requirements (Pages 1-2 of 2)

**Contractors are required by law to be licensed and regulated by the Contractor's 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.**

**It is understood and agreed that modifications by the Subcontractor may not be made to this Agreement or any of the Attachments without the express prior written approval of Contractor. In the event of alteration or modifications by the Subcontractor to this Subcontract Agreement, Contractor shall be under no obligation to ratify such alteration or modification of the Subcontract Agreement.**

**IN WITNESS WHEREOF**, the parties hereto have executed this Subcontract by their proper officers or duly authorized agents for themselves, their heirs, executors, successors, administrators, and assignees.

**CONTRACTOR:**

**SUBCONTRACTOR:**

**ICON WEST, INC.**

**XXXXXXXXXXXXXXXXXXXXXXXXXXXX**

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Signature)

\_\_\_\_\_ BERNARD ASHKAR \_\_\_\_\_  
(Type or Print Name)

\_\_\_\_\_  
(Type or Print Name)

\_\_\_\_\_ Chief Executive Officer \_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Contractor's License No. \_\_\_\_\_ 747737 \_\_\_\_\_

Contractor's License No. \_\_\_\_\_ XXXXXXX \_\_\_\_\_

D.B.E. Certification No. \_\_\_\_\_

IWI Initial: \_\_\_\_\_

Sub Initial: \_\_\_\_\_

**ATTACHMENT A**  
**SUBCONTRACT GENERAL PROVISIONS**

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**SECTION 1: PAYMENTS**

(a) Contractor agrees to pay to Subcontractor in monthly progress payments per the Subcontract for labor, materials which have been placed in position, and stored materials if permitted, with funds received by Contractor from Owner for work performed by Subcontractor as reflected in Contractor's applications for payment, less retention as set forth in Article Three, or subdivision (f) of this Section. Such monthly progress payments shall be made seven (7) days after receipt of payment from the Owner by Contractor. After the entire work required by the Prime Contract has been fully completed in conformity with the Contract Documents and has been delivered to and accepted by Owner, Architect or Engineer, Final Payment to Subcontractor shall be made within seven (7) days after the Contractor has received payment from the Owner. **Subcontractor agrees to furnish, if and when required by Contractor, payroll affidavits, receipts, vouchers, releases of claims for labor and material as required by subdivision (g) herein, and agrees to furnish same from its subcontractors, suppliers and or materialmen performing work or furnishing materials under this Subcontract, all in 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.** Upon Subcontractor's failure to provide such documentation, Contractor, at its option, may make any payment due hereunder by check made payable jointly to Subcontractor and its subcontractors, suppliers and/or materialmen who have performed work or furnished materials under this Subcontract. Any payment made hereunder prior to completion and acceptance of the Work, as referred to in the Subcontract, shall not be construed as evidence of acceptance or acknowledgement of completion of any part of Subcontractor's Work.

(b) If the Contractor receives payment from the Owner for less than the full value of materials delivered to the site but not yet incorporated into the work (stored materials), the amount due to the Subcontractor on account of such stored materials shall be proportionally reduced.

(c) If owner or other responsible party delays making 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 according to the relevant circumstances, but in no event shall be less than the time Contractor, Contractor's sureties, and Subcontractor require to pursue to conclusion their legal remedies against Owner or other responsible party to obtain payment including (but not limited to) mechanics' lien remedies, stop notice remedies or breach of contract remedies.

(d) Subcontractor's timely submission of schedule information and updates, as well as, submittal information as called out in the Subcontract General Provisions and Subcontract Special Provisions, is a condition precedent for the payment of progress payments by Contractor.

(e) No payments will be made under this Subcontract until the Subcontract Agreement and all related documents have been executed by both the Subcontractor and Contractor.

(f) Contractor is authorized to withhold retention from Subcontractor in the same percentage as retention is held from Contractor by Owner. In the absence of any provision for retention to be withheld by the Owner, Contractor may withhold retention from Subcontractor of ten percent (10%) of each progress payment until thirty-five days following the recording of a Notice of Completion of the Project, or until the payment by Owner to Contractor of all payments relating to Subcontractor's portion of the work.

(g) No payment will be made by Contractor to Subcontractor until Subcontractor has provided to Contractor properly executed lien releases on forms approved by Contractor and its counsel for itself and all material suppliers and sub-tier subcontractors providing labor and material to Subcontractor. In accordance with California *Civil Code* sections 8120-8138, the releases will acknowledge payment in full for all work, equipment, or materials supplied to the project through Contractor's last payment to Subcontractor, and will unconditionally release all mechanic's lien, stop notice or payment bond claims for said prior payments; in addition, Subcontractor must supply Conditional Releases upon Progress Payment (or upon final payment, if applicable), along with each application for payment, which shall release all mechanic's lien, stop notice or payment bond claims through the cut-off date of the application for payment, upon payment by Contractor to Subcontractor. Subcontractor will further supply, if Contractor requests, as a condition to each progress payment, evidence in the form of invoices and canceled checks to show that all such payments have been made.

**SECTION 2: TIME**

(a) Time is of the essence of this Subcontract. Subcontractor shall provide Contractor with scheduling information, including all required resources and other information as may be required, and a proposed schedule for performance of its Work in a form acceptable to Contractor. Subcontractor shall also provide information and assist Contractor in any required schedule updates.

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 without delaying or hindering Contractor's work or the work of other contractors or subcontractors. Subcontractor shall coordinate the Work covered by this Subcontract with that of all other contractors, subcontractors, suppliers and/or materialmen 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 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 Project.

(b) Should Subcontractor be delayed in the prosecution or completion of the work by the act, neglect or default of Owner, Architect or Engineer, 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 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 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.

(c) 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 Subcontract, 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, Subcontractor 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, including actual attorneys' fees, to the extent that said claim is made by Contractor at the request of Subcontractor.

(d) If Subcontractor should default in performance of the Work described in the Subcontract 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 and liquidated damages, sustained by Contractor itself, as well as any damages or claims for which Contractor may be liable to Owner or any other party because of Subcontractor's delay or default.

**SECTION 3: SUBCONTRACTOR'S OBLIGATIONS REGARDING SCOPE OF WORK**

(a) Subcontractor will perform for Contractor all of the obligations that Contractor is required to perform for Owner on the project, to the extent that such obligations relate to Subcontractor's work or are customarily performed by Subcontractor's trade. In the event of disagreement between Subcontractor and Contractor or any other subcontractor as to the portions of the work required to be performed by Subcontractor, Contractor will give due consideration to the contentions of all subcontractors. The orders of Contractor shall be followed and the decision of Contractor shall be final.

(b) By executing or accepting any of this Agreement, Subcontractor represents that Subcontractor has made a thorough examination of the contract between Contractor and Owner, any other document within the Contract Documents including all pages within the Plans and Specifications and not only the portions identified in Attachment C, and the jobsite, and has located and allowed for all conditions, including concealed conditions, that might be encountered in the performance of the work. Subcontractor has taken such conditions into account in arriving at the Subcontract price. No additional compensation or extension of time shall be allowed because of concealed or unforeseen conditions about the jobsite unless the Owner allows for additional compensation to Contractor for said conditions pursuant to a Change Order.

(c) Subcontractor shall not deviate from specified materials and equipment without the written consent of Contractor. In the absence of a specification as to the required material or equipment, all building materials to be installed or used on the Project are to be of construction grade or higher quality, and must meet all building codes in force that govern the project. Any materials on plans, or specifications that Subcontractor deems are not usable for the application must be brought to the attention of Contractor.

(d) In the event that Owner or Contractor shall suspend the prosecution of the project, Subcontractor will promptly demobilize, and will hold itself in readiness to resume operations when ordered to do so by Contractor. Subcontractor shall not be entitled to any

additional compensation or time to perform (other than the period of suspension) unless Subcontractor follows the claims procedures of this Subcontract Agreement.

(e) Subcontractor represents that they are properly licensed to perform their work on this Project, and will remain so until the completion of work. Subcontractor represents that its sub-subcontractors, if any, are likewise properly licensed, and will likewise remain so.

(f) Subcontractor shall not accept any extra work requests or other directions directly from Owner, but will instead refer such direction or requests to Contractor for Contractor’s written direction. Contractor shall not be responsible to Subcontractor for any such requests performed by Subcontractor without Contractor’s written authorization.

**SECTION 4: CHANGES IN THE WORK**

(a) Subcontractor shall make any and all changes in the Work described in the Contract Documents and this Subcontract as directed by Contractor in writing. Such change or written direction shall not invalidate this Subcontract. Changes may include any kind of addition, deletion, or modification of scope, for any purpose, and regardless whether added work changes the existing design or adds an entirely new element to the Work.

(b) If necessary, the Contract Price stated in Article 3 of the Subcontract Agreement and the time for Subcontractor's performance shall be adjusted by appropriate additions or deductions mutually agreed upon before 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 in a format acceptable to Contractor and Owner. If Contractor and Subcontractor cannot agree on the amount of the addition or deletion, Subcontractor shall nonetheless timely 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.

(c) Payment for changed work shall be made in accordance with Section 1, Payment Schedule.

(d) No change, alteration, or modification to or deviation from this Subcontract, the Contract Documents, Prime Contract, plans, or specifications, whether made in the manner provided in this Section 4 or not, shall release or exonerate, in whole or in part, any bond or any surety on any bond given in connection with this Subcontract, and no notice is required to be given to such surety of any such change, alteration, modification, or deviation.

(e) As an exception to the foregoing, in the event Contractor is directed by the Owner or Owner’s representative to perform work or additional work (a “Work Directive”), Contractor may direct Subcontractor to immediately perform said work in the absence of a written Change Order.

(f) Subcontractor expressly agrees that the work performed by Subcontractor under a Change Order or a Work Directive shall be paid in proportion to what Contractor is paid by the Owner for said work, and in the event the Owner pays less than what Contractor and/or Subcontractor contend is the value of the additional work performed under the Change Order or Work Directive, then Subcontractor expressly agrees to: (1) accept the proportion of the amount paid by the Owner for the work attributable to Subcontractor’s efforts, with Contractor being solely responsible to prorate the amount among the various trades contributing to the work under the Change Order or Work Directive, or (2) if litigation or a claim is made to the Owner by Contractor for unpaid money under the Change Order or Work Directive, Subcontractor hereby assigns to Contractor, the right to prosecute the claim on behalf of Subcontractor and seek compensation for Subcontractor’s claim for work performed under the Change Order or Work Directive, to be adjudicated or litigated along with Contractor’s claim against the Owner for said work, in which case, Subcontractor’s recovery shall be reduced by the reasonable and proportionate share of the litigation costs to Contractor in pursuing the Claim.

**SECTION 5: CLAIMS**

(a) If any dispute shall arise between Contractor and Subcontractor regarding performance of the Work, or any alleged change in the Work or extra Work, Subcontractor shall timely perform the disputed Work and shall give prompt written notice to Contractor of a claim for additional compensation for the Work prior to commencement of the disputed Work. Subcontractor's failure to give written notice prior to commencement constitutes an agreement by Subcontractor that it will receive no extra compensation for the disputed Work. Such notice shall be given in full compliance with any Notice provisions contained in the Prime Contract in order to allow the Contractor sufficient time to comply with any notice requirements to Owner in the Prime Contract. In addition, Subcontractor shall submit its written claim for additional compensation for that Work within ten (10) days, or less if required by the Prime Contract, after such Work is performed in sufficient detail for Contractor to make an evaluation of the merits of the claim.

(b) 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 or changed work, Contractor will present the Subcontractor's claim to the Owner or other responsible party. 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. Contractor's sole obligation to Subcontractor on account of any such claims shall be limited to amounts, if any, received by Contractor from Owner for any such claims.

**SECTION 6: BONDING OF SUBCONTRACTOR**

(a) Concurrently with the execution of this Subcontract, Subcontractor shall, execute a Payment (labor and material) Bond and a Performance Bond, each in an amount equal to one hundred percent (100%) of the Subcontract 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 invoiced premium on said bonds unless the advertisement for bids required that the bonds be included in the Subcontract Price, as otherwise provided herein or in the Contract Documents.

(b) Subcontractor shall not begin work on the site until a satisfactory bond has been accepted by Contractor.

(c) The furnishing of said bond by Subcontractor is a condition precedent to Subcontractor's right to receive progress payment for any Work performed. The waiver of progress payment shall not be excuse or reason for nonperformance of this Subcontract by Subcontractor.

(d) Further, in the event that Contractor waives the bond requirement for Subcontractor in writing, Subcontractor shall, at any time, if requested by Contractor furnish a current financial statement. In the event that a Subcontractor bond is waived in writing by Contractor, Subcontractor's RMO, principal or officer signing this Subcontract Agreement guarantees the faithful performance of Subcontractor's work under the Agreement.

**SECTION 7: LIENS, STOP NOTICES, BOND CLAIMS**

(a) In case suit is brought or any claim, stop notice or lien is filed for labor performed or materials used on or furnished to the project by Subcontractor or any of its subcontractors or suppliers, Subcontractor agrees within ten (10) days after written demand from Contractor to cause the effect of any such suit, claim, stop notice or lien to be removed. **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 suit, claim, stop notice or lien to be removed or dismissed and the cost thereof, together with actual attorneys' fees and costs, shall be immediately due and payable to Contractor by Subcontractor.** Subcontractor may litigate any such suit, claim, stop notice or lien provided it causes the effect thereof to be removed by the posting of a surety bond issued by a surety acceptable to Owner and Contractor or a Court, as the case may be, as may be necessary to cause Owner not to withhold any monies due to Contractor from Owner by reason of such suit, claim, stop notice or lien.

(b) It is understood and agreed that the full and faithful performance of this Subcontract on the part of Subcontractor (including the payment of any obligations due from the Subcontractor to Contractor, and any amounts due to labor or materialmen furnishing labor or material for said Work) is a condition precedent to Subcontractor's right to receive payment for the Work performed, and any monies paid by Contractor to Subcontractor under the terms of this Subcontract shall be impressed with a trust in favor of labor and materialmen furnishing labor and material to Subcontractor on the Work herein subcontracted.

**SECTION 8: PROVISIONS FOR INSPECTION**

Subcontractor shall at all times furnish to Contractor and/or Owner and their 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 materialmen where materials under this Subcontract 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 Subcontract 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, including, but not limited to, any plans, drawings or diagrams in the course of preparation.

Unless otherwise stated in Attachment C, Subcontractor will pay all fees incurred for permits, inspection and testing of Subcontractor's work. Subcontractor will, at Subcontractor's own expense, make all portions of the work easily accessible to inspectors and testing agencies, and will, if necessary, at Subcontractor's own expense, remove any portions of the work that needs to be removed in order to facilitate inspection and testing.

**SECTION 9: MATERIALS AND WORK FURNISHED BY OTHERS**

(a) 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 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 insure a satisfactory completion of the work.

(b) Subcontractor will cut, patch, and adjust its work so as to properly join with and fit the work of Contractor and other subcontractors.

(c) Failure on Subcontractor's part to detect and give timely written notice to Contractor of expenses or damages which would result to Subcontractor's Work from any use of materials or equipment furnished by others or discrepancies in work done by others shall constitute acceptance of such work as fit and proper to receive Subcontractor's Work. Subcontractor shall reimburse Contractor for the entire cost and expense suffered by Contractor in connection therewith, except for damages caused by latent defects in the work or materials furnished by others.

**SECTION 10: PROTECTION OF WORK**

(a) Subcontractor shall secure and protect the Work done hereunder and assume full responsibility for the condition thereof until final acceptance by Architect or Engineer, Owner and Contractor. Subcontractor further agrees to provide such protection as is necessary to protect the work and the workmen of Contractor, Owner and other subcontractors from its operations.

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

**SECTION 11: LABOR RELATIONS**

(a) Subcontractor shall keep a representative acceptable to Contractor at the job site during all times when Subcontractor's Work is in progress, 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 in writing 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.

(b) Subcontractor agrees to be bound and to comply with all the terms and conditions of the labor agreements listed in the Subcontract Special Provisions to the same degree and extent as if Subcontractor were a party to those agreements, including payments into the employee benefit trust funds required by the labor agreements, and including Subcontractor's submission to, and Subcontractor's compliance with, the arbitration and other dispute resolution requirements of the labor agreements. Subcontractor agrees to comply with the terms and provisions 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.

(c) Subcontractor acknowledges that terms and conditions of the labor agreements with the unions listed in the Subcontract Special Provisions may require that Subcontractor comply with additional labor agreements with unions affiliated with the AFL-CIO but not listed. When the terms and conditions of said 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.

(d) Should there be picketing on Contractor's job site and Contractor establishes a reserved gate for Subcontractor's use, it shall be the obligation of Subcontractor to properly use such gate and to continue the proper performance of its Work without interruption or delay.

(e) Subcontractor further promises and agrees that it will bind and require all of its subcontractors and their subcontractors performing jobsite Work of the type covered by any of the labor agreements listed in the Subcontract Special Provisions to agree to all of the foregoing promises and undertakings, to the same effect as herein provided with respect to it.

(f) 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 insuring that its 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 subcontractors or material suppliers is a material breach of this Subcontract 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.

(g) 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.

(h) Upon request or if required by the Prime Contract, Subcontractor shall submit certified payroll records to Contractor no later than three (3) working days after labor has been paid. Proper and timely submission of certified payroll records is a condition precedent for the payment of progress payments by Contractor. **Upon a request by the Owner, Contractor, or the Department of Labor, Subcontractor shall provide backup for its payroll, which includes its timecards and copies of the payroll checks that are referenced in the certified payroll documentation. By the 10<sup>th</sup> day of each month, Subcontractor shall provide all union or other fringe benefits statements, and proof of payment of said fringe benefits, training fund contributions and any other payments required by any Labor Relations Agreement or PSA with jurisdiction over the Project or over Subcontractor.**

(i) Subcontractor understands and agrees that Contractor may:

(1) 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 Subcontractor, which shall be provided to Contractor with each Request for Payment.

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

(3) Prior to making final payment to Subcontractor for work performed on the public works project, Contractor shall obtain, and Subcontractor shall provide, an affidavit signed under penalty of perjury from Subcontractor that 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 Labor Code section 1813. Subcontractor shall provide proof required by subdivision "i herein prior to final payments being made.

(j) It is understood that the following conditions precedent to payment by Contractor to Subcontractor apply to all agreements between the parties:

(1) Receipt of certified payrolls from Subcontractor and all of its sub-subcontractors of every tier shall be an express condition precedent to any payment by Contractor, as well as proof of payment as required under Subdivision "i" herein; and

(2) Subcontractor agrees to impose these same requirements for receipt of certified payrolls on all sub-subcontractors of every tier it contracts with, and to incorporate this Addendum into its sub-subcontracts, and shall make receipt of certified payroll from its sub-subcontractors a condition precedent to those sub-subcontractors' payment.

**SECTION 12: DEFAULT AND RECOURSE BY CONTRACTOR**

**12.1 Failure of Performance**

(a) 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 five (5) days of the demand such assurance of due performance as is adequate under the circumstances of the particular case is a default under the Notice to Cure provision listed below.

(b) Notice to Cure: If Subcontractor at any time refuses or neglects to supply enough properly skilled workers and proper materials and/or equipment, or fails to properly and diligently prosecute the Work covered by this Subcontract, or fails to make prompt payment to its workers, its 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 Right to Adequate Assurance listed above, or is otherwise guilty of a material breach of a provision of this Subcontract, 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, then Contractor, without prejudice to any rights or remedies, shall have the right to any or all of the following remedies:

(1) supply such number of workers and quantity of materials, equipment and other facilities as Contractor deems necessary



for completion of Subcontractor's Work or any part thereof which Subcontractor has failed to complete or perform, and charge the cost thereof, including supervision, to Subcontractor, who shall be liable for the payment of same to Contractor, including reasonable profit, and actual attorneys' fees and costs incurred as a result of Subcontractor's failure of performance;

- (2) contract with one or more additional subcontractors 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
- (3) 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.

(c) 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 Notice to Cure, then Contractor may terminate Subcontractor's right to perform under this Subcontract in whole or in part and use any materials, implements, equipment, appliances or tools furnished by or belonging to Subcontractor to complete Subcontractor's Work without any further compensation to Subcontractor for such use. Contractor also may 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 markup of fifteen percent (15%) for overhead and profit on such expenses, plus actual attorneys' fees as provided above, shall be deducted from any monies due or to become due to Subcontractor. Subcontractor shall be liable to Contractor for the payment of any amount by which such expenses may exceed the unpaid balance of the Contract Price. Any delay or time impact caused by the default of Subcontractor shall be paid by Subcontractor to Contractor or deducted from unpaid sums due to Subcontractor after all other offsets have been deducted.

(d) Termination for Convenience: Contractor may at any time and for any reason terminate Subcontractor's services and Work in whole or in part 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 Subcontract, 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 the Subcontract only as follows: (i) the actual cost of the Work completed in conformity with this Subcontract, plus (ii) such other costs actually incurred by Subcontractor as are permitted by the Prime Contract and approved by Owner, plus (iii) fifteen percent (15%) of the cost of the work referred to in item (i) above for overhead and profit. 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 Subcontract. 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 against Contractor or Owner for any additional compensation or damages in the event of such termination and payment.

(e) Grounds for Withholding Payment: Contractor may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment to the extent necessary to protect Contractor from loss, including costs and actual attorneys' fees, on account of (i) defective work not remedied; (ii) claims filed or reasonable evidence indicating probable filing of claim; (iii) failure of Subcontractor to make payments properly to its subcontractors or for material, labor or fringe benefits; (iv) a reasonable doubt that this Subcontract can be completed for the balance then unpaid; (v) damage to Contractor or another subcontractor; (vi) penalties assessed against Contractor or Subcontractor for failure of Subcontractor to comply with state, federal or local laws and regulations; or (vii) any other ground for withholding payment allowed by state or federal law, or as otherwise provided in this Subcontract. When the above matters are rectified, such amounts as then due and owing shall be paid or credited to Subcontractor.

(f) **Backcharges:** Subcontractor will promptly pay Contractor for any damage or loss that Contractor may sustain as a result of Subcontractor’s performance or failure of performance. If Subcontractor is performing more than one project for Contractor, Contractor may withhold payment on any project because of backcharges assessed on any other project.

**12.2 Bankruptcy or Receivership of Subcontractor**

(a) **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 act of insolvency, Subcontractor shall be deemed in default of the Subcontract and Contractor may, absent any applicable legal limitation, terminate this Subcontract upon giving forty-eight (48) hours written notice, by certified mail, to Subcontractor, its trustee, and its surety, if any. At Contractor’s sole option, Contractor may consent to the further performance of this Subcontract provided, the Subcontractor, the surety, or the trustee:

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

In the event the Subcontractor, or its trustee, or a Receiver of any kind attempts to assume and assign this Subcontract (despite the provisions of Section 18, Assignment of Contract), it is agreed that any court imposed assignee must assume and be subject to all obligations under this Subcontract.

(b) **Interim Remedies:** Pending Contractor’s decision to allow Subcontractor to continue performance under this Subcontract, if in Contractor’s opinion 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 may avail itself of such remedies under this Section as are reasonably necessary to maintain the schedule of 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 attorneys' fees and 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 13: INDEMNIFICATION**

**13.1 Subcontractor's Performance**

With the exception that this Section 13 shall in no event be construed to require indemnification by Subcontractor to a greater extent than permitted under the public policy of the State of California, Subcontractor shall indemnify and save harmless Owner and Contractor, and any others required by the Prime Contract, including their officers, agents, employees, affiliates, parents and subsidiaries, and each of them, of and from any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, losses or liabilities, in law or in equity, of every kind and nature whatsoever ("Claims") arising out of or in connection with Subcontractor's Scope of Work to be performed under this Subcontract for, but not limited to:

- (a) Personal injury, including, but not limited to, bodily injury, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Subcontractor, Owner, Contractor, or any other subcontractor and/or damage to property of anyone (including loss of use thereof), caused or alleged to be caused in whole or in part by any act or omission of Subcontractor or anyone directly or indirectly employed by Subcontractor or anyone for whose acts Subcontractor may be liable regardless of whether such personal injury or damage is caused by a party indemnified hereunder.
- (b) Penalties imposed on account of the violation of any law, order, citation, rule, regulation, standard, ordinance or statute, caused by the action or inaction of Subcontractor.
- (c) Infringement of any patent rights which may be brought against the Contractor or Owner arising out Subcontractor's work.
- (d) Claims and liens (see Section 7) for labor performed or materials used or furnished to be used on the project, including all incidental or consequential damages resulting to Contractor or Owner from such claims or liens.

(e) Subcontractor's failure to fulfill the covenants set forth in each subpart of Section 11, Labor Relations, or the Public Works Attachment, including any obligations under the Labor Code.

(f) Failure of Subcontractor to comply with the provisions of Section 14. 1, Casualty Insurance.

(g) Any violation or infraction by Subcontractor of any law, order, citation, rule, regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, including, but not limited to, the use of Contractor's or others' equipment, hoists, elevators, or scaffolds (see Sections 14, Insurance, and 19, Use of Contractor's Equipment).

Unless restricted by statute, the indemnification provisions of (a) through (g) above shall extend to Claims occurring after this Subcontract is terminated as well as while it is in force. Such indemnity provisions apply regardless of any active and/or passive negligent act or omission of Owner or Contractor or their agents or employees. Subcontractor, however, shall not be obligated under this Subcontract to indemnify Owner or Contractor for Claims arising from the sole negligence or willful misconduct of Contractor or their agents, employees or independent contractors who are directly responsible to Contractor, or for defects in design furnished by such persons. The indemnity set forth in this Section 13 shall not be limited by insurance requirements or by any other provision of this Subcontract.

Notwithstanding the foregoing, in the event that the indemnity obligations imposed herein upon Subcontractor is limited by Civil Code section 2782 et seq, or any other laws, the parties agree that Subcontractor's obligations to indemnify and defend Contractor shall be no greater than that allowed under California law. It is agreed that Subcontractor shall indemnify and defend Contractor to the fullest extent allowed under the law, but that in the event that Legislation should conflict with the indemnity obligations herein, then the parties desire that said provision be modified consistent with the law, and in that instance, the Subcontractor shall only indemnify and defend Contractor to the extent that the harm that forms the basis of the claim was caused by Subcontractor, its agents or independent contractors.. It is the intent of the parties that unless excluded by law, Subcontractor shall defend Contractor for any claims asserted that relate to Subcontractor's Work under this Agreement. To the extent that the claims are proven in favor of Subcontractor and any law requires reimbursement for the costs of defending the claim, then said reimbursement shall be made in accordance with the applicable statute. In any action, including a declaratory relief action, the court or arbitrator are empowered to strike any offensive portions of the indemnity provision and give full force and effect to the desire of the parties that subcontractor indemnify and defend Contractor to the fullest extent allowed under the law.

**13.2 Subcontractor shall:**

- (a) At Subcontractor's own cost, expense and risk, defend all Claims as defined in Section 13.1 that may be brought or instituted by third persons, including, but not limited to, governmental agencies or employees of Subcontractor, against Contractor or Owner or their agents or employees or any of them;
- (b) Pay and satisfy any judgment or decree that may be rendered against Contractor or Owner or their agents or employees, or any of them, arising out of any such Claim; and/or
- (c) Reimburse Contractor or Owner or their agents or employees for any and all legal expense incurred by any of them in connection herewith or in enforcing the indemnity granted in this Section 13.

**13.3 Risk of Loss:**

All Work covered by this Subcontract done at the site or in preparing or delivering materials or equipment, or any or all of them, to the site shall be at the risk of Subcontractor exclusively until the completed work is accepted by Contractor.

**SECTION 14: INSURANCE**

**14.1 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

- (a) 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

- (b) 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

- (a) Subcontractor shall carry primary Commercial General Liability insurance (Insurance Services Office, Form CG 00 01 or equivalent) covering all operations by or on behalf of Subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated below and including but not limited to coverage for:
- premises and operations
  - products and completed operations
  - contractual liability
  - broad form property damage (including completed operations)
  - explosion, collapse and underground hazards (including subsidence and any other earth movement)
  - personal injury liability
  - independent contractors
- (b) The limits of liability shall be not less than the amounts required of Subcontractor under the Contract Documents, but in no event less than:
- \$1,000,000 each occurrence (combined single limit for bodily injury and property damage)
  - \$1,000,000 for personal injury liability
  - \$2,000,000 aggregate for products-completed operations
  - \$2,000,000 general aggregate
- (c) The general aggregate limit shall apply separately to Subcontractor's Work under this Subcontract. For subcontracts in excess of \$250,000 an additional \$5,000,000 Excess Liability Insurance policy shall be maintained over the General Liability coverage. Such Excess coverage shall, at a minimum, include the items set forth in (a) above. Higher limits of liability may be required for hazardous work. Any such requirement is set forth in the Subcontract Special Provisions.
- (d) In addition Subcontractor shall maintain primary and excess products liability and completed operations coverage through the expiration of the patent deficiency in construction statute of repose set forth in Section 337.1 of the California Code of Civil Procedure.
- (e) Contractor, its officers, directors and employees, Owner, and any other interested parties as designated by Contractor or the Prime Contract shall be named as additional insureds under the Commercial General Liability Policy and such insurance afforded the additional insureds shall apply as primary insurance. Any other insurance maintained by Contractor or Owner shall be excess insurance and not be called upon to contribute with this insurance. Coverage for the Contractor, its officers, directors and employees, the Owner, and others as additional insureds shall be provided by endorsements providing coverage at least as broad as Insurance Services Office, Additional Insured Endorsement Forms CG 20 10 10/01 and GC 20 37 10/01, or similar forms with equivalent wording as approved in writing by Contractor. The duty to provide such additional insured coverage is independent of the defense and indemnity obligations set forth in Section 13, Indemnification.
- (f) Subcontractor shall ensure that its subcontractors of every tier also carry insurance with the limits of liability specified above. Contractor may require written proof that the requisite insurance is being carried. Such written proof shall be furnished to Contractor within ten (10) days after such request has been made. Contractor may also require that the sub-subcontractor name Contractor and Owner as additional insureds. Such naming shall be provided at no additional cost or expense to Contractor or Owner.

Claims Made/Self Insurance Provisions

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

occurrence requires the express written consent of Contractor.

Automobile Liability Insurance

Subcontractor shall carry automobile liability insurance, including coverage for all owned, hired and nonowned vehicles. The limits of liability shall be not less than \$ 1,000,000 combined single limit each accident for bodily injury and property damage.

Insurance Provisions

- (a) Certificates of insurance, as evidence of the insurance required by this Contract and including the required "additional insured" endorsements shall be furnished by Subcontractor to Contractor. Certificates shall set forth deductible amounts in excess of \$5,000 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 and/or selfinsured retentions of up to \$25,000 if Subcontractor is willing to post security, guaranteeing payment of losses and defense expenses for a period of one year after the project is completed. Standard ISO Form CG 00 01 exclusions will also be allowed. Allowance of any additional exclusions or coverage limiting endorsements is at the discretion of the Contractor.
- (b) Regardless of the consent to exclusions, coverage limitations or deductibles by the Contractor, the Subcontractor shall be responsible for any deductible amount or any loss arising out of coverage denials by his insurance carrier(s).
- (c) Subcontractor's certificates of insurance shall provide that there will be no cancellation or reduction of coverage without an unqualified, thirty (30) day, prior written notice to Contractor.
- (d) Contractor may take whatever actions are necessary to assure Subcontractor's compliance with its obligations under this section of the Subcontract. Should any insurance policy lapse or be canceled during the period of this Subcontract, the 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 the insurance requirements herein is a material breach of this Subcontract. In the event Subcontractor fails to maintain any part of the insurance coverage required, Contractor may, but is not required to, maintain such coverage and charge the expense to Subcontractor or may pursue its remedies under Section 14, Default and Recourse by Contractor.
- (e) Any acceptance of insurance certificates by Contractor shall in no way limit or relieve Subcontractor of its duties and responsibilities under this Subcontract including the duty to indemnify and hold harmless Contractor as set forth in Section 13, Indemnification.
- (f) 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 are available to it under any other provision of this Subcontract or by law. If higher limits or other forms of insurance are required in the Contract Documents, Subcontractor will comply with such requirements.
- (g) Subcontractor shall not begin work on the site until satisfactory insurance certificates have been accepted by Contractor. Progress payments will not be made if satisfactory, up-to-date certificates have not been received by Contractor.

**14.2 Property Insurance**

Waiver of Subrogation

Contractor and Subcontractor waive all rights against each other and against all other subcontractors and Owner for loss or damage to the extent reimbursed by any property or equipment 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.

Builder's Risk

If such insurance is provided, it shall also apply to any of Owner's or Contractor's property in the care, custody or control of

Subcontractor. In such event, Subcontractor shall be responsible for the first \$5,000 of insurance policy deductible amount applicable to damage to Subcontractor's Work and/or damage to other work caused by Subcontractor. In the event Owner is not required to purchase such Builder's Risk coverage, the extent of Builders Risk or other property insurance available to Subcontractor (if any) will be specified in Subcontract Special Provisions.

All-Risk Insurance

In addition Subcontractor shall maintain in full force and effect "All Risk Insurance" for all equipment, and property obtained by or for Subcontractor which is to become a part of the Work while such equipment and property is stored at the jobsite, at temporary locations, or while in transit to the project from such temporary locations. Subcontractor shall also be responsible for insuring Subcontractor's owned, rented or borrowed equipment.

**14.3 Non-Waiver**

Receipt by Contractor of any certificate of insurance or additional insured endorsement which does not comply with any provisions of this Section 14 shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Subcontract.

**SECTION 15: DISPUTE RESOLUTION PROCEDURE**

(a) Preliminary Dispute Resolution Procedure and Agreement to Arbitrate

(1) Disputes Under Prime Contract: Any dispute resolution procedure in the Prime Contract shall be deemed incorporated in this Subcontract 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, and those which have been waived by the making or acceptance of Final Payment. 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 Subcontract, to pay to Subcontractor the proportionate part of any sums paid by the Owner to which Subcontractor is entitled.

(2) Settlement Negotiations: Subject to Prime Contract dispute resolution procedures under Paragraph 15(a) above, 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 15, 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 mediation or other similar procedures.

(b) 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:

(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 Subcontract and shall conform to the requirements of the arbitration provision set forth in the Prime Contract. For claims not involving the acts or omission 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 binding arbitration in accordance with the Construction Industry Rules of the American Arbitration Association. 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 institution of legal or equitable proceedings based on such claim dispute or other matter in question would be barred by the applicable statute of limitations.

(2) Fees and Costs. Except as limited by Section 22(b) below, the Arbitrator shall award the prevailing party all of its attorneys fees, expert's costs (regardless of whether a Statutory Offer pursuant to Code of Civil Procedure section 998 was

served), costs for preparation and transmittal of exhibits, costs of the arbitration including the arbitrator's and tribunal's fees, parking fees, in addition to any other costs allowed under the applicable Construction Industry Rules. In addition, the Arbitrator may award any other costs the Arbitrator believes were reasonably incurred in the arbitration, including travel, parking, facsimile and overnight charges, copy costs, or other such expenses incurred by the prevailing party.

(3) 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.

(c) Work Continuation and Payment: Unless otherwise agreed in writing, Subcontractor shall carry on the Work and maintain the schedule of work pending any arbitration or litigation, and if so, Contractor shall continue to make payments in accordance with this Subcontract.

(d) Consolidated Arbitration Proceedings: To the extent not prohibited by their contracts with others, the claims and disputes of Owner, Contractor, Subcontractor and other subcontractors, suppliers and/or materialmen 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 Subcontract. Should Contractor enter into arbitration with the Owner or others regarding matters relating to this Subcontract, Subcontractor shall be bound by the result of the arbitration to the same degree as the Contractor.

**SECTION 16: COMPLIANCE WITH ALL LAWS AND SAFETY PRACTICES**

(a) Subcontractor shall comply fully with all laws, orders, citations, rules, regulations, standards and statutes affecting or relating to this Subcontract 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.

(b) 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 and for 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. Subcontractor shall directly receive, respond to, and be responsible for all citations, assessments, fines or penalties which may be incurred by reason of its failures on the part of its agents, employees, materialmen or subcontractors to so comply.

(c) Subcontractor shall pay any attorneys' fees and costs, consultants' fees or expert witness fees incurred by Contractor on account of any violation or asserted violation by Subcontractor.

**SECTION 17: WARRANTY**

(a) Subcontractor warrants to Owner and Contractor that all materials and equipment furnished shall be new unless otherwise specified and that all Work under this Subcontract shall be performed in a good and workmanlike manner, shall be of good quality, free from faults and defects and in conformance with the Contract Documents, and conforms to industry standards and manufacturer's recommendations. All Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The warranty provided in this Section 17 shall be in addition to and not in limitation of any other warranty or remedy required by law or by the Contract Documents.

(b) Subcontractor shall furnish to Contractor all guarantees, bonds, operating instructions or other warranty documentation required by the Prime Contract.

(c) In the absence of any specific warranty provision in the contract between Contractor and Owner, Subcontractor will, at its own expense, promptly repair or replace any item found to be defective within one year after the later of the substantial completion of the entire project or the Owner's beneficial occupancy and use of the Project.

**SECTION 18: ASSIGNMENT OF CONTRACT**

Subcontractor shall not, without written consent of Contractor, assign, transfer, sub-subcontract, or sublet any portion or part of the work required by this Subcontract, nor assign any payment hereunder to others. Absent such a written agreement, Subcontractor shall be liable for all damages suffered by Contractor for the assignment, sub-subcontracting or subletting of work and Subcontractor shall remain liable for its assignees' full performance under the Subcontract or assignment. The right of any assignee shall be subject to any right of set-off Contractor may have against Subcontractor and Subcontractor shall not be relieved

of its primary responsibility to Contractor for Subcontract performance by any assignee.

**SECTION 19: 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 11.1(b), Notice to Cure, or as otherwise stated herein. Further, Subcontractor assumes all responsibility for physical damage to such equipment, materials, labor, supplies or facilities used by Subcontractor, its subcontractors or their agents, employees or permittees. 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 and all of Contractor's equipment, materials, labor, supplies or facilities as furnished.

**SECTION 20: INDEPENDENT CONTRACTOR**

Subcontractor certifies by signing this Subcontract that it 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 remunerations 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 21: CLEAN-UP**

(a) 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 Subcontract, Subcontractor shall remove from the site all hazardous and other materials, temporary structures, equipment, debris and waste incident to its operation and clean all surfaces, fixtures, equipment, etc., relative to the performance of this Subcontract.

(b) Should Subcontractor fail to comply with the provisions of Section 21(a) within forty-eight (48) hours after receiving written notice from Contractor, then Contractor shall have the right to perform such cleaning and remove excess materials, temporary structures, equipment, debris and waste and charge the expense of such removal to Subcontractor.

(c) Unless Subcontractor provides its own dumpsters for its waste and debris, Subcontractor agrees to a deduction from the Subcontract price for the proportionate cost of common dumpsters provided by Contractor.

**SECTION 22: ATTORNEYS' FEES**

(a) In the event the parties become involved in litigation or arbitration with each other arising out of this Subcontract or other performance thereof in which the services of an attorney or other expert are reasonably required, the prevailing party shall be fully compensated for the cost of its participation in such proceedings, including the cost incurred for attorneys' fees, costs and experts' fees. Except as set forth in subdivision (b) below, the provisions of Section 15(b)(2) shall apply to all cases. The attorneys' fee award shall be such as to fully reimburse all attorneys fees and costs actually incurred in good faith, regardless of the size of a judgment, it being the intention of the parties to fully compensate for all attorneys' fees and costs and experts fees paid or incurred in good faith.

(b) In the case of a dispute under the Prime Contract dispute resolution provisions, Subcontractor shall only be entitled to such attorneys' fees and other costs as may be provided for under the Prime Contract.

**SECTION 23: POSSESSION PRIOR TO COMPLETION**

Whenever it may be useful or necessary for the Contractor to do so, Contractor shall be permitted to occupy and/or use any portion of the Work which has been either partially or fully completed by Subcontractor before final inspection and acceptance by Owner, but such use and/or occupation shall not relieve Subcontractor of its guarantee of the Work, nor of its obligation to make good at its own expense any defect in materials and/or workmanship which may occur or develop prior to the Contractor's release from responsibility to the Owner.



**SECTION 24: OTHER CONTRACTS**

(a) It is understood and agreed that the Work provided for in this Subcontract constitutes only a part of the work being performed for the Owner by Contractor and other subcontractors. Subcontractor, therefore, agrees to perform the Work in such a manner that it will not injure, damage or delay any other work performed by Contractor or any other subcontractor or supplier, and further agrees to pay or reimburse Contractor for any additional costs, damage or delay that may be caused to such other work of Contractor, subcontractors or suppliers by Subcontractor or by its subcontractors, agents or employees.

(b) Should Subcontractor be performing multiple projects for Contractor, to the extent allowed at law, Subcontractor agrees that Contractor may deduct amounts due to Subcontractor on one project to cover the default of Subcontractor on any other project performed by Subcontractor for Contractor, said claims allowing for set-off or offset include but are not limited to costs to complete, correct or repair Subcontractor's work, claims of unpaid suppliers or sub-contractors, or delay damages. Subcontractor agrees that this right of offset or set-off is a bargained-for provision, and is agreed to in lieu of a Subcontractor Payment and Performance Bond that Contractor requires on all of its projects.

**SECTION 25: EQUAL OPPORTUNITY**

If the Prime Contract contains any provision which prohibits discrimination on the basis of race, color, religion, sex or national origin, or if any law, regulation or order has any application thereto and is applicable to this Subcontract, then Subcontractor hereby agrees to comply with such provision, law, regulation or order. In the event that such provision, law, regulation or order requires specific attachment of the specific wording to this Subcontract, then such attachment shall be furnished by Contractor and shall be considered a part of this Subcontract by reference thereto or shall be physically attached thereto as called for by Contractor.

**SECTION 26: APPROVALS**

(a) All drawings and other submittals of the Subcontractor shall be submitted for the approval of the Owner, Architect or Engineer through the Contractor and all communications between the Subcontractor, Architect or Engineer with respect to the Work to be performed under this Subcontract shall be transmitted through the Contractor. No charges for submittal data or drawings will be accepted unless agreed to in writing.

(b) Responsibility for the approval of materials, equipment and/or any methods required in the Prime Contract lies with the Subcontractor. Failure to make submittals in accordance with the Subcontract Special Provisions or failure to obtain approvals in order to meet schedule requirements may result in the cancellation of this Subcontract.

(c) Subcontractor shall make submittals to the Contractor per the schedule in the Subcontract Special Provisions. Progress payments may be withheld at Contractor's option for failure of Subcontractor to make submittals as required or to obtain the required approvals.

**SECTION 27: PLANS AND SPECIFICATIONS**

(a) Omissions from the drawings or specifications or misdescriptions of details of work necessary to carry out the intent of the drawings, specifications and other Contract Documents or which are customarily performed, shall be performed as if correctly described.

(b) Subcontractor shall compare all drawings and verify all figures before laying out the Work and notify the Contractor in writing of any discrepancies. If Subcontractor fails to do so, it is responsible for any errors which might have been avoided and any costs associated therewith.

(c) Subcontractor shall be bound by the decisions of those authorized by the Prime Contract to make decisions as to the meaning of any of the plans, specifications, details and contract provisions that affect Subcontractor's Work.

**SECTION 28: SEVERABILITY AND WAIVER**

The partial or complete invalidity of any one or more provisions of this Subcontract shall not affect the validity or continuing force of any other provision. The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of this Subcontract, or to exercise any rights herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right as respects further performance.

**SECTION 29: CAPTIONS**

The captions at the beginning of each Section are for convenience only and are to be given no weight in construing the provisions of this Subcontract.

**SECTION 30: NOTICES**

All notices shall be in writing addressed to the parties at the addresses set out in the Subcontract unless subsequently changed in conformance with this notice provision, and shall be considered delivered on the third business day after the date of mailing if sent certified mail, or when received in all other cases, including telecopy, facsimile or other electronic medium or personal delivery.

**SECTION 31: GOVERNING LAW; VENUE**

This Subcontract shall be governed and construed in accordance with the laws of the State of California. Venue for any dispute shall in Los Angeles, County, California.

**ATTACHMENT B**  
**SUBCONTRACT SPECIAL PROVISIONS**

1. **SUBMITTALS:** Not later than *three (3) weeks from Letter Of Intent (LOI) date*, Subcontractor shall submit to Contractor a complete list of all submittals with a reference from the Prime Contract for the required submittals.
  - a. All required submittals are due and must be submitted to Contractor by the required dates set forth in Attachment C of this subcontract. Any listing of submittals included in Attachment C does not alleviate the subcontractor/supplier from responsibility for providing all submittals as required by the Contract Documents. Any other required submittals which may not be listed on Attachment C must be submitted within 30 days from the date of the subcontract unless otherwise agreed to, in writing, by Contractor.
  - b. Furnish seven (7) copies of shop drawing and/or seven (7) copies of product data marked with the project name, contract number, order number, specification and paragraph, etc. All submittal data must be clearly marked showing what you are submitting. Improperly marked submittals will be returned.
  - c. Furnish required copies of Certificates of Compliance, test reports and/or guarantees plus one (1) copy for Contractor's files.
  - d. Provide necessary product samples as required in the contract documents, when applicable.
  - e. Submit Schedule Of Values (SOV) indicating the cost breakdown for each major equipment and/or scope of work, referencing the applicable Specs Sections. There must be a separate cost for labor and materials for each line item.
  - f. Submit approximate time required for (1) mobilization period and (2) installation period.
  - g. Advise preference, if any, as to (1) which trades should have been completed, and/or (2) which trades should have not started, prior commencement of Subcontractor's work.
  
2. **SCHEDULING INFORMATION:** Subcontractor is required to submit to Contractor required scheduling information not later than Seven (7) days from the date of Subcontractor's receipt of this subcontract, unless otherwise agreed, in writing, by Contractor.
  - a. The schedule information shall include, but is not necessarily limited to manpower, crew size, equipment requirements and activity durations any other pertinent information required for the Contractor to complete an accurate Project schedule. The schedule information shall consist of a complete listing of all of the Subcontractors anticipated work activities, listed by location on the project, and broken down into a maximum of 20 day durations per activity.
  - b. It is agreed that Subcontractors attendance at monthly project schedule meetings is mandatory.
  - c. It is agreed that Subcontractors attendance at weekly project schedule meetings, when requested by Contractor, is mandatory.
  - d. Copies of the schedule and updates, after approval by the owner, will be available during monthly and weekly schedule meetings at which the Subcontractors attendance is mandatory.
  - e. Copies of any monthly and/or weekly schedule(s) will be provided to Subcontractor upon request.
  - f. It is agreed that Subcontractors failure to; (1) provide adequate scheduling information as set forth in item a) above; (2) attend mandatory schedule meetings as set forth in items b) and c) above; or (3) avail themselves of project scheduling information by requesting copies of the schedule(s) as set forth in items d) and e) above, shall in no way relieve Subcontractor of it's responsibility to perform all of its work in accordance with the project schedule.
  
3. **LOWER TIER SUBCONTRACTORS / SUPPLIERS:** Prior to starting any Work on the Project, Subcontractor shall submit to Contractor a listing of all of its subcontractors and the work they will be performing and a listing of all suppliers who will supply more than \$5,000 in materials and the materials that they will supply.
  
4. **INDEMNIFICATION AND INSURANCE;** Subcontractors attention is directed to the Contract Documents; Section C, Contract Agreement, Article VIII and Section D-General Provisions, Section 7-3, Liability Insurance regarding specific insurance requirements for this project.
  - a. **Workmen's Compensation Insurance:** Subcontractor's attention is directed to Standard Specifications for Public Works Construction, Section 7-2; Workers Compensation Insurance, regarding specific requirements for Workmen's Compensation Insurance.
  
5. **PLANS AND SPECIFICATIONS:** A copy of the plans and specifications may be requested from Contractor's office, if needed.
  
6. **MATERIALS TESTING, REPORTS AND COMPLIANCE:**
  - a. Subcontractor's attention is directed to the Standard Specification; Section 4-Control of Materials for sampling, testing, inspection and certification of materials requirements.
  - b. Furnish required copies of Certificates of Compliance, test reports and/or guarantees

**7. PAY ESTIMATES AND PAYMENTS:**

- a. After receipt of the Monthly Pay Estimate from the Owner, a Pay Estimate will be produced and sent immediately to the Subcontractor for verification of all pay estimate quantities and pay estimate approval.
- b. Payment will be made, in accordance with applicable Prompt Payment Laws, after all required paperwork, including approved pay estimate, has been received and approved.
- c. Prior to any payment for Subcontractor or secondary Subcontractor(s), Subcontractor must submit evidence of payment and signed waivers of lien. This requirement may be waived at Contractor's option.
- d. Prior to payment for stored materials, Subcontractor must submit to Contractor all required documents per Project Specifications and signed lien waivers.

**8. PAYMENT OF TAXES:**

- a. All sales and/or use taxes, including Federal excise tax, assessed by Federal, State or local authorities on materials used or furnished by Subcontractor for the Subcontractor's work shall be paid by Subcontractor.

**9. TAXPAYER IDENTIFICATION ANLD CERTIFICATION:**

- a. The attached **W-9 Form** must be executed and returned to Contractor.

**10. CERTIFIED PAYROLLS AND PAYROLL RECORDS:**

- a. Subcontractor's attention is directed to the provisions of the California Labor Code; section 1776.
- b. One original and two copies of certified payrolls are required.
- c. One original and two copies of Statement(s) of Compliance are required.
- d. One original Payroll Supervisor Affidavit (if needed) shall be required.
- e. Weekly certified payrolls reflecting all of the Subcontractor's employees working on the project shall be submitted to the contractor within seven (7) days of the weekly payroll date. Mail or deliver all copies to Contractor at the address in the Agreement.
- f. Timely submission of Certified Payrolls is a condition for release of Subcontractors progress payments.

**11. EQUAL EMPLOYMENT OPPORTUNITY:**

- a. The attached Subcontractor **EEO Requirements Form** must be executed and returned to Contractor.
- b. Subcontractor acknowledges receipt of **Equal Employment Opportunity Compliance Certificate Form F-10** (pages one through four), attached and made part of this Subcontract.
- c. Subcontractor's attention is directed to the State of California Fair Employment Practices Act.

**12. LABOR NON-DISCRIMINATION:**

- a. Attention is directed to the "Nondiscrimination Clause" as required by Chapter 5 of Division 4 of Title2, California Code of Regulations, which is incorporated and made a part of this agreement by reference.

**13. LABOR PROVISIONS AND WAGE RATES:**

- a. Pursuant to all applicable provisions of the Labor Code of the State of California, and in accordance with the Contract Provisions, not less than the general prevailing rate per diem wages, including legal holidays and overtime work for each craft type of workman needed to execute the work contemplated under this agreement, shall be paid to all workmen employed on the work to be done by Subcontractor, or any lower-tier Subcontractor contracted by Subcontractor, and shall be deemed to include employer payments for health and welfare, pension, vacation and similar purposes.
- b. Section 1773.5 of the Labor Code of the State of California, regarding the payment of travel and subsistence payments, is applicable to this contract.

**14. EMPLOYMENT OF APPRENTICES:**

- a. Attention is directed to the provisions in Sections 1777.5, 1777.6 and 1777.7 of the California Labor Code and Title 8, California Code of Regulations Section 200, concerning employment of apprentices.
- b. Subcontractor and any Subcontractor(s) under him shall comply with the requirements of said Sections in the employment of apprentices.

**15. CONTRACTOR'S LICENSE REQUIREMENTS:**

- a. Subcontractors attention is directed to California Contractor's License Law Section 7030 (a); "Contractors are required by law to be licensed and regulated by the Contractor's 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, California, 95826."

**16. CERTIFICATION REGARDING DEBARMENT:**

- a. Pursuant to the provisions of Section 6109 of the California Public Contract Code, the Contractor /Subcontractor shall not perform work on a public works project with a subcontractor who is ineligible to perform work on the public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code.
- b. The Subcontractor certifies by signing of this Subcontract that neither it nor its principals is presently debarred, suspended, been sent a notice of intent to debar, or is otherwise ineligible from participation in Federal, State, or local government projects because of a violation of law or safety regulation.
- c. If the Subcontractor is unable to certify as provided (b) above, such Subcontractor shall attach an explanation to this proposal.
- d. The certification in (b) above is a material representation of fact by the Subcontractor signing this Subcontract proposal upon which reliance will be placed when this contract is entered into.

**17. HEALTH AND SAFETY:**

- a. Subcontractor's attention is directed to Standard Specifications for Public Works Construction; Section 7-10.4 which requires compliance with all applicable occupational safety and health standards, rules, regulations and orders established by the State of California.

**18. SAFETY PERMITS:**

- a. The Subcontractor shall secure any permit(s) that may be required from the Division of Industrial Safety for Subcontractors work and Subcontractor shall provide a copy of such permit to Contractor prior to commencement of Subcontractors work on the project.

**19. IMPORTANT SPECIAL NOTICES**

- a. **Subcontractor's attention is being directed to the Contract Documents regarding other Special Requirements regarding this project.**

**ATTACHMENT C**  
**SUBCONTRACT SPECIFIC PROVISIONS**

PROJECT: **UCLA – Hitch Suites Renovation**

SUB-CONTRACTOR: **XXXXXXXXXXXXXXXXXXXXXXXXXX**

And Construction Plan by (Architect) **STEINBERG ARCHITECTS, XXXXXXXXXXXXXAngeles Ca 90014** dated **XXXXXXXXXX**,  
And Addendum **XXXXXXXXXX** Specifically Drawing Sheets: Architectural and other related Plans; Specifications:  
General Conditions Specs, Division 1 – General Requirements, Section 01011 -General Provisions, Section 01018  
– Project Phasing, Section 01030 – Alternates, Section 01340-Shop Drawings, Product Data & Samples, Section  
01460–Field Samples and Mock-ups, Section 01780-Closeout Submittals, Section 01740–Guarantees, Warranties,  
Bonds, Service & Maintenance Contracts, Section 01014 – Contractor’s Use of the Project Site, Sections 01352 –  
Sustainable Design Requirements (LEED Certification Rights), Section 01351– Design Build Procedures, **Sections:**  
\_\_\_\_\_ ) and all other pertinent contract documents affecting the Sub-contractor’s  
trade, per Plans & Specification including but not limited to the following:

- 1) Sub-contractor to supply a copy of General Liability Insurance and workmen’s compensation insurance certificate as required per specs. Sub-contractor to comply with the CGL102A endorsement & avoid a gap in coverage. Sub-contractor to carry equivalent GL coverage’s with limits of at least \$ 1,000,000.00 per occ./\$2,000,000.00 Gen. Aggregate and \$1,000,000.00 Prod Ops Aggregate, WC limits of at least \$1,000,000.00 per Occurrence/ Aggregate, Business Auto \$ 1,000,000.00. General Contractor and UCLA to be added as additional insured in certificate copy.
- 2) Certificate of Insurance: No work allowed if certificate of insurance is not valid. Sub Contractor to provide required CPL (Contractor’s Pollution Liability) Insurance Coverage and endorsement to either CPL or Business Auto policies for transporting or hauling of hazardous materials under Article 11.1.2.4 of Supplementary Conditions.
- 3) **This Project is Commercial Prevailing Wage, sub-contractor to provide certified payroll as required per spec section 01043 (1.5 Certified Payroll Records/CPR) and shall comply with all labor requirement per section 230.1 of California Code Regulations Title 8, Chapter 2, Part IV Section 230.1. All required compliance documentations must be provided in order to process payment.**
- 4) Sub-contractor to obtain and pay for all permits, bonds and licenses associated with his scope of work.
- 5) Sub-contractor to provide accurate shop drawings, and submittals.
- 6) All sales taxes to be included in bid.
- 7) Sub-Contractor to absorb cost of any, taxes, material and labor hikes.
- 8) Sub-contractor to comply with Contractor’s schedule to meet critical path & deadline.
- 9) Project start date to be \_\_\_\_\_, and to be completed in \_\_\_\_\_ Calendar Days.
- 10) Liquidated Damages for the project if not completed within \_\_\_\_\_ days from notice to proceed is \$ \_\_\_\_\_/day of delay. Sub-contractor to be fully responsible for any delays caused by his operation.
- 11) Sub-contractor to provide continuous housekeeping and daily clean-up. If sub-contractor fails to perform daily clean-up, contractor shall order the clean-up done at sub-contractor’s expense.
- 12) Sub-Contractor to provide his own dumpster. Any trash chute, man lifts, dumpster or hoistway required for the scope of the sub-contractor to be the sub-contractor responsibility.
- 13) Sub-contractor to pay all cost associated with the location and operation of their temporary offices and storage container if necessary.
- 14) Foul language, drinking, smoking and radio playing are forbidden and will not be tolerated as per the University of California, Los Angeles.
- 15) All rigging and scaffolding, forklift, crane, man lift required by the sub-contractor are to be obtained by sub-contractor.
- 16) Sub-contractor to be responsible for all parking fees and regulation throughout the duration of the project.
- 17) Sub-contractor to provide contractor with a schedule showing all task of his scope of work to be included in General contractor schedule.
- 18) Any masking, covering protection required to complete scope of work to be included in sub-contractor scope of work.
- 19) Sub-contractor to provide dust control when required as necessary.
- 20) Sub-contractor to provide his own traffic control as required for performing his scope of work.
- 21) Sub-contractor to have a qualified Superintendent/Foreman at all time throughout the duration of his scope of work who is authorized to receive and execute orders from the GC.
- 22) Sub-contractor to verify the schedule and include it as such without additional cost to contractor. The regular working hours shall be in between 7:00 a.m. to 6:00 p.m. and weekends as authorized by University of California, Los Angeles. All Material and equipment deliveries which may cause any blockage of the public rights-of-way must be made in conformance with contract specification.
- 23) If Sub-contractor should fail to execute this subcontract agreement and start the work, sub-contractor is deemed to have executed the agreement and the agreement is in full force and effect, including scope of work and contract amount.
- 24) Any internal work directed by icon West Project manager should be verified through Project Managers Signature.
- 25) Contractor shall withhold payment for any Change Order until paid by the Owner.
- 26) Sub-contractor shall comply with CAL OSHA Safety Requirements that pertains to his scope.
- 27) Any missing tools & materials/ vandalism to be sub-contractor’s responsibility. General Contractor is not responsible for the security of subs tools.

- 28) Sub-Contractor to be responsible for his own fall protection and shall provide harnesses and shall meet all OSHA requirements.
- 29) Sub-contractor to comply with the LEED as stated in the General Requirements.
- 30) Time is of the essence, Sub-contractor to comply with all of the Contractor schedule requirements. Failure to comply with the agreed schedule will be ground for a 48 hour notice. After the 48 hour notice, The General Contractor may take over and back charge sub-contractor all LD's or incurred damages. If Sub-contractor receives 48 hrs Notice on a Friday, weekend to be included in 48 hour notice.
- 31) Sub-contractor guarantee to hold his price fix throughout the duration of the project.
- 32) Sub-Contractor to provide a signed affidavit under penalty of perjury that all workers were paid the specified prevailing rate of per diem and any amounts due under Labor Code section 1813. This project is subject to the prevailing wage per Section 14.3 in the General Condition.
- 33) Sub-Contractor's attendance at all weekly project construction tailgate and safety meetings is mandatory.
- 34) All requests for payments / invoices must be submitted every 3<sup>rd</sup> week of each month in order to be processed for payment, If not received within the specified period, payment will be processed on the next billing cycle.
- 35) This contract takes precedence over sub-contractors proposal and any verbal communication that may have risen. No verbal agreements shall be honored. Anything and Everything shall be put in writing, to be signed and dated.
- 36) General Contractor has an option to issue joint check to sub-contractors/vendors.
- 37) Sub-contractor to allow for off hours and weekends works during building shutdown if required.
- 38) Sub-contractor to comply with all commissioning requirements as per specs.
- 39) Sub-contractor to include all fire caulking and sealants as required.
- 40) Sub-contractor to comply on all Autocad requirements for submittal compliance, including MEP Autocad coordination drawings.
- 41) Subcontractor to supply drinking water for its workers.
- 42) Subcontractor is responsible for its workers' break and lunch trash. All lunch trash must be disposed of in a trash receptacle after each break. Failure to comply shall result in a backcharge from Contractor for clean-up, which subcontractor agrees may be deducted from contract.
- 43) Subcontractor shall be responsible for advising its workers where to park vehicles, store tools and materials, etc., according to Contractor directive.
- 44) General Miscellaneous:
  - a) No Substitution will be allowed for equal materials unless approved by the University.
  - b) Sub-contractor shall perform daily cleaning at the end of each working day and haul all their debris.
  - c) Each sub-contractor shall perform their respective Scope of work within the time frame indicated in the approved Construction Schedule, following phasing & sequencing of scope which shall be furnished by the G.C.
  - d) Includes Multiple Move-ins per Phasing and Scope sequencing. as deemed necessary.
  - e) Sub-contract to protect wall and floor surface so not to damage concrete, brick hardscape or interior finishes.
  - f) Sub-contractor to pressure wash concrete surface at completion of his scope.
  - g) Sub-contractor to repair all finishes damaged by his own operation.
  - h) Sub-contractor to provide their own trash bin for their scope.
  - i) Sub-contractor to include Boom Lift for their own scope.
  - ii) Mock up as requires per specs.
  - j) Sub-contractor to include own traffic control/ Flag man during their demo operation.
  - k) Provide own temporary, hoisting and removals.
  - l) Acknowledge all General Notes and all other trade notes relative to work.
  - m) Acknowledge Volume I – As Built drawing dated Oct 1997
  - n) Acknowledge Soil Report dated Oct 15<sup>th</sup> 2012 by Geotechnologies, Inc.

**Icon West, Inc. issued a "Public Works Addendum to Subcontract". Therefore, we ask that you complete and return the enclosed addendum with the signed contract.**

\_\_\_\_\_  
Bernard Ashkar-I W I

\_\_\_\_\_  
XXXXXXXXXXXXXXXXXXXXXXXXXX

**ICON-WEST, Inc.**  
**SUB-CONTRACTOR EEO REQUIREMENTS**

Icon-West, Inc., as the prime contractor on the above noted project, is responsible for the EEO actions and documentation of the project subcontractors. Contractor is an Equal Opportunity (EEO) and Affirmative Action (AA) Employer. Icon-West, Inc. encourages employment referrals of women and minorities and will not tolerate ethnic or sexual harassment.

Attached are copies of EEO Compliance Certificate Form F-10 and Contractor’s EEO Policy Statement, Solicitation for Minority and Female applicants, Sexual Harassment Policy, EEO Complaint Procedures and EEO/AA Grievance Procedures.

Icon-West, Inc. Corporate EEO Officer is: \_\_\_\_\_

Phone is: \_\_\_\_\_

Icon-West, Inc. Project EEO Officer is: XXXXXXXXXXXXXXXXXX

Phone is: XXXXXXXXXXXXXXXXXX

All subcontractors with contracts over \$10,000 on this project are required to meet, and follow, the same EEO contract provisions as the prime contractor. Subcontractors on this project should submit EEO documentation to the Region EEO Representative through the prime contractor. Subcontractors are required to comply with the provisions of the State of California Fair Employment Practices Act and similar provisions of Federal law or executive order.

The prime contractor will attempt to schedule an EEO meeting with all employees, and subcontractor employees, at the beginning of the project and on a quarterly basis thereafter to be assured that all employees are provided required information. Subcontractors who are not on the project at the time of the EEO meeting must conduct a separate meeting with their own employees. Minutes/rosters of subcontractors EEO meetings should be submitted to the Contractor.

We, XXXXXXXXXXXXXXXXXXXXXX have received and read the above noted EEO information and agree to meet all the requirements on this project.

\_\_\_\_\_  
Subcontractor’s Representative Signature & Title

\_\_\_\_\_  
Date



## **ICON-WEST, Inc.**

# **SUB-CONTRACTOR SAFETY REQUIREMENTS**

1. Provide Contractor with a current copy of your company **Safety Manual/Handbook** as requested. The manual/handbook should be provided prior to starting work on the project. Your company will follow OSHA standards as well as all local, state and federal regulations regarding safety and provide your employees a healthy and sanitary work environment.
2. Provide Contractor with an **Accident Report** for any type of accident (worker injuries, auto, equipment or third party accidents) that occurs on the project location when requested.
3. Provide Contractor with copies of your weekly, or regularly scheduled, **Toolbox Safety Meetings/Training** conducted at the project when requested.

Subcontractor employees are required to abide by all **OSHA** Safety Standards. Subcontractors will provide adequately trained **competent person** foremen/ supervisors to assure a safe work project. Should Contractor be fined under the Multi-Employer Worksite policy due to a subcontractor’s violation of OSHA standards and/or project safety practice(s) the cost of the fine(s) paid by Contractor for a violation committed by the subcontractor will be deducted from the subcontractor’s contract payment.

Subcontractor employees working in areas where there is a possible danger of head injury from impact, falling or flying objects, or from electrical shock and burns are required to wear **hard hats** while on the project.

Subcontractor employees who are exposed to public vehicular traffic at any time on the project are required to wear **high visibility warning vests** and/or other suitable garments. Night work may require reflective material on the warning vests and/or garments.

Subcontractors with employees exposed to fall hazards greater than six (6) feet will be required to provide **fall protection** (guardrails, safety nets, fall protection system, etc.) whenever there is an exposure. The subcontractors’ method of protection/system/fall protection plan will be provided to Contractor upon request.

Subcontractors performing trenching/excavating work are required to have a trained **competent person** on site during the work process who can evaluate soil conditions, sloping and/or protective structure requirements, changes in conditions and all other applicable OSHA regulations. Current underground utility locates will be obtained by the subcontractor prior to excavation work. Verification or proper training and/or daily inspection sheets will be provided by the subcontractor to Contractor upon request.

Subcontractors who work around overhead or underground **high voltage electrical/high pressure gas** lines will provide hazard recognition training to employees and take precautions such as, but not limited to, spotters, special flags, markings, signs, shielding, de-energize/pressurize lines etc. to protect employees. Documentation will be provided to Contractor upon request.

*The list of requirements noted above is an overview of the expectations Icon-West, Inc. has for subcontractors working on the project. This list of safe practices is not to be considered all-inclusive but a guide to be followed to reduce or eliminate the hazards and exposures related to the subcontractor’s project work. The requirements have been read and understood and it is agreed that they will be adhered to for the extent of work required by the subcontractor and all their employees.*

XXXXXXXXXXXXXXXXXXXXXX  
Subcontractor Name

\_\_\_\_\_  
Subcontractor Rep. Signature & Title

\_\_\_\_\_  
Date

# ICON-WEST, Inc.

## FALL PROTECTION CERTIFICATION

### TO ALL SubcontractorS:

As part of your subcontract with Icon-West, Inc some of your work on the project might require your employees to be on walking/working surfaces(s) (horizontal and vertical surface) with an unprotected side or edge which is six **(6) feet** or more above a lower level surface.

Sub-Part M of the OSHA regulations, **1926.500- Fall Protection**, requires employers whose employees are exposed to falls greater than six (6) feet provide fall protection through a variety of methods including; guardrail system, safety net system, personal fall arrest system, positioning device system, fall protection plan, etc.

Please review your scope of operations and potential employee fall exposures and indicate on this form the method of fall protection your employees are trained and required to use on this project. A copy of your **Site Specific Fall Protection Plan** is required to be submitted to Contractor if requested, prior to the start of work, if conventional fall protection methods create a greater hazard and are infeasible for leading edge or precast concrete erection work.

We, XXXXXXXXXXXXXXXXXX, certify that we will have a competent person on site that will inspect our fall protection methods on a daily basis to be assured the work crew is using the required fall protection system(s) and/or adhering to the **Site Specific Fall Protection Plan**.

Subcontractor's Name: XXXXXXXXXXXXXXXXXXXXXXX

Method of Fall Protection to be used on Project: \_\_\_\_\_

Competent Person on project: \_\_\_\_\_

\_\_\_\_\_  
Subcontractor Rep. Signature & Title

\_\_\_\_\_  
Date