



# Standard Subcontract Form



Subcontract No. {Contracts.ContractNumber}

THIS AGREEMENT, made and entered into in San Diego County, California this ({Contracts.ContractDate} "Contract Date"), by and between Straub Construction, Inc. hereinafter called CONTRACTOR, with principal office at {LegalDocInfo.ContrAddr1}, {LegalDocInfo.ContrAddr2} and {Company.Name} hereinafter called SUBCONTRACTOR.

## RECITALS

On or about the ({LegalDocInfo.ContractDate} "Contract Date"), CONTRACTOR entered into a prime contract with {LegalDocInfo.Owner} {Projects.UserText1} hereinafter called OWNER, whose address is: {LegalDocInfo.OwnerAddr1}, {LegalDocInfo.OwnerAddr2} to perform the following construction work: {Projects.Name} ({LegalDocInfo.OwnerJobNum}). Said work is to be performed in accordance with the prime contract and the plans and specifications. Said plans and specifications have been prepared by {LegalDocInfo.ArchName}.

## SECTION 1-ENTIRE CONTRACT

SUBCONTRACTOR certifies and agrees that he is fully familiar with all of the terms, conditions and obligations of the Contract Documents, as hereinafter defined, the location of the job site, and the conditions and difficulties under which the work is to be performed, and that he enters into this Agreement based upon his own examination, investigation and evaluation of all of such matters and is in no way relying upon any opinions or representations of CONTRACTOR, or of the Owner, or of any of their respective officers, agents, servants, or employees. Any such opinions or representations, if any, are superceded by this written Agreement. It is agreed that this Agreement represents the entire agreement. It is further agreed that the Contract Documents are incorporated in this Agreement by this reference, with the same force and effect as if the same were set for that length herein, and that SUBCONTRACTOR and his subcontractors will be and are bound by any and all of said Contract Documents insofar as they relate in any part or in any way, directly or indirectly to the work covered by this Agreement. SUBCONTRACTOR agrees to be bound to CONTRACTOR in the same manner and to the same extent as CONTRACTOR is bound to OWNER under the Contract Documents, to the extent of the work provided for in this Agreement, and that where, in the Contract Documents reference is made to CONTRACTOR and the work or specification therein pertains to SUBCONTRACTOR instead of CONTRACTOR. The contract documents are available for examination by SUBCONTRACTOR at all reasonable times at the office of CONTRACTOR. The contract documents include but are not limited to: all plans, specifications, addenda, general conditions, special conditions, the prime contract and wage determinations thereto, from beginning to end (hereinafter collectively referred to as the "Contract Documents"), with the understanding that SUBCONTRACTOR'S portion of the work may be indicated throughout different parts of the contract documents, it being the prime purpose of this Agreement to provide for SUBCONTRACTOR'S performance and completion of its entire portion of the work no matter where in the plans it is referenced. The phrase "Contract Documents" is further defined to mean and include: CONTRACTOR'S prime contract and all components thereof, including but not limited to, all plans, specifications, addenda, general conditions and wage determinations.

## SECTION 2-SCOPE

SUBCONTRACTOR agrees to furnish all labor, services, materials, installation, cartage, hoisting, supplies, insurance, equipment, scaffolding, tools and other facilities of every kind and description required for the prompt and efficient execution of the work described here in and to perform the work necessary or incidental to complete all work listed in Contract Documents which include but are not limited to, Standard Subcontract Form, General Subcontract Provisions, Attachments A, A.1, B, C, D, E, F, G, Booklets 1-6, Plans and Specifications, All Addenda, All Modifications & other information issued (including Supplemental Instructions).

## SECTION 3-CONTRACT PRICE

Reference: Attachment A.1 of this Agreement.

## SECTION 4-PAYMENT SCHEDULE

CONTRACTOR agrees to pay SUBCONTRACTOR, out of funds received from the Owner, in monthly payments of 90% of labor and materials which have been completed by SUBCONTRACTOR and accepted by the Owner and for which payment has been made by OWNER to CONTRACTOR. The remaining 10% shall be retained by CONTRACTOR until he receives final payment from OWNER, but not less than thirty-five days after the entire work required by the prime contract has been fully completed in conformity with the Contract Documents and has been delivered and accepted by OWNER, ARCHITECT, and CONTRACTOR. Subject to the provisions of the next sentence, the retained percentage shall be paid SUBCONTRACTOR promptly after CONTRACTOR receives his final payment from OWNER. SUBCONTRACTOR agrees to furnish, if and when required by CONTRACTOR, payroll affidavits, receipts, vouchers, releases of claims for labor, material and subcontractors performing work or furnishing materials under this Agreement, 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 payroll affidavits, receipts, vouchers or releases, or any or all of them, have been furnished.

It is specifically understood by SUBCONTRACTOR that as a material inducement and consideration for the award of this Subcontract by CONTRACTOR is SUBCONTRACTOR'S agreement that it will not look to CONTRACTOR or its surety, or to the Project premises itself, for payments hereunder unless and until the CONTRACTOR has received payment for SUBCONTRACTOR'S work from the OWNER and further, that receipt by the CONTRACTOR of said payment from the OWNER shall be a specific condition precedent to SUBCONTRACTOR'S right to payment by CONTRACTOR or its surety, regardless of the reason for any nonpayment by OWNER, including but without limitation, OWNER'S unwillingness or inability to pay, all of which risks SUBCONTRACTOR specifically assumes for the consideration set forth herein,

It is understood and agreed that no payment on account to SUBCONTRACTOR shall constitute an acceptance or approval of any labor or material theretofore performed or furnish by SUBCONTRACTOR; nor shall any filing of notice of completion or occupancy

Subcontractor Initials

Straub Construction, Inc. Initials

of the building in whole or in part constitute an acceptance or approval by CONTRACTOR in whole or in part of the work or waiver of any claims or backcharges by CONTRACTOR against SUBCONTRACTOR.

It is understood and agreed that SUBCONTRACTOR's acceptance of final payment hereunder shall release CONTRACTOR from all claims, liability, damages, causes or action, attorney fees, costs and interest related to or arising out of this Agreement or the Project, and shall constitute a release and waiver of SUBCONTRACTOR's rights against CONTRACTOR and Owner, not withstanding Section 1542 of the Civil Code of California. Section 1542 of the Civil Code of California states that: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him may have materially affected his settlement with the debtor". SUBCONTRACTOR waives all benefit of Section 1542 of the California Civil Code and waives all benefit of all similar laws of other States in which Agreement is performed.

CONTRACTOR reserves the right to make payment by joint check or by direct check to SUBCONTRACTOR's material-men, sub-subcontractors, or any person who has a right of action against CONTRACTOR or CONTRACTOR's surety under any law. CONTRACTOR shall be entitled to exercise its reasonable discretion in determining the amount and manner of payment as long as said determination is in accordance with all terms and conditions of this Agreement and applicable law and regulations.

**SECTION 5-GENERAL SUBCONTRACT PROVISIONS**

General Subcontract Provisions on attached Pages 3, 4 and 5 are an integral part of this Agreement.

**SECTION 6-GENERAL PROVISIONS**

1. The SUBCONTRACTOR agrees to begin work as soon as instructed by the CONTRACTOR, and shall carry on said work promptly, efficiently and at a speed that will not cause delay in the progress of the CONTRACTOR'S work or work of other subcontractors. If, in the opinion of the CONTRACTOR, the SUBCONTRACTOR falls behind in the progress of the work, the CONTRACTOR may direct the SUBCONTRACTOR to take such steps as the CONTRACTOR deems necessary to improve the rate of progress, including, without limitation, requiring the SUBCONTRACTOR to increase the number of shifts, personnel, overtime operations, days of work, equipment, amount of plant, or other remedies and to submit to CONTRACTOR for CONTRACTOR'S approval an outline schedule demonstrating the manner in which the required rate of progress will be regained, without additional cost to the CONTRACTOR. CONTRACTOR may require SUBCONTRACTOR to prosecute, in preference to other parts of the work, such part or parts of the work as CONTRACTOR may specify.

The SUBCONTRACTOR shall complete the work as required by the progress schedule prepared by the CONTRACTOR, which may be amended from time to time. The progress schedule may be reviewed in the office of the CONTRACTOR and sequence of construction will be as directed by the CONTRACTOR.

The SUBCONTRACTOR agrees to have an acceptable representative (an officer of SUBCONTRACTOR if requested by the CONTRACTOR) present at the job meetings and to submit weekly progress reports in writing if requested by the CONTRACTOR. Any job progress schedules are hereby made a part of and incorporated herein by reference.

*2. Reserved Gate Usage*

SUBCONTRACTOR shall notify in writing, and assign its employees, materialmen and suppliers, to such gates or entrances as may be established for their use by CONTRACTOR and in accordance with such conditions and at such times as may be imposed by CONTRACTOR. Strict compliance with CONTRACTOR'S gate usage procedures shall be required by the SUBCONTRACTOR who shall be responsible for such gate usage by its employees, materialmen, suppliers, subcontractors, and their materialmen and suppliers.

*3. Staggered Days and Hours of Work and for Deliveries*

SUBCONTRACTOR shall schedule the work and the presence of its employees at the job site and any deliveries of supplies or materials by its materialmen and suppliers to the job site on such days, and at such times and during such hours, as may be directed by CONTRACTOR. SUBCONTRACTOR shall assume responsibility for such schedule compliance not only for its employees but for all its materialmen, suppliers and subcontractors and their materials, men and suppliers.

*4. Acceptance*

SUBCONTRACTOR may only accept this Agreement in its entirety, including all the exact terms set forth herein. No modifications to this Agreement made by SUBCONTRACTOR shall be binding in the Agreement, unless expressly accepted in a writing signed by Contractor. Acceptance of this Agreement can only be made by SUBCONTRACTOR signing and returning this form to Contractor.

**SECTION 7-SPECIAL PROVISIONS**

**Provide Payment and Performance Bonds - Attachment B**

SUBCONTRACTOR warrants that it is properly licensed by the Contractors' State License Board of the State of {Projects.State} with the proper license classifications for performance of the work described herein. SUBCONTRACTOR further warrants that its license is and will remain current, active and in good standing at all times during performance of said work.

IN WITNESS WHEREOF: The parties hereto have executed this Agreement for themselves, their heirs, executors, successors, administrators, and assignees on the day and year first above written.

**SUBCONTRACTOR:**  
**{{Company.Name} ">"**  
**Subcontract No. {Contracts.ContractNumber}**  
Date: \_\_\_\_\_  
By: \_\_\_\_\_

**CONTRACTOR:**  
**STRAUB CONSTRUCTION, INC.**  
Date: \_\_\_\_\_  
By: \_\_\_\_\_

Print: \_\_\_\_\_ Name \_\_\_\_\_ Title \_\_\_\_\_  
Corporation (Seal)    Partnership    Proprietorship  
Federal ID No. \_\_\_\_\_  
CONTRACTOR'S State License No. \_\_\_\_\_

**Straub Construction, Inc.'s Contractor's Licenses:**  
California License No. **506797**  
Nevada License No. **0046120**  
Arizona License No. **164996**

\_\_\_\_\_  
Subcontractor Initials

\_\_\_\_\_  
Straub Construction, Inc. Initials

# GENERAL SUBCONTRACT PROVISIONS

## A. INSURANCE

1. **COVERAGE.** GENERAL LIABILITY - Subcontractor shall at all times carry on all operations hereunder: Each subcontractor shall supply a Certificate of Insurance showing evidence of Commercial General Liability coverage on ISO form CG0001, or its equivalent, with the following limits: \$2,000,000 General Aggregate; \$2,000,000 Products — Completed Operations Aggregate; \$1,000,000 Personal Injury Liability; \$1,000,000 Each Occurrence (combined single limit for bodily injury and property damage).

Coverage shall include: 1) Per project general aggregate endorsement; 2) Explosion, collapse and underground coverage; 3) Subsidence/earth movement coverage.

The certificate must have the CG 2010 (11/85) endorsement, or equivalent, attached naming the following as additional insured: CONTRACTOR and OWNER.

The Additional Insured Endorsement must be attached to the certificate and state that this insurance is primary to any other insurance. Endorsements which limit or exclude coverage will need to be attached to the certificate. Subcontractor shall maintain *Products/Completed Operations* coverage for a period of ten years following the completion of the project.

**AUTO LIABILITY** - Each Subcontractor shall supply a Certificate of Insurance showing commercial automobile liability coverage: \$1,000,000 Each Occurrence (combined single limit for bodily injury and property damage); Covering "Any Auto" and "Non Owned Auto". The certificate must name the following as additional insured: CONTRACTOR and OWNER.

**WORKERS' COMPENSATION and EMPLOYER'S LIABILITY** - Each Subcontractor shall supply a Certificate of Insurance showing workers compensation and employers liability coverage: \$1,000,000 Each Accident (bodily injury by accident); \$1,000,000 Disease — Policy Limit (bodily injury by disease); \$1,000,000 Disease — Each Employee (bodily injury by disease).

A waiver of subrogation endorsement (WC 04 03 06) shall be attached in favor of CONTRACTOR and OWNER.

**PROFESSIONAL LIABILITY** - If the subcontractor is a licensed architect, engineer or designer; provides architecture, engineering or design or retains same, a Certificate of Insurance shall be supplied showing errors and omissions coverage in an amount not less than \$1,000,000 per occurrence.

**RATING** - Insurance companies shall have a minimum A.M. Best's rating of A VII and be admitted in California. Any deviation must be approved in writing by CONTRACTOR.

**CANCELLATION CLAUSE** - Should have the "Endeavor to" and "but failure to mail such notice shall...or representatives" shall be X'd out. Written notice should be no less than 30 days.

Original certificates must be mailed to CONTRACTOR'S home office. All Certificates must be in CONTRACTOR'S home office prior to any work being commenced. Failure to supply the required insurance coverage will cause removal of the subcontractor from the job site, and withholding of any payment.

**B. GENERAL INDEMNITY**—All work covered by this Agreement done at the site of construction 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. SUBCONTRACTOR shall, with respect to all work which is covered by or incidental to this subcontract, to the greatest extent permitted by applicable law, indemnify, defend and hold CONTRACTOR harmless from and against all of the following:

1. Any claim, liability, loss, damage, cost, expenses, including reasonable attorneys' fees, awards, fines or judgments arising by reason of the death or bodily injury to persons, injury to property, design defects (if design originated by SUBCONTRACTOR), or other loss, damage or expense, including, to the greatest extent permitted by applicable law, any of the same resulting from CONTRACTOR'S alleged or actual negligent act or omission, regardless of whether such act or omission is active or passive; and

2. Any and all claims, liability, loss, damage, costs, including reasonable attorneys' fees, awards, fines or judgments, to the greatest extent permitted by applicable law, arising by reason of any obligation to indemnify which CONTRACTOR has to OWNER.

It is expressly acknowledged and agreed that each of the foregoing indemnities is independent, and that both shall be given effect. However, SUBCONTRACTOR shall not be obligated under this Agreement to indemnify CONTRACTOR with respect to the sole negligence or willful misconduct of CONTRACTOR, his agents or servants or SUBCONTRACTORS who are directly responsible to CONTRACTOR, excluding SUBCONTRACTOR herein.

**C. BONDING OF SUBCONTRACTOR**—Concurrently with the execution of this Agreement, or at any time during its performance, SUBCONTRACTOR shall, if required by CONTRACTOR, execute a Labor and Material Payment Bond and Faithful Performance Bond, in an amount equal to 100% of the Contract Price in Section 3. Said bonds shall be executed by a corporate surety acceptable to CONTRACTOR and shall be in a form satisfactory to CONTRACTOR. Surety agrees to stand in the same place as SUBCONTRACTOR in all respects.

All changes, additions or omissions in the Work ordered in writing by CONTRACTOR shall be deemed to be a part of the Work hereunder and shall be performed and furnished in strict accordance with all of the terms and provisions of this Agreement and the other Contract Documents. SUBCONTRACTOR accepts the responsibility to keep its surety, if any, informed of all such modifications to its contract. The obligations of SUBCONTRACTOR and SUBCONTRACTOR'S Surety, if any, shall not be reduced, waived or adversely affected by the issuance of such change orders, additions or deductions even if SUBCONTRACTOR fails to inform Surety of same and CONTRACTOR shall not be required to obtain consent of the Surety to such modifications.

**D. TIME**—Time is of the essence of this Agreement. It shall be SUBCONTRACTOR'S obligation to conform to CONTRACTOR'S progress schedule, subject to CONTRACTOR'S modification, which is incorporated herein by this reference and made a part hereof. SUBCONTRACTOR shall prepare and obtain approval as required by the Contract Documents for all shop drawings, details, samples, and do all other things necessary and incidental to the prosecution of his work in conformance with the progress schedule. He shall coordinate the work covered by this Agreement with that of all other CONTRACTORS, SUBCONTRACTORS and of the CONTRACTOR in a manner that will facilitate the efficient completion of the entire work, CONTRACTOR shall have complete control of the premises on which the work is to be performed and shall have the right to decide the time or order in which the various portions of the work shall be installed or the priority of the work of other SUBCONTRACTORS, and, in general, all matters representing the timely and orderly conduct of the work of SUBCONTRACTOR on the premises. If, in the opinion of the CONTRACTOR, the SUBCONTRACTOR falls behind in the progress of the work, the CONTRACTOR may direct the SUBCONTRACTOR to take such steps as the CONTRACTOR deems necessary to improve the rate of progress, including, without limitations, requiring the SUBCONTRACTOR to increase the number of shifts, personnel, overtime operations, days of work, equipment, or other remedies without additional cost to the CONTRACTOR. CONTRACTOR may require SUBCONTRACTOR to prosecute, in preference to other parts of work, such part or parts of the work as CONTRACTOR may specify.

**E. CHANGES IN THE WORK**—SUBCONTRACTOR hereby agrees to make any and all changes, furnish the materials and perform the work that CONTRACTOR may require without nullifying this Agreement, at a reasonable addition to, or reduction from the Contract Price stated herein, and pro-rata to the same. All clauses of this contract shall apply to any changes or extras in a like manner and to the same extent as though said changes or extras were incorporated herein. SUBCONTRACTOR shall adhere strictly to the plans and specifications unless a change therefrom is authorized in writing. The decision of CONTRACTOR and the Owner's Representative as to the true construction, meaning and intent of the Plans and Specifications shall be final and binding upon SUBCONTRACTOR. Under no conditions shall SUBCONTRACTOR make any changes, either as additions or deductions, without the written order of the, CONTRACTOR and CONTRACTOR shall not pay any extra charges made by the SUBCONTRACTOR that have not been agreed upon in writing by CONTRACTOR: and, in no event, shall CONTRACTOR make payment for any such extra charges unless and until the CONTRACTOR itself receives payment from OWNER. SUBCONTRACTOR shall submit immediately to the CONTRACTOR written copies of his firm's cost of credit proposal for changes in the work. Disputed work shall be performed as ordered in writing by the CONTRACTOR and the proper cost or credit breakdowns therefore shall be submitted without delay by SUBCONTRACTOR to CONTRACTOR. Notice of any damage or of any additional cost which SUBCONTRACTOR claims is the responsibility of OWNER, ARCHITECT, CONTRACTOR or of any other SUBCONTRACTOR shall be filed in writing by SUBCONTRACTOR at CONTRACTOR'S home office, at the address set forth in the first paragraph of this agreement, within three days from the commencement of any such alleged damage or additional cost and within fourteen days from such commencement, SUBCONTRACTOR shall file with CONTRACTOR an itemized written accounting of such damage or additional cost. Unless filed within those specified periods of time, CONTRACTOR shall have the right to consider the claim waived by SUBCONTRACTOR without any further recourse to CONTRACTOR, its Surety or against OWNER.

If the SUBCONTRACTOR initiates a substitution, deviation or change in the work which affects the scope of the work or the expense of other trades, SUBCONTRACTOR shall be liable for the expense thereof.

No change, alteration or modification in or deviations from this Agreement or the plans or specifications, whether made in the manner herein provided or not, shall release or exonerate, in whole or in part any surety on any bond given in connection with this Agreement and neither OWNER nor CONTRACTOR shall be under any obligation to notify the surety or sureties of any such change.

**F. DAMAGES CAUSED BY DELAYS**—Should the SUBCONTRACTOR be in default in the proper performance of his work, thereby causing delay to the CONTRACTOR or to any other SUBCONTRACTOR working on this project, the SUBCONTRACTOR shall be liable for any and all loss and damages (direct and indirect) so sustained, including claims by other SUBCONTRACTORS against CONTRACTOR and/or claims or backcharges by OWNER against CONTRACTOR including, but not limited to, any liquidated damages. Such damages shall also include CONTRACTOR'S field and main office overhead charge to the work.

**G. LIENS**—Subcontractor shall at all times indemnify and save CONTRACTOR and OWNER harmless against all liability for claims and liens for labor performed or materials used or furnished to be used on the job, including any costs and expenses for attorney's fees and all incidental or consequential damages resulting to CONTRACTOR or OWNER from such claims or liens. Further in case suit on such claims is brought, SUBCONTRACTOR shall defend said suit at his own cost and expense, and will pay and satisfy any such lien or judgment as may be established by the decision of the court in said suit. SUBCONTRACTOR agrees within ten (10) days after written demand to cause the effect of any claim, suit or lien to be removed from the premises, and in the event SUBCONTRACTOR shall fail to do so, CONTRACTOR is authorized to use whatever means in its discretion it may deem appropriate to cause said claim, lien or suit to be removed or dismissed and the cost thereof, together with reasonable attorney fees, shall be immediately due and payable to CONTRACTOR by SUBCONTRACTOR. SUBCONTRACTOR may litigate any such claim, lien or suit provided he causes the effect thereof to be removed, promptly, in advance, from the premises, and/or SUBCONTRACTOR'S surety shall further do such things as may be necessary to cause OWNER not to withhold any monies due to CONTRACTOR from OWNER by reason of such claim, liens or suits. It is understood and agreed that the full and faithful performance of the Agreement on the part of the SUBCONTRACTOR (including the payment of any obligator 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 Agreement shall be impressed with a trust in favor of labor and materialmen furnishing labor and material to SUBCONTRACTOR on the work herein sub-contracted. SUBCONTRACTOR agrees that, upon CONTRACTOR'S request, it shall furnish such information, evidence and substantiation as CONTRACTOR may require with respect to the nature and extent of all obligations incurred by SUBCONTRACTOR for or in connection with the Work, all payments made by SUBCONTRACTOR thereon, and the amounts remaining unpaid, to whom and the reasons therefore.

**H. RECOURSE BY CONTRACTOR**—In the event that SUBCONTRACTOR at any time refuses or neglects to supply a sufficient number of properly skilled workmen or a sufficient quantity of materials of proper quality, or be adjudicated as bankrupt, or files an arrangement proceeding, or commits any act of insolvency, or makes an assignment for benefit of creditors without CONTRACTOR'S consent, or fails to make prompt payment to his materialmen and laborers or fails in any respect to properly and diligently prosecute the work covered by this Agreement, 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 fulfill any of the provisions of these General Subcontract Provisions by him to be performed, or otherwise fails to perform fully any and all of the agreements herein contained, CONTRACTOR may, at his option, after giving forty-eight (48) hours written notice to SUBCONTRACTOR, (1) provide any such labor and materials as may be necessary and deduct the cost thereof including a markup of 15% General Overhead and 10% Profit, from any money then due or thereafter to become due to the SUBCONTRACTOR under this Agreement; or (2) CONTRACTOR may, at his option, terminate SUBCONTRACTOR'S right to proceed with the work, and, in that event, CONTRACTOR shall have the right to enter upon the premises of the project and take possession for the purpose of completing the work included under this Agreement, of all materials, tools, and appliances of SUBCONTRACTOR, and may employ any other person or persons to finish the work and provide the materials therefore. In case of such termination of SUBCONTRACTOR'S right to proceed with the work, said SUBCONTRACTOR shall not be entitled to receive any further payment under this Agreement until the work undertaken by CONTRACTOR in his prime contract is completely finished. Following supplementation or termination pursuant to this Section H, if the unpaid balance of the amount to be paid under this Agreement exceeds the expenses incurred by CONTRACTOR in finishing SUBCONTRACTOR'S work, such excess shall be paid by CONTRACTOR to SUBCONTRACTOR but if such expense shall exceed such unpaid balance, then SUBCONTRACTOR shall promptly pay to CONTRACTOR the amount by which such expense exceeds such unpaid balance. The expense referred to in the last sentence shall include expenses incurred by CONTRACTOR for furnishing materials for finishing the work, and any damages sustained by CONTRACTOR by reason of SUBCONTRACTOR'S default, plus a markup of 15% General Overhead and 10% Profit on any and all of such expenses, and CONTRACTOR shall have a lien upon all materials, tools, and appliances taken possession of, as aforesaid, to secure the payment thereof. The notice referred to in this paragraph will be sufficient and complete when faxed or mailed to SUBCONTRACTOR at his address as shown in the Agreement.

CONTRACTOR may withhold, or on account of subsequently discovered evidence, nullify the whole or a part of any payment under SECTION 4 to such extent as may be necessary to protect CONTRACTOR from loss, on account of (1) defective work not remedied; (2) claims filed or reasonable evidence indicating probable filing of claim, (3) failure of SUBCONTRACTOR to make payments properly to his SUBCONTRACTORS or for material, labor, or for fringe benefits; (4) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (5) damage to another SUBCONTRACTOR.

When the above grounds are removed, such amounts as are then due and owing shall be paid or credited to SUBCONTRACTOR.

When any moneys are expended or costs or expenses are incurred by CONTRACTOR on behalf of or on account of SUBCONTRACTOR, which SUBCONTRACTOR should have paid, which SUBCONTRACTOR is required to reimburse CONTRACTOR, or if CONTRACTOR continues or completes the work after default by SUBCONTRACTOR, SUBCONTRACTOR shall pay to CONTRACTOR interest at the maximum rate allowed by law per annum from the time said moneys are expended or said cost or expenses are incurred until the same are paid to CONTRACTOR by SUBCONTRACTOR. Nothing herein contained shall be construed as requiring CONTRACTOR to make any such expenditure, advance any such moneys, or incur any such expenses.

**I. TERMINATION OF AGREEMENT**—In the event the prime contract is terminated prior to its completion, SUBCONTRACTOR shall be entitled only to payment for the work actually completed by it at the pro rata of the price herein set forth unless CONTRACTOR itself receives additional compensation of damages on account of such terminations in which event, SUBCONTRACTOR shall be entitled to such proportion of the additional compensation on damages actually received as is equitable under all of circumstances. Nothing herein contained shall require CONTRACTOR to make any claim against OWNER for such additional compensation or damages in the event of termination before completion, and it is specifically agreed that the failure of CONTRACTOR to prosecute any such claim against OWNER shall not entitle SUBCONTRACTOR to any claim for additional compensation or damages against CONTRACTOR.

Notwithstanding the preceding paragraph, CONTRACTOR reserves the absolute right to terminate this Agreement. In the event of termination without cause, SUBCONTRACTOR shall be entitled to payment only as follows:

1. Cost of the work actually completed in conformity with this Agreement; plus  
2. Other costs actually incurred by SUBCONTRACTOR; plus  
3. 5% of costs referred to in Paragraph 1 above, for overhead and profit. There shall be deducted from such sums as provided in this paragraph the amount of any payments made to SUBCONTRACTOR prior to the date of termination of this Agreement. SUBCONTRACTOR shall not be entitled to any claim of lien, against CONTRACTOR or against OWNER for any additional compensation of damages in the event of such termination and payment.

In the event this Agreement is terminated for cause, SUBCONTRACTOR shall not be entitled to receive any further payment until the work undertaken by CONTRACTOR in his prime contract is completely finished. At that time, if the amounts earned but not paid SUBCONTRACTOR before said termination exceed the expenses incurred by CONTRACTOR in finishing SUBCONTRACTOR'S work, any excess shall be paid by CONTRACTOR to SUBCONTRACTOR; but if such expense shall exceed the said amount earned and unpaid, SUBCONTRACTOR shall promptly pay to CONTRACTOR the amount by which the expense exceeds said sum. The expense incurred by CONTRACTOR as just referred to, shall include CONTRACTOR'S expense for furnishing materials, for finishing the work, and any damages incurred by CONTRACTOR by reason of SUBCONTRACTOR'S DEFAULT. Such damages shall also include CONTRACTOR'S field and main office overhead charge to the work.

**J. LABOR RELATIONS**—SUBCONTRACTOR shall employ labor under conditions which are satisfactory to CONTRACTOR. SUBCONTRACTOR shall keep a representative at the job site during all times when SUBCONTRACTOR'S work is in progress. Such representative shall be authorized to receive orders and have full authority to make decisions regarding SUBCONTRACTOR'S work. Before starting work, SUBCONTRACTOR shall notify CONTRACTOR who the new representative is to be before such change. The SUBCONTRACTOR shall provide the CONTRACTOR the names and emergency or home telephone numbers of the corporate or company officer, general superintendent.

Prior to the commencement of its work, SUBCONTRACTOR shall notify CONTRACTOR of the collective bargaining agreement to which it is signatory, and shall provide a copy of all such agreements within twenty-four (24) hours of a request by CONTRACTOR. SUBCONTRACTOR shall provide CONTRACTOR with at least (30) days' notice of the anticipated expiration of each collective bargaining agreement. If SUBCONTRACTOR enters into subsequent or new collective bargaining agreements with any union during the course of this project, it will notify CONTRACTOR.

SUBCONTRACTOR warrants that, with respect to any work covered by this Agreement, it and its sub-CONTRACTORS, visitors, and suppliers will at all times comply fully with the provisions of any collective bargaining agreement and related trust agreements to which it or they are bound.

Strikes (including any sympathy strikes), picketing or any other stoppage of work by employees performing work on, or delivery of materials to, the job site shall not excuse any delay of the SUBCONTRACTOR, regardless of whether the strike, picketing, or other work stoppage is attributed to union action or the decision of an individual employee.

Notwithstanding any other provision of this Agreement, CONTRACTOR reserves the absolute right to terminate this Agreement upon twenty-four (24) hours written notice if, due to a labor dispute, there is an interruption in SUBCONTRACTOR'S work performance. Interruption in SUBCONTRACTOR'S work performance includes, but is not limited to, SUBCONTRACTOR'S unwillingness or inability to continue performance of its work, or if SUBCONTRACTOR is unwilling or unable to provide qualified workers. Labor dispute includes, but is not limited to, any disputes between a union and any other entity resulting in a work stoppage, work slowdown, or interruption of delivery of materials.

**K. LAYOUT RESPONSIBILITY**-CONTRACTOR shall establish principal axis lines and levels whereupon SUBCONTRACTOR shall lay out and shall be strictly responsible for the accuracy of his work and for any loss or damage to other CONTRACTORS engaged in work on the site by reason of failure of SUBCONTRACTOR to set out or perform his work correctly. SUBCONTRACTOR shall exercise prudence so that actual final conditions and details shall result in perfect alignment of finish surfaces. Notwithstanding the dimensions on the Plans, Specifications and other Contract Documents, it shall be the obligation and responsibility of SUBCONTRACTOR to take such measurements as will ensure the proper matching and fitting of the Work covered by this Agreement with contiguous work. SUBCONTRACTOR'S failure to promptly report in writing to CONTRACTOR any alleged defects in any work performed by others in, on, or adjacent to the area in which SUBCONTRACTOR is to perform his work will be deemed acknowledgement by SUBCONTRACTOR that such other work is fit and proper for the reception, attachment or covering by SUBCONTRACTOR, and thereafter no alleged defects in such work by others may be asserted by SUBCONTRACTOR to justify any failure to perform on his part.

**L. WORKMANSHIP-**

a. SUBCONTRACTOR agrees and warrants that all of its Work: (a) will conform with the terms of the Contract Documents; (b) will be performed in a good, skillful, and workmanlike manner; (c) will be performed by the proper number of experienced, skilled, and licensed personnel, qualified by education and/or experience to perform their assigned tasks; and (d) to the extent professional services are rendered, will conform to the standard of care, skill, and diligence exercised by other similar professionals performing the same or similar services.

b. SUBCONTRACTOR shall furnish competent, skilled employees experienced in the type of Work to be performed. SUBCONTRACTOR shall provide equipment, material and personnel fully capable of performing immediate first line emergency, accident and spill response activities. Subcontractor shall, when requested by CONTRACTOR, promptly remove any person considered by CONTRACTOR to be incompetent, unsatisfactory, or undesirable.

c. SUBCONTRACTOR shall be responsible for professional certification of any applicable drawings, specifications, or schematics. SUBCONTRACTOR shall have their professional design engineer or subcontracted professional design engineer certify and approve all design documents.

d. In addition to other warranties contained in the Contract Documents, SUBCONTRACTOR warrants that every part of the work herein described shall be executed in strict accordance with the Contract Documents in the most sound, workmanlike, and substantial manner. All workmanship shall be of the best of its several kinds, and all material used in the work herein described shall be furnished in ample quantities to facilitate the proper and expeditious execution of the work and shall be new and the best of their respective kinds, except such materials as may be expressly provided in the Contract Documents to be otherwise.

**M. PROVISION FOR INSPECTION**-SUBCONTRACTORS shall furnish to CONTRACTOR and its representative ample facilities at all times for inspecting materials at the site of construction, at the shops, or any place where materials under this Agreement may be in course of preparation, process, manufacture or treatment. SUBCONTRACTOR shall further furnish to CONTRACTOR as often as required, full reports of the progress of the work at any place where materials under this Agreement may be in the course of preparation or manufacture, said reports to show the progress of such preparation and manufacture in such details as may be required by CONTRACTOR, including any plans, drawings, or diagrams in course of preparation. CONTRACTOR and/or OWNER may have a full or part time quality control individual or inspector on the site or may conduct inspections of all or any part of the work at various times. Any such person or inspection shall not relieve or diminish in any way SUBCONTRACTOR'S responsibility for ensuring that its portion of the work is in full and complete compliance with the Contract Documents and approved by OWNER. SUBCONTRACTOR shall not raise as a defense to poor, improper, so standard, incorrect, or non-complying work or materials that said work or materials were inspected and/or approved by OWNER, ARCHITECT or CONTRACTOR.

**N. MATERIALS FURNISHED BY OTHERS**-In the event the scope of work includes installation of materials or equipment furnished by others, it shall be the responsibility of SUBCONTRACTOR to examine the items so provided and thereupon handle, store and install the items with such skill and care as to insure a satisfactory installation. Loss or damage due to acts of SUBCONTRACTOR shall be charged to the account of SUBCONTRACTOR and deducted from monies under this Agreement.

**O. PROTECTION OF WORK**-SUBCONTRACTOR shall effectively secure and protect the work done hereunder and assume full responsibility for the condition thereof until final acceptance by ARCHITECT, OWNER and CONTRACTOR. SUBCONTRACTOR further agrees to provide such protection as is necessary to protect the work and the workmen of the CONTRACTOR and other SUBCONTRACTORS from his operations. 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 him or his agent's employees or guests.

**P. USE OF CONTRACTOR'S EQUIPMENT**-In the event SUBCONTRACTOR shall use CONTRACTOR'S equipment or facilities, he shall reimburse CONTRACTOR at a predetermined rate, unless otherwise stated herein. Further, that in so doing SUBCONTRACTOR assumes all responsibility for, and shall hold CONTRACTOR harmless from any claims, actions, demands, damages, liabilities or expenses, resulting from the use of such equipment or, facilities by SUBCONTRACTOR or his agents, employees, or permits.

**Q. CLEAN UP**-During the course of construction, SUBCONTRACTOR shall remove waste materials from the site currently as is necessary to maintain the premises in a clean and orderly condition. Upon completion of the work under this Agreement, SUBCONTRACTOR shall remove from the site all temporary structures, debris and waste incident to his operation and clean all surfaces, fixtures, equipment, etc. relative to the performance of this Agreement. If SUBCONTRACTOR fails to perform a clean-up function on a daily basis, CONTRACTOR may proceed with that function as he judges necessary, without additional notification, and in the manner he may deem expedient, and the cost thereof shall be charged to SUBCONTRACTOR and deducted from monies due under this Agreement. Should it be impossible for SUBCONTRACTOR to leave the premises in a clean, broom swept condition because of the continuing work of other SUBCONTRACTORS, he agrees to expressly share on a prorated basis with the other SUBCONTRACTORS the cost of clean-up, the pro-ration of such cost to be made by CONTRACTOR.

**R. GUARANTEE** a. SUBCONTRACTOR guarantees all materials and workmanship and agrees to replace at his sole cost and expense, and to the satisfaction of CONTRACTOR, any and all materials adjudged defective or improperly installed as well as guarantee the OWNER and CONTRACTOR against liability, loss or damage arising from said installation during a period of one year from completion and acceptance of the work covered by the prime contract. If, however, the period of guarantee is stipulated in excess of one year by the Contract Documents, SUBCONTRACTOR shall be bound during the longer period stipulated.

b. SUBCONTRACTOR represents and warrants that the rates charged for the materials, goods, and/or services supplied as a part of the Work or pursuant to the Contract Documents shall be no higher than SUBCONTRACTOR'S current rates to any other client for the same quality and quantity of such materials, goods, or services. All representations and warranties of SUBCONTRACTOR together with its service warranties and guarantees, if any, shall run to CONTRACTOR and CONTRACTOR'S clients. The foregoing warranties shall survive any delivery, inspection, acceptance, or payment by CONTRACTOR.

**S. INDEMNIFICATION FROM PATENT RIGHTS**-SUBCONTRACTOR shall defend, indemnify and hold CONTRACTOR harmless against any claim, suit or action, or any alleged violation or infringement of patent rights which may be made against CONTRACTOR by reason of the use in connection with or as a part of the performance of the work or the furnishing of the materials hereunder, of anything which is now or may hereafter be covered by patent, copyright or trademark, and also against all expenses which, CONTRACTOR may incur in defending or adjusting any such claim, suit or action.

**T. ASSIGNMENT OF CONTRACT** - SUBCONTRACTOR shall not, without written consent of CONTRACTOR, assign, transfer, nor sublet any portion or part of the work required by this Agreement nor assign any payments hereunder to others. SUBCONTRACTOR shall self perform at least 50% of the dollar amount of the Work, and shall not subcontract an amount greater than 50% of the dollar amount of the Work without prior written permission from CONTRACTOR. CONTRACTOR reserves the right to request proof of self performance, including, without limitation, documented evidence of work performed such as daily logs, payroll records, equipment ownership records, plans and schedules or other proof of self performance. If CONTRACTOR determines that SUBCONTRACTOR is not self performing, but is merely passing through a portion of the Work greater than 50%, CONTRACTOR shall have the right to terminate the contract for default, withhold payment, and/or enter into negotiations with SUBCONTRACTOR for a deductive modification to this Agreement. CONTRACTOR may assign or transfer the whole or part of this Agreement, and his rights hereunder to any corporation, individual or partnership.

**U. INDEPENDENT CONTRACTOR** - SUBCONTRACTOR is an independent CONTRACTOR and shall, at his 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 contribution for Social Security and Unemployment which are measured by wages, salaries, or other remuneration's paid to SUBCONTRACTOR'S employees, whether levied under

existing or subsequently enacted laws, rules or regulations. SUBCONTRACTOR, upon request, shall furnish evidence satisfactory to CONTRACTOR that any or all of the foregoing obligations have been fulfilled.

**V.** Any act or omission of CONTRACTOR which SUBCONTRACTOR might claim as an excuse for his own failure to perform shall be deemed waived by SUBCONTRACTOR unless he shall notify CONTRACTOR of his intention to assert such excuse within ten days after the occurrence of any such act or omission. SUBCONTRACTOR waives any right it might have to assert the provisions of California Civil Code Section 1654 or similar statutes against CONTRACTOR.

**W. RESOLUTION OF DISPUTES**-Nothing in this Agreement or the Contract Documents shall be construed to prevent CONTRACTOR and SUBCONTRACTOR from resolving any dispute between them through negotiation, mediation, or other mutually agreed upon alternative dispute resolution method. The complaining party shall write a description of the alleged breach of contract and send it to the other party by certified or registered mail. This letter shall explain the nature of the complaint and refer to the relevant section of the contract upon which the complaint is based. The complaining party shall also set forth a proposed solution to the problem. Should CONTRACTOR and SUBCONTRACTOR fail to agree upon an alternative dispute resolution method for any dispute arising out of or relating to this Agreement, or the breach thereof, then the following provisions shall apply:

1. Negotiation - CONTRACTOR and SUBCONTRACTOR agree to enter into negotiation to resolve any dispute. Both Parties agree to negotiate in good faith to reach a mutually agreeable settlement within a reasonable amount of time.

2. Mediation/Arbitration if Negotiation Not Successful - If negotiations are unsuccessful in resolving any dispute(s), then any controversy or claim between CONTRACTOR (and/or its surety) and SUBCONTRACTOR shall be resolved as follows:

a) For any controversy or claim in which the maximum amount claimed by each party individually is \$200,000.00 or less, such amount to be exclusive of any interest, claim preparation costs and attorneys' fees, the parties shall participate in mediation as agreed upon between them. In the absence of agreement with respect to the selection of the mediator or procedures for the mediation, the parties will submit the matter to JAMS for mediation. If mediation does not result in settlement, the parties shall immediately commence arbitration, using the selected mediator as the arbitrator. The decision of the arbitrator shall be final and binding and judgment upon the award may be entered in any court having jurisdiction thereof. In the absence of agreement to the contrary, the arbitration shall follow the rules of JAMS, except that the provisions in this clause and the subcontract shall take precedence over and be used instead of any conflicting rules of JAMS.

b) For any controversy or claim in which the maximum amount claimed by either party, exclusive of interest, claims preparation costs and attorneys' fees, is greater than \$200,000.00, the procedures set forth in subpart (1), above, for claims of \$200,000.00 or less, shall apply with the following change: In the event mediation does not result in settlement, the parties shall immediately submit the matter to binding arbitration. However, although the parties may agree to use the mediator as the arbitrator, they are not required to do so and either party may insist upon the selection of a person other than the mediator as the arbitrator. In the absence of agreement with respect to the selection of the arbitrator or procedures of the arbitration, the parties will arbitrate before JAMS pursuant to its Construction Arbitration Rules and Procedures. The decision of the arbitrator(s) shall be final and binding and judgment upon the award may be entered in any court having jurisdiction thereof.

3. Venue - This agreement was entered into in San Diego, California. Venue for all controversies or claims arising from or relating to this agreement shall be San Diego, California.

4. Choice of Law - In any litigation or arbitration solely between CONTRACTOR and/or its surety, and SUBCONTRACTOR, this Agreement and any claims arising under it shall be governed by the laws of the State of California.

5. Exceptions to Arbitration - The arbitration provision shall not apply to any claim: (a) of contribution or indemnity asserted by one party to this Agreement against the other party and arising out of an action brought in a state or federal court or in arbitration by a person who is under no obligation to arbitrate the subject matter of such action with either of the parties hereto or who does not consent to such arbitration; or (b) asserted by the SUBCONTRACTOR against the CONTRACTOR if the CONTRACTOR asserts said claim, either in whole or part, against the OWNER; or asserted by the OWNER against the CONTRACTOR, when the prime contract does not provide for binding arbitration, or does so provide but the two arbitration proceedings are not consolidated or the CONTRACTOR and OWNER do not subsequently arbitrate such claim.

6. Third Party Litigation or Arbitration - Should CONTRACTOR and/or its surety become involved in any litigation or arbitration proceedings with OWNER or any third party involving the work covered by this Agreement, then, upon notice by CONTRACTOR, SUBCONTRACTOR shall be joined as a party and be bound to the same litigation or arbitration as CONTRACTOR is bound with OWNER or such third party. The election to join SUBCONTRACTOR as a party to such litigation or arbitration shall be at the sole discretion of CONTRACTOR, and this paragraph 5 shall not be construed as CONTRACTOR'S consent to such joinder.

7. Duty of Cooperation in Third Party Disputes - Should CONTRACTOR become involved in arbitration, court or other dispute resolution proceeding with OWNER or a third party involving a claim or controversy related to this Agreement, and SUBCONTRACTOR is not a party to such proceeding, the SUBCONTRACTOR shall cooperate with CONTRACTOR in the defense or prosecution of such claim or controversy, insofar as it relates to SUBCONTRACTOR'S obligations under this Agreement, and any arbitration or other dispute resolution proceeding between CONTRACTOR and SUBCONTRACTOR involving substantially the same issues shall, upon demand by CONTRACTOR, be stayed, in whole or in part, pending final resolution of the claim or controversy between CONTRACTOR and OWNER or such third party. Nothing herein shall waive or alter the obligations of SUBCONTRACTOR to defend, indemnify and hold CONTRACTOR harmless from claims of the owner in any arbitration, court or other dispute resolution proceeding.

8. Claim Statutes, Notice Requirements and Costs - In the event SUBCONTRACTOR desires to assert a claim against or seek other relief from OWNER, with the assistance of CONTRACTOR, or against or from CONTRACTOR where CONTRACTOR may be entitled to similar relief from OWNER, then SUBCONTRACTOR shall comply with and provide to CONTRACTOR such notice, claim, certification and other administrative requirements of the prime contract, in such manner and at times sufficient to permit CONTRACTOR to promptly and thoroughly give notices, present and document claims, or other requests for relief, to OWNER. SUBCONTRACTOR agrees that it shall contribute a fair and proportionate share of the costs including, without limitation, legal and other professional fees, of advancing the claims of SUBCONTRACTOR against Owner including, without limitation, claims for delay.

9. Continuation of Work - SUBCONTRACTOR, in the event of any dispute or controversy with CONTRACTOR, another SUBCONTRACTOR or other third party involved with the project, over any matter whatsoever, SUBCONTRACTOR shall not cause or permit any delay or cessation of SUBCONTRACTOR'S work under this Agreement, or cause delay or disruption of the work of any other SUBCONTRACTOR or CONTRACTOR on the project, but shall proceed with the performance of the work in accordance with this agreement pending arbitration of such dispute of controversy. If SUBCONTRACTOR continues to so perform pending arbitration, then CONTRACTOR shall continue to make payments in accordance with this Agreement.

10. Offsets - SUBCONTRACTOR agrees and understands that CONTRACTOR may deduct from any payments otherwise due to SUBCONTRACTOR the amount of any liquidated or unliquidated claim or amounts due to CONTRACTOR or Owner from SUBCONTRACTOR, whether arising under this Agreement or other unrelated agreements.

11. Right to Withhold - CONTRACTOR may withhold from current and future payments due to SUBCONTRACTOR amounts necessary to protect CONTRACTOR from loss if in the good faith opinion of CONTRACTOR, the following events have occurred or are likely to occur: (a) Claims filed by any lower tier subcontractor or supplier of SUBCONTRACTOR; (b) Claims filed by an employee or trust fund of SUBCONTRACTOR or lower tier subcontractors; (c) Damage by SUBCONTRACTOR to the Work of another subcontractor or a third party; (d) Reasonable doubt that SUBCONTRACTOR can complete the Work for the unpaid Agreement amount; (e) SUBCONTRACTOR is in default of any term or provision of the Contract Documents; or (f) Notice by the Government of any wage and/or law violations.

**X. GOVERNMENTAL REQUIREMENTS REGULATIONS ACTS AND STATUTES:**

a. SUBCONTRACTOR shall, at its own expense, comply with all requirements, regulations, statutes and acts promulgated by federal, state, local or other governmental authority and applicable to the work of the prime contract and SUBCONTRACTOR'S work, including all successors and amendments thereto which may be promulgated during performance of the work. Particular attention is called, but not limited to those requirements, regulations, statutes and acts related to safety, equal employment opportunity, wage and hours, environmental and hazardous/toxic material. SUBCONTRACTOR, as part of his compliance, shall make himself aware of, and readily comply with, any notification and/or reporting requirements of these regulations, statutes, acts, and the associated penalties and deductions for failure to comply thereto.

SUBCONTRACTOR shall ensure and be responsible for similar compliance by all those working under SUBCONTRACTOR in performance of the work called for under this Agreement. SUBCONTRACTOR shall promptly cure, pay, remedy or otherwise cause to be removed any violation, citation, fine, penalty or claim by any governmental entity due to the failure of SUBCONTRACTOR, or anyone working under it, to so comply.

b. FAILURE TO COMPLY. Failure of SUBCONTRACTOR, or anyone working under it, to comply with the requirements, regulations, statutes or acts, as described in subparagraph a, above, shall constitute a material breach of this Agreement by SUBCONTRACTOR, and CONTRACTOR may in its discretion exercise all of the rights and remedies provided by law or under the terms of this Agreement, including, but not limited to, withholding of a sum equal to 150% of the amount CONTRACTOR reasonably believes it may be damaged by reason of such breach.

c. **INDEMNITY.** In addition to the general indemnity provisions of this Agreement, to the greatest extent permitted by law SUBCONTRACTOR shall defend, indemnify and hold CONTRACTOR and OWNER harmless from any loss, damage, injury, assessment, penalty, fine, forfeiture or claim to, by or against any third party, CONTRACTOR or OWNER which results directly or indirectly from a breach of subparagraph a, above, regardless of the fault or neglect of a party indemnified hereunder, save and except the sole negligence or willful misconduct of such party.

d. **FAR REQUIREMENTS.** This section is applicable to all U.S. Government subcontracts; in the event the Agreement is not a U.S. Government Subcontract, this part d. is not applicable to the Agreement or the Work of SUBCONTRACTOR, and all other requirements of the Contract Documents shall control. SUBCONTRACTOR shall comply fully with all applicable Federal Acquisition Regulation requirements. In particular, SUBCONTRACTOR shall, when required, execute and deliver to CONTRACTOR all representations and certifications ("reps and certs") and other documents, and take all such other actions, which may be required by FAR provisions. All such "Reps and Certs" shall be updated upon CONTRACTOR's request. If applicable, SUBCONTRACTOR shall comply with the Davis-Bacon Act by paying all covered workers in accordance with the wage determination(s). FAR contract provisions, which are required to be "flowed down" to SUBCONTRACTOR in the case of Federal projects, shall be deemed to be incorporated herein by reference and apply to any Work performed under this Agreement. Certain portions of the clauses or certain clauses themselves may be self-deleting due to the nature of the Work to be performed. Where there are any compliance time requirements in the clauses these time frames are reduced by fifty percent (i.e. 1 year becomes 6 months, 90 days becomes 45 days, etc.) for this Agreement. The sum and substance of each regulation shall also be applied to all additional lower-tiered subcontractors, vendors or entities utilized to perform any Work under this Agreement, and SUBCONTRACTOR shall include this provision in all such contracts.

**Y. SUPERVISION/OMISSIONS**—SUBCONTRACTOR shall provide efficient and knowledgeable supervision of its work hereunder, using its best skill and attention. SUBCONTRACTOR shall carefully study and compare all drawings, specifications, and other instructions concerning the work, and shall at once report to CONTRACTOR, in writing, any error, inconsistency, or omission which it may discover. Should SUBCONTRACTOR fail to perform its duties under this paragraph or perform the same negligently, SUBCONTRACTOR shall be liable to CONTRACTOR for any damages caused thereby to CONTRACTOR or its SUBCONTRACTORS

**Z. HOTLINE** – SUBCONTRACTOR shall contact the CONTRACTOR Hotline in the event of any suspected irregularity or impropriety including, without limitation, instances of fraud, waste or abuse, under this Agreement. The Hotline telephone contact number is (760) 451-4268.

**AA. SEVERABILITY** – If any provision of this Agreement or application thereof is held invalid, the invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application. To this end, the provisions of this Agreement are severable.

**ATTACHMENT - A**  
**SCOPE OF WORK**  
**STANDARD SCOPE ATTRIBUTABLE TO ALL TRADES**

This Attachment shall not limit more stringent requirements found elsewhere in the contract documents.

**1. ALL TRADES ARE TO INCLUDE THE FOLLOWING ITEMS WITHIN THEIR TRADE SCOPE OF WORK:**

- 1.0 Division 1 General Requirements
- 1.1 Contracts: This entire Agreement must be fully executed and copies must be on file in Contractor's main office prior to SUBCONTRACTOR starting work on this project. Should inconsistencies or omissions appear in the contract documents, it shall be the duty of the SUBCONTRACTOR to notify the CONTRACTOR in writing within three (3) working days of the discovery by the SUBCONTRACTOR. Upon receipt of notice, the CONTRACTOR shall instruct the SUBCONTRACTOR as to the measures to be taken and the SUBCONTRACTOR shall comply with the CONTRACTOR'S instructions.
- 1.2 Protection of concrete flatwork from rubber tire marks
- 1.3 All mobilizations
- 1.4 Comply with applicable prevailing wage rates
- 1.5 Subcontractor will be responsible to ensure all personnel carry the specified identification called out in the contract documents, if necessary; and stay within areas limited to the use of construction operations as noted in the drawings
- 1.6 Subcontractor shall coordinate all work activities to maintain regular activities and operations.
- 1.7 Adhere to traffic, parking, and entry regulations
- 1.8 The subcontractor is responsible for cleaning all track out generated from this scope of work as needed
- 1.9 All items identified on the Contract Drawings with specific references to Specification Sections included in this Subcontract Agreement are specifically included in this scope of work.
- 1.10 Provide all documentation necessary to fulfill all LEED requirements as it relates to your scope of work.
- 1.11 Subcontractor to provide QC Personnel as it applies to the subcontractor's scope of work per RFP requirements.
- 1.12 Subcontractor shall provide all signs/nameplates for Subcontractor's equipment as may be required.
- 1.13 Subcontractor shall have representative personnel on site for the duration of all structural concrete placements. Personnel shall be responsible for any final adjustments and/or alterations necessary for Subcontractor's installations.
- 1.14 Subcontractor shall provide sufficient training to the Owner's appointed representatives in the presence of the Contractor. Where videotaping of training sessions is a requirement of the Contract Documents, Subcontractor shall provide all equipment and manpower required to record the training session.
- 1.15 Contractor shall provide general survey. Subcontractor shall provide layout of work.
- 1.16 Should inconsistencies or omissions appear in the contract documents, it shall be the duty of the SUBCONTRACTOR to notify the CONTRACTOR in writing within three (3) working days of discovery by the SUBCONTRACTOR. Upon receipt of notice, the CONTRACTOR shall instruct the SUBCONTRACTOR as to the measures to be taken and the SUBCONTRACTOR shall comply with the CONTRACTOR'S instructions. If it is determined that costs and/or time impact are involved, the SUBCONTRACTOR will be compensated by change order based on approval of the OWNER and with substantiation of the added costs and/or time impacts.
- 1.17 Subcontractor shall provide sealant, caulking, fire stopping, primer, adhesives, backing, blocking, shimming, angles, hangers, channels, plates, etc as applicable for own work and so as not to delay the work of other trades.
- 1.18 Subcontractor shall provide and install all straps, supports, hangers, uni-strut, restraints, seismic bracing, and the design of said braces and supports necessary for Subcontractor's own installation.
- 1.19 Contractor will provide normal 110V temporary power. Subcontractor shall provide its own source for all electrical requiring more than 110V single phase service. Subcontractor shall provide its own power cords.
- 1.20 Subcontractor shall prevent damage to existing facilities, curbs, gutters, sidewalks, and asphalt paving beyond that needed to make curb cuts and utility trenches. Any damage to the existing site or facilities shall be repaired by the Subcontractor at Subcontractor's expense and to the satisfaction of the Owner.
- 1.21 Subcontractor shall work off-hours as required for critical tie-ins.
- 1.22 Subcontractor shall provide field measuring to ensure proper fit of Subcontractor's work.
- 1.23 Subcontractor is responsible for furnishing and installing all access doors and panels as may be required for access to system components under its scope of work. Access door locations must be coordinated and approved by Contractor and Owner. Coordination is to occur prior to the start of any wall framing work.
- 1.24 Subcontractor shall be aware of any and all existing utilities, and shall exercise extreme caution during excavation operations. Subcontractor shall be responsible for verifying with Owners as-built documents the location of all known underground utilities. The existence, location and characteristics of underground utility information shown on these plans have been obtained from a review of available record data. No representation is made as to the accuracy or completeness of said utilities. Subcontractor must obtain their own USD Dig Alert number three days prior to beginning any excavation work. Subcontractor is responsible for all preventive measures to protect the utility lines as shown or discovered during the work.
- 1.25 Subcontractor is responsible to verify the location of all existing utilities by pot holing prior to the beginning of excavation work. If existing utilities are damaged by this Subcontractor, repair/replacement costs are the responsibility of Subcontractor. Subcontractor shall Provide temporary structural support of existing utilities where necessary including design.
- 1.26 Subcontractor shall leave concrete floors in a condition acceptable to the flooring manufacturer in order to allow proper adhesion of finish flooring products.
- 1.27 Subcontract Agreement Number: Subcontract Agreement Number, on first page of Standard Subcontract Form, must appear on all packages, bills of lading, packing slips, billings and correspondence. Government priority rating of "DOC 2" must appear on all material purchase orders.
- 1.28 COORDINATION: The SUBCONTRACTOR shall coordinate all work with other trades through CONTRACTOR.

The SUBCONTRACTOR shall

- a. Cooperate with the CONTRACTOR and all others whose work may interfere with the SUBCONTRACTOR'S work. SUBCONTRACTOR shall be responsible for coordination of all work with the project superintendent and other subcontractor trades;



- b. Specifically note and immediately advise the CONTRACTOR in writing of any such interference with the SUBCONTRACTOR'S work; and
- c. Participate in the preparation of coordination drawings and work schedules in areas of congestion.
- 1.29 SUBCONTRACTOR shall be responsible for temporary services including: scaffolding, temporary shoring/bracing, trash/debris cleanup and disposal off-site, temporary offices and storage facilities, as well as security, electrical cords, task lighting, drinking water, materials and equipment for own work.
- 1.30 SUBCONTRACTOR shall be responsible for specified environmental conditions for installation of own work including any action required under this Subcontract which disturbs surface soils.
- 1.31 SUBCONTRACTOR will comply with Storm Water Pollution Prevention Plan of the contract Specifications General Requirements.
- 1.32 Specification General Requirements included within SUBCONTRACTOR'S scope of work, SUBCONTRACTOR shall provide Contractor with "Technical Publications", "Operating and Maintenance Manuals" (O&M), and/or "Parts Lists" in the form and format specified except that the number of such documents provided to the Contractor shall be two more than specified in such Contract Specifications. O&M data shall be submitted as soon as practical, but no later than thirty (30) days after delivery of equipment to the project. All other required manuals and/or instructions shall be submitted to Contractor for approval as soon as installation operations are completed but prior to the time that system and/or equipment tests are performed. The specific formatting requirements for the O&M manuals are outlined in the specifications.
- 1.33 Protection of Existing and Completed Work: Subcontractor shall be responsible for protection of existing and completed work.
- 1.34 At the sole discretion of the Owner, Owner may approve for inclusion in an Application for Payment the cost of materials not yet incorporated in the Work but already delivered and suitably stored either (1) at the Project site, or (2) at some other appropriate location (i.e. bonded and secured warehouse) acceptable to the Owner. To be eligible for consideration for Approval by the Owner for inclusion in an Application for Payment, SUBCONTRACTOR shall submit supplier affidavits and invoices with detailed line item quantity and cost breakdowns to CONTRACTOR. Approval by the Owner for inclusion in an Application for Payment shall not relieve SUBCONTRACTOR in any way of its direct responsibility for all costs related to storage, theft and damage, until any stored materials and equipment, off-site or at the Project site, are properly installed for their intended use and incorporated in the Work.
- 1.35 Parking and Storage: Subcontractor is responsible for the cost of off-site parking for Subcontractor's work force. Within the project limits and at the discretion of the Contractor parking will be made available to a limited area designated by the Contractor. Staging and lay down areas are limited to an area or areas designated by the Contractor. Materials must be stored within the limits defined by the Contractor.
- 1.36 Non Potable Water: All temporary utility connections and costs to utilize the available construction water will be the responsibility of the SUBCONTRACTOR as required to complete the SUBCONTRACTOR'S work.
- 1.37 Dust Control: SUBCONTRACTOR shall be responsible for providing all required permits, dust control and street cleaning associated with SUBCONTRACTOR'S operations while actively working on site.
- 1.38 Clean up: SUBCONTRACTOR shall provide waste disposal bins for their own work (unless otherwise indicated). Project's refuse containers, shall not be used by SUBCONTRACTOR to dispose of materials from SUBCONTRACTOR'S activities. SUBCONTRACTOR shall remove such refuse from the jobsite in a timely manner, using only SUBCONTRACTOR'S own facilities for such refuse material. At the end of each workday, SUBCONTRACTOR must clean up and remove all of SUBCONTRACTOR'S scrap and / or debris. All unused materials must be neatly stockpiled as designated by Contractor's Superintendent. If SUBCONTRACTOR does not adhere to these daily requirements, Contractor shall notify SUBCONTRACTOR in writing of failure to clean up, and require that SUBCONTRACTOR do so within forty-eight (48) hours. If SUBCONTRACTOR fails to comply with Contractor's written request, Contractor shall perform clean up as deemed necessary on behalf of the SUBCONTRACTOR and all costs associated with such shall be deducted from SUBCONTRACTOR'S contract.
- 1.39 Long Lead Items: Subcontractor shall provide Contractor a list of deliverables required by this Agreement that exceed 7 calendar days to procure. The list shall be delivered to the Contractor within 10 calendar days of the date that this Agreement was executed and contain a description of the item, the suppliers name and telephone number, and the number of calendar days required for delivery of the item to the Project Site.
- 1.40 Subcontractor is responsible to visit the Project Site and be familiar with the existing improvements and the physical conditions of the site prior to executing this agreement.
- 1.41 Subcontractor warrants that it has examined and fully understands the Plans, Specifications, and Reports listed as Contract Documents.
- 1.42 Subcontractor fully understands and will comply with Noise Restrictions, Dust Control, and Waste Management requirements.
- 1.43 Telephones: SUBCONTRACTOR shall not use Contractor's telephones at the jobsite.
- 1.44 Cost Proposals: Cost Proposals will be returned to Contractor's main office within seven (7) days, or as required by the Contract Documents, of receipt of Contractor's form. SUBCONTRACTOR is advised to become familiar with all requirements regarding changes and / or claims.
- 1.45 Change in Site Conditions: SUBCONTRACTOR shall provide Contractor with seventy-two (72) hours written notice of any change in site conditions which would result in delay, disruption or impact to SUBCONTRACTOR.
- 1.46 Written Approval: Contractor will recognize no claim for additional work by SUBCONTRACTOR without written approval and / or direction by Contractor prior to commencement of such work.
- 1.47 Testing & Inspection: SUBCONTRACTOR shall provide Contractor / Owner seventy-two (72) hour notice for all testing and inspections. SUBCONTRACTOR shall pay for all re-testing and re-inspections due to SUBCONTRACTOR'S defective work. Test and inspection by others, Subcontractor is responsible for reinspection or retesting due to Subcontractor's failure to comply with any contract requirements necessary to pass the initial inspection or test.
- 1.48 Key Personnel: SUBCONTRACTOR shall provide, and update as required, names, addresses and emergency phone numbers for all key personnel, including competent person, First Aid/CPR certified person on site. Supervision – Contractor is to assign a Project Manager and a full time Superintendent/Foreman in writing, subject to Contractor's approval, for the duration of the project. No changes will be allowed without written authorization. the right to reject any proposed Contractor personnel. The Subcontractor or his designated authorized representative THS reserves shall be present at the site

of the work at all times while work is actually in progress. The designated authorized representative shall have the authority to represent and act for the Contractor and any written or verbal directions or requests of the GC.

- 1.49 Construction Schedule: Time is of the essence of this agreement. SUBCONTRACTOR shall follow Contractor's construction schedule as to time and sequence of work items. It is the intent of this Agreement that this work be completed as expeditiously as possible. SUBCONTRACTOR shall provide adequate manpower to meet Contractor's schedule.
- 1.50 Contract Drawings: SUBCONTRACTOR shall be responsible to obtain copies of Contract Drawings, Contract Specifications and Addenda at their own expense.
- 1.51 Equal Employment Opportunity: SUBCONTRACTOR's attention is called to the General Subcontractor Provisions, Section Y Governmental Requirements Regulations Act and Statutes, as it pertains to the Equal Employment Opportunity clause located in **Information Booklet #1**. SUBCONTRACTOR shall comply with all such requirements and shall provide documentation of compliance including but not limited to, certification, monitoring and auditing of SUBCONTRACTOR's participation.
- 1.52 SUBCONTRACTOR shall attend any required pre-installation, preparatory, coordination, partnering or pre-construction conferences, as required. SUBCONTRACTOR shall participate in weekly coordination meetings with the Contractor's Superintendent. As a minimum, SUBCONTRACTOR shall have on-site foreman (fluent in written and spoken English) in attendance. SUBCONTRACTOR shall be responsible for preparing a three week look-ahead schedule for their feature of work for current and future activities for approval of contractor. Format for the three week look-ahead schedule shall be provided by the Contractor.
- 1.53 SUBCONTRACTOR shall, within ten (10) days from the date of receipt of this Agreement, furnish a 100% performance bond and a 100% labor and material payment bond (including a power of attorney for each bond) on bond forms provided to you by Straub Construction, Inc.. The surety must be listed on the most current U.S. Treasury Circular # 570 and must have an underwriting limit in excess of the bond amount. In addition, the surety must have a rating of "A" or better in the current A.M. Best rating Guide of Property/Casualty Insurance Companies. The SUBCONTRACTOR performance bond cost has been included in the SUBCONTRACTOR proposal and will not be refunded by SCI.
- 1.54 Participation in the Navy Commercial Access Control System (NCACS) is required, to include all costs associated with badging, background verifications, and access requirements and restrictions as identified in specification section 01 14 00.
- 1.55 Textura. Straub intends to make payment to its subcontractors and suppliers using the Textura electronic payment system. As a result, a credit in the amount of .18% of this subcontract value will be deducted from the payments to be due hereunder, subject to a \$50.00 minimum credit and a \$2,500 maximum credit (for subcontracts in excess of \$1,388,888). An informational package and electronic link will be sent to \_\_\_\_\_ in order to begin the electronic payment process under this subcontract using the Textura System. If there are questions, please contact Straub's subcontracts payable department at 760.414.9000.

**2. AUTHORITY TO EXECUTE CHANGE ORDERS, AND TO BIND CONTRACTOR FOR SERVICES, LABOR OR MATERIALS:**

- 2.0 Only certain individuals in CONTRACTOR'S home office are authorized to sign Change Orders on behalf of the CONTRACTOR. Requests for Change Orders, and extra work, are to be made to the CONTRACTOR'S home office, in writing. Failure to do so will negate the possibility of reimbursement for additional work.
- 2.1 Neither the Superintendent nor his assistants or subordinates have any authority to execute Change Orders on behalf of the CONTRACTOR, or in any manner modify the terms or conditions of the Subcontract Agreement, or to authorize or enter into on behalf of the CONTRACTOR any agreements or services from the SUBCONTRACTOR.
- 2.2 SUBCONTRACTOR'S REPRESENTATIVE – The SUBCONTRACTOR shall designate a person, subject to the CONTRACTOR'S approval, who shall be the authorized SUBCONTRACTOR'S representative. This representative shall be the only person to whom the CONTRACTOR shall issue instructions, orders or directions, except in an emergency. The SUBCONTRACTOR'S representative is \_\_\_\_\_.



**ATTACHMENT - A.1**

**SCOPE OF WORK  
TRADE SCOPE OF WORK**

**{Projects.Name}**  
**{{Projects.GeneralNotes} ">"**  
**Contract No.: {LegalDocInfo.OwnerJobNum}**

**SUBCONTRACTOR: {ToCompany.Name}**

**1. SCOPE OF CONTRACT WORK INCLUDES: {Contracts.ScopeOfWork}**

**CLARIFICATION OF WORK:** The work referenced, is included in, but not limited to all plans, specifications, and addenda. The intent of this Agreement is for SUBCONTRACTOR to provide all materials, equipment, and labor to provide **{Contracts.Description}** and other related components as required to provide a complete project in strict accordance with all government codes, regulations, and requirements and the Contract Documents.

**2. SPECIFIC INCLUSIONS**

**The scope of work specifically includes, but is not limited to the following:**

{Contr {ContractInclusions.Description}  
actIncl  
usions.  
ItemNu  
mber}

**3. EXCLUSIONS**

**THE FOLLOWING WORK IS NOT INCLUDED IN THIS SCOPE OF WORK:**

{Contr {ContractExclusions.Description}  
actExc  
lusions  
.ItemN  
umber  
}

**4. CONTRACT PRICE**

Contractor agrees to pay Subcontractor for the strict performance of its work, the sum of:

**{{Contracts.OrigValue} "NumToText"} {{Contracts.OrigValue} "Currency"} \*,**  
subject to additions and deductions for changes in the work as may be agreed upon, and to make payment in accordance with the Payment Schedule in Section 4, Standard Subcontract Form. **\* Tax Included**

**SUBCONTRACTOR:**

**CONTRACTOR:**

\_\_\_\_\_  
**{{ToCompany.Name} ">"**  
**SUBCONTRACT NO.: {Contracts.ContractNumber}**

\_\_\_\_\_  
**STRAUB CONSTRUCTION, INC.**

**ATTACHMENT - B**

**{Projects.Name}**  
**{{Projects.GeneralNotes} ">"**  
**Contract No.: {LegalDocInfo.OwnerJobNum}**

**SUBCONTRACTOR: {ToCompany.Name}**  
**SUBCONTRACT NO.: {Contracts.ContractNumber}**

**SUBCONTRACTOR BOND FORMS**

**NOTE: Bonds are legal documents. As such, “white-out” type products are prohibited in correcting errors or changes**

**SURETY CARRIER INFORMATION:**

- Surety carrier must be acceptable to Straub Construction, Inc.
- Surety carrier must be Best Rated “A-“ or better
- Surety carrier must be licensed in state where work is being performed

**PERFORMANCE AND PAYMENT BONDS:**

- Bond number at the top of Performance Bond and at top of Payment Bond (must be same number on each)
- Bond premium at top of Performance Bond below bond number
- **“Premium included in the Performance Bond”** or similar wording to that effect appears at top of Payment bond below bond number
- Full name (and address, if applicable) of Straub Construction, Inc. (no abbreviations unless part of legal name, i.e. Co. instead of Company)
- Full name (and address, if applicable) of Subcontractor (no abbreviations unless part of legal name, i.e. Co. instead of Company)
- Full name (and address, if applicable) of Surety (no abbreviations unless part of legal name, i.e. Co. instead of Company)
- Full Subcontract price appears in figures and words on Performance and Payment Bonds
- Project name, Project/Contract number appears in general job description area of each bond
- Project name, Project/Contract number, and scope of work appears in subcontractor job descriptions area of each bond
- Date of contract/subcontract precedes date of bonds
- Complete Subcontractors name, typed/printed name and title of signing agent appears near signature
- Complete Surety carriers name, typed/printed name and title of signing agent appears near signature

**SIGNATURES:**

- Subcontractor signed all bonds and affixed corporate seal near signature
- Surety carrier or carrier’s agent signed all bonds and affixed corporate seal near signature

**ATTACHMENTS:**

- Original Power of Attorney for **each bond** (two per set: one for Performance Bond, one for Payment Bond)
- Original Power of Attorney dated same date as Performance Bond and Payment Bond
- Original Power of Attorney must have corporate seal affixed and be legibly embossed
- If Power of Attorney is limited, it must cover the full amount of the bond
- One notary acknowledgement\*\* **for each bond** from Subcontractor (two per set)
- One notary acknowledgement\*\* **for each bond** from Surety Company (two per set)

\*\*Regarding the Principal only, if there is an area for a witness signature on the bond form, a witness may sign in lieu of a notary acknowledgement. Witness name and title must be typed/printed near signature. Witness must sign **each bond** (two per set).

Surety’s signature must be notarized on each bond

**PLEASE EMAIL A COPY OF YOUR BONDS TO  
{Projects.ProjectExecutive}, PRIOR TO SUBMITTING  
THE ORIGINALS.**

**PAYMENT BOND**  
(Subcontract)

Bond No. \_\_\_\_\_

Premium Amount: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That **{ToCompany.Name}** (hereinafter called the "Principal"), as Principal and

\_\_\_\_\_ a corporation organized and existing under the laws of the State of \_\_\_\_\_ (hereinafter called the "Surety"), as Surety, are held and firmly bound unto **Straub Construction, Inc., {LegalDocInfo.ContrAddr1}, {LegalDocInfo.ContrAddr2}**, (hereinafter called the "Obligee"), in the sum of (**{Contracts.OrigValue} "NumToText"**) Dollars (**{Contracts.OrigValue} "Currency"**) for the payment of which sum well and truly to be made, the said Principal and Surety bind themselves, and their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the obligee has been awarded a contract (hereinafter called the "Prime Contract"), by **{LegalDocInfo.Owner} {Projects.UserText1}, for {Projects.Name} and Project Number # ({LegalDocInfo.OwnerJobNum})**.

WHEREAS, the Principal has entered into a written Subcontract with the Obligee, dated (**{Contracts.ContractDate} "Long Date"**) to perform, as Subcontractor, certain portions of the work in connection with said Prime Contract consisting of **{Contracts.ContractNumber}, {Contracts.Description}** work which Subcontract is hereby referred to and made a part hereof.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall promptly make payment to all persons supplying labor and material in the prosecution of the work provided for in said Subcontract and any and all modifications of said Subcontract that may hereafter be made, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The said Surety agrees that no change, extension of time, alteration, addition, omission, or other modification of the terms of either the said Subcontract or the said Prime Contract, or both, or in the said work to be performed, or in the specifications, or in the plans, shall in anywise affect its obligation on this Bond, and it does hereby waive notice of any such changes, extensions of time, alterations, additions, omissions, and other modifications. The said surety agrees that the penal sum of the bond will be adjusted by any revisions to the subcontract.

The said Principal and the said Surety agree that this Bond shall inure to the benefit of all persons supplying labor and material in the prosecution of the work provided for in said Subcontract, as well as to the Obligee, and that such persons may maintain independent actions upon this Bond in their own names.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 2016, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

\_\_\_\_\_  
(Principal) (Seal)

Witness:

\_\_\_\_\_  
(Business Address)

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Or Secretary's Attest

By: \_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Typed name

\_\_\_\_\_  
(Surety) (Seal)

Witness:

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
Or Secretary's Attest

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed name

By: \_\_\_\_\_  
Typed Name

**PERFORMANCE BOND**  
(Subcontract)

Bond No. \_\_\_\_\_

Premium Amount: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, That **{ToCompany.Name}** (hereinafter called the "Principal"), as Principal and

\_\_\_\_\_ a corporation organized and existing under the laws of the State of \_\_\_\_\_ (hereinafter called the "Surety"), as Surety, are held and firmly bound unto **Straub Construction, Inc., {LegalDocInfo.ContrAddr1}, {LegalDocInfo.ContrAddr2}**, (hereinafter called the "Obligee"), in the sum of **{Contracts.OrigValue} "NumToText"** Dollars (**{Contracts.OrigValue} "Currency"**) for the payment of which sum well and truly to be made, the said Principal and Surety bind themselves, and their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Obligee has been awarded a contract (hereinafter called the "Prime Contract"), by **{LegalDocInfo.Owner} {Projects.UserText1}, for {Projects.Name} and Project Number # {LegalDocInfo.OwnerJobNum}**.

WHEREAS, the Principal has entered into a written Subcontract with the Obligee, dated (**{Contracts.ContractDate} "Long Date"**) to perform, as Subcontractor, certain portions of the work in connection with said Prime Contract consisting of **{Contracts.ContractNumber}, {Contracts.Description}** work which Subcontract is hereby referred to and made a part hereof.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the above bounden Principal shall well and truly perform all the undertakings, covenants, terms, conditions, and agreements of said Subcontract within the time provided therein and any extensions thereof that may be granted by the Obligee, and during the life of any guaranty required under said Subcontract, and shall also well and truly perform all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Subcontract that may hereafter be made, and shall indemnify and save harmless said Obligee of and from any and all loss, damage, and expense, including costs and attorney's fees, which the said Obligee may sustain by reason of failure so to do, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

The said Surety agrees that no change, extension of time, alteration, addition, omission, or other modification of the terms of either the said Subcontract or the said Prime Contract, or both, or in the said work to be performed, or in the specifications, or in the plans, shall in anywise affect its obligation on the Bond, and it does hereby waive notice of any such changes, extensions of time, alterations, additions, omissions, and other modifications. The said surety agrees that the penal sum of the bond will be adjusted by any revisions to the subcontract.

IN WITNESS WHEREOF, the above bounden parties have executed this instrument under their several seals this \_\_\_\_\_ day of \_\_\_\_\_, 2016, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

\_\_\_\_\_  
(Principal) (Seal)

Witness:

\_\_\_\_\_  
(Business Address)

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Or Secretary's Attest

By: \_\_\_\_\_  
Typed Name and Title

\_\_\_\_\_  
Typed name

\_\_\_\_\_  
(Surety) (Seal)

Witness:

\_\_\_\_\_  
(Business Address)

\_\_\_\_\_  
Or Secretary's Attest

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed name

By: \_\_\_\_\_  
Typed Name

**ATTACHMENT – C**

**MASTER LIST OF DOCUMENTS**

**{Projects.Name}**  
**({Projects.GeneralNotes} ">")**  
**Contract No.: {LegalDocInfo.OwnerJobNum}**

**SUBCONTRACTOR: {ToCompany.Name}**  
**SUBCONTRACT NO.: {Contracts.ContractNumber}**

**Attachment Number      Attachment Description**  
**{ContractAttachments    {ContractAttachments.Description}**  
**.Title}**

**Amendments/Modifications:**

**{ContractAlternates.Description}    {ContractAlternates.Notes}**

**Plans and Specifications, All Modifications & other information issued (including Supplemental Instructions).**

**ATTACHMENT – D**

**{Projects.Name}**  
**{{Projects.GeneralNotes} ">"**  
**Contract No.: {LegalDocInfo.OwnerJobNum}**

**SUBCONTRACTOR: {ToCompany.Name}**  
**SUBCONTRACT NO.: {Contracts.ContractNumber}**

**FEDERAL LABOR CODE REQUIREMENTS**

**52.222-6 -- Davis-Bacon Act.**

**Davis-Bacon Act (May 2014)**

(a) Definition.—“Site of the work”—

(1) Means—

(i) The primary site of the work. The physical place or places where the construction called for in the contract will remain when work on it is completed; and

(ii) The secondary site of the work, if any. Any other site where a significant portion of the building or work is constructed, provided that such site is—

(A) Located in the United States; and

(B) Established specifically for the performance of the contract or project;

(2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided—

(i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and

(ii) They are adjacent or virtually adjacent to the “primary site of the work” as defined in paragraph (a)(1)(i), or the “secondary site of the work” as defined in paragraph (a)(1)(ii) of this definition;

(3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the “site of the work.” Such permanent, previously established facilities are not a part of the “site of the work” even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)(1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.

(2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Construction Wage Rate Requirements statute on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.

(3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed.

(4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Construction Wage Rate Requirements (Davis-Bacon Act) poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the primary site of the work and the secondary site of the work, if any, in a prominent and accessible place where it can be easily seen by the workers.

(c)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when all the following criteria have been met:

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

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

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

(2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:

Wage and Hour Division  
Employment Standards Administration  
U.S. Department of Labor  
Washington, DC 20210

The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

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

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

(e) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Construction Wage Rate Requirements statute have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(End of clause)

#### **52.222-7 Withholding of Funds.**

As prescribed in [22.407\(a\)](#), insert the following clause:

##### WITHHOLDING OF FUNDS (MAY 2014)

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

(End of clause)

#### **52.222-8 Payrolls and Basic Records.**

As prescribed in [22.407\(a\)](#), insert the following clause:

##### PAYROLLS AND BASIC RECORDS (MAY 2014)

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) (Construction Wage Rate Requirement statute)), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Construction Wage Rate Requirements, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#), the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause, except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional [Form WH-347](#) is available for this purpose and may be obtained from the U.S. Department of Labor Wage and Hour Division website at <http://www.dol.gov/whd/forms/wh347.pdf>. The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Contracting Officer, the Contractor, or the Wage and Hour Division



of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a Prime Contractor to require a subcontractor to provide addresses and social security numbers to the Prime Contractor for its own records, without weekly submission to the Contracting Officer.

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

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;

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

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

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

(4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(End of clause)

#### **52.222-9 Apprentices and Trainees.**

As prescribed in [22.407\(a\)](#), insert the following clause:

##### APPRENTICES AND TRAINEES (JULY 2005)

###### (a) Apprentices.

(1) An apprentice will be permitted to work at less than the predetermined rate for the work performed when employed—

(i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or

(ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

(2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.

(3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(1) of this clause, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman’s hourly rate) specified in the Contractor’s or subcontractor’s registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice’s level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.

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

(6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

###### (b) Trainees.

(1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.

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

(3) In the event OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(End of clause)

**52.222-10 Compliance with Copeland Act Requirements.**

As prescribed in [22.407](#)(a), insert the following clause:

COMPLIANCE WITH COPELAND ACT REQUIREMENTS (FEB 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

(End of clause)

**52.222-11 Subcontracts (Labor Standards).**

As prescribed in [22.407](#)(a), insert the following clause:

SUBCONTRACTS (LABOR STANDARDS) (MAY 2014)

(a) Definition. “Construction, alteration or repair,” as used in this clause, means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—

(1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;

(2) Painting and decorating;

(3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;

(4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the “site of the work” as defined in the FAR clause at [52.222-6](#), Construction Wage Rate Requirements of this contract, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the “site of the work” definition; and

(5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the “site of the work” definition in paragraph (a)(1)(ii) of the FAR clause at [52.222-6](#), Construction Wage Rate Requirements, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the FAR clause at [52.222-6](#), in the “site of the work” definition).

(b) The Contractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled—

(1) Construction Wage Rate Requirements;

(2) Contract Work Hours and Safety Standards-Overtime Compensation (if the clause is included in this contract);

(3) Apprentices and Trainees;

(4) Payrolls and Basic Records;

(5) Compliance with Copeland Act Requirements;

(6) Withholding of Funds;

(7) Subcontracts (Labor Standards);

(8) Contract Termination—Debarment;

(9) Disputes Concerning Labor Standards;

(10) Compliance with Construction Wage Rate Requirements and Related Regulations; and

(11) Certification of Eligibility.

(c) The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in paragraph (b).

(d)(1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed [Standard Form \(SF\) 1413](#), Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor’s signed and dated acknowledgment that the clauses set forth in paragraph (b) of this clause have been included in the subcontract.

(2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed [SF 1413](#) for such additional subcontract.

(e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

(End of clause)

**52.222-12 Contract Termination—Debarment.**

As prescribed in [22.407](#)(a), insert the following clause:

CONTRACT TERMINATION—DEBARMENT (MAY 2014)

A breach of the contract clauses entitled Construction Wage Rate Requirements, Contract Work Hours and Safety Standards-Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Construction Wage Rate Requirements and Related Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

(End of clause)

**52.222-13 Compliance with Construction Wage Rate Requirements and Related Regulations.**

As prescribed in [22.407\(a\)](#), insert the following clause:

COMPLIANCE WITH CONSTRUCTION WAGE RATE REQUIREMENTS AND RELATED REGULATIONS (MAY 2014)

All rulings and interpretations of the Construction Wage Rate Requirements and related statutes contained in 29 CFR parts 1, 3, and 5 are hereby incorporated by reference in this contract.

(End of clause)

**52.222-14 Disputes Concerning Labor Standards.**

As prescribed in [22.407\(a\)](#), insert the following clause:

DISPUTES CONCERNING LABOR STANDARDS (FEB 1988)

The United States Department of Labor has set forth in 29 CFR parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

**52.222-15 Certification of Eligibility.**

As prescribed in [22.407\(a\)](#), insert the following clause:

CERTIFICATION OF ELIGIBILITY (MAY 2014)

(a) By entering into this contract, the Contractor certifies that neither it nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)\(2\)](#) or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)\(2\)](#) or 29 CFR 5.12(a)(1).

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

(End of clause)

Subcontractor acknowledges and the undersigned warrants Subcontractor is familiar with, and will comply, the Labor Code requirements above.

**SUBCONTRACTOR:** {ToCompany.Name}  
**SUBCONTRACT NO.:** {Contracts.ContractNumber}

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

ATTACHMENT – E

SMALL BUSINESS INCLUSION AGREEMENT & CERTIFICATION

The contractor certifies that it is (check all that apply):

- Small Business (SB)
- Woman Owned Small Business (WOSB)
- Veteran Owned Small Business (VOSB)
- Service Disabled Veteran Owned Small Business (SDVOSB)
- Small Disadvantaged Business (SDB)
- Historically Underutilized Business Zone (HUB Zone)
- Large Business (LB)

**\*\* Provide contact information for the person who is responsible for your small business subcontracting program\*\***

Contact: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Fax: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

**Large Business Subcontractor (with contracts in excess of \$1,500,000.00) certifies that they will:**

- 1.) Comply with the small business utilization requirements.
- 2.) Have a Small Business Subcontracting Plan that is similar to SCI’s Subcontracting Plan, with small business goals identified (**must submit plan with this certification for contract approval**).
- 3.) **Complete and submit the “Individual Subcontracting report” and the Summary Subcontract report” in accordance with FAR 19.704(a)(10)(iii) and (iv) and FAR 52.219-9 using the web based Electronic Subcontracting Reporting System (eSRS at <http://www.esrs.gov>) following the instructions in eSRS as supplemented by agency regulations.**

**Penalties for Misrepresentation of Size Standards**

In addition to other laws which may be applicable, section 16(d) of the Small Business Act, 15 U.S.C. 645(d), provides severe criminal penalties for knowingly misrepresenting the small business size status of a concern in connection with procurement programs. Section 16(a) of the Act also provides, in part, for criminal penalties for knowingly making false statements or misrepresentations to SBA for the purpose of influencing in any way the actions of the Agency. ([13 CFR §121.108](#))

**Straub construction is required to provide the following information to all first tier subcontractors so they can enter the information into the eSRS with their reports:**

{Projects.Name} project order number: {LegalDocInfo.OwnerJobNum}  
Straub Construction’s DUNS number: **091748764**

Please direct any questions regarding Straub construction’s Small Business Plan to: [daniellem@straubinc.com](mailto:daniellem@straubinc.com)

**THIS PAGE MUST BE SIGNED BY A PRINCIPAL AND RETURNED TO SCI WITH ALL REQUIRED DOCUMENTATION FOR CONTRACT EXECUTION**

SUBCONTRACTOR: {ToCompany.Name}  
SUBCONTRACT NO.: {Contracts.ContractNumber}

Signature of Principal: \_\_\_\_\_

Principal Name and Title (print): \_\_\_\_\_

Subcontractor DUNs Number: \_\_\_\_\_

**{Projects.Name}**  
**{{Projects.GeneralNotes} ">"**  
**Contract No.: {LegalDocInfo.OwnerJobNum}**

**SUBCONTRACTOR: {ToCompany.Name}**  
**SUBCONTRACT NO.: {Contracts.ContractNumber}**

**SMALL BUSINESS INCLUSION AGREEMENT & CERTIFICATION**

Per the terms of Section 7 of the Agreement, the following is incorporated into the Agreement between CONTRACTOR and SUBCONTRACTOR:

**Awarding Subcontract - Agreement Requirements**

Contract Clause Inclusion & Flow Down

- FAR 19.704 Subcontracting Plan Requirements
- FAR 19.708 Contract Clauses
- FAR 52.219-8 Utilization of Small Business Concerns
- FAR 52.219-9 Small Business Subcontracting Plan
- FAR 52.219-16 Liquidated Damages

All contracts must contain FAR 52.219-8 (see below). Large business subcontractors with contracts in excess of \$1,500,000 (construction) must comply with the small business utilization requirements and complete individual and summary subcontract reports for the project. Subcontractors must have a Small Business Subcontracting Plan that is similar to SCI's Subcontracting Plan, with small business goals identified.

FAR 19.704(a) (4) requires that your company include FAR 52.219-8, "Utilization of Small, Small Disadvantaged, Women-Owned Small Business Concerns", in all subcontracts that offer further subcontracting opportunities. Your company must require ALL subcontractors, except small business concerns, that receive subcontracts in excess of \$1,500,000 to adopt and comply with a plan similar to the plan required by FAR 52.219-9, "Small, Small Disadvantaged, and Women-Owned Small Business and Business Subcontracting Plan". Your company agrees that the clause will be included and that the plans will be reviewed against the minimum requirements for such plans.

The acceptability of percentage goals are listed at the end of this attachment. Subcontracting plans must be monitored through the completion and submission of periodic reports, including the "Individual Subcontracting report" and the Summary Subcontract report in accordance with FAR 19.704(a)(10)(iii)(iv) and FAR 52.21-9 using the web based Electronic Subcontracting Reporting System. In accordance with the policy letters published by the Office of Federal Procurement Policy, such assurance shall describe the offer's procedures for the review, approval and monitoring for compliance with such subcontracting plans.

**FAR 19.704 Subcontracting Plan Requirements**

Assurances that the offeror will include the clause at [52.219-8](#), Utilization of Small Business Concerns (see [19.708](#)(a), in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$1,500,000 (for construction) to adopt a plan that complies with the requirements of the clause at [52.219-9](#), Small Business Subcontracting Plan (see [19.708](#)(b); FAR 19.704(a)(4) requires that your company include FAR 52.219-8, "Utilization of Small, Small Disadvantaged, Women-Owned Small Business Concerns", in all subcontracts that offer further subcontracting opportunities. Your company must require A subcontractors, except small business concerns, that receive subcontracts in excess of \$1,500,000 to adopt and comply with a plan similar to the plan required by FAR 52.219-9.

**FAR 19.708 Contract Clauses**

Insert the clause at [52.219-8](#), Utilization of Small Business Concerns, in solicitations and contracts when the contract amount is expected to exceed the simplified acquisition threshold

**FAR 52.219-8 Utilization of Small Business Concerns. (Oct 2014)**

(a) Definitions. As used in this contract—

"HUBZone small business concern" means a small business concern that appears on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration.

"Service-disabled veteran-owned small business concern"—

(1) Means a small business concern—

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in [38 U.S.C. 101\(2\)](#), with a disability that is service-connected, as defined in [38 U.S.C. 101\(16\)](#).

"Small business concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

"Small disadvantaged business concern", consistent with 13 CFR 124.1002, means a small business concern under the size standard applicable to the acquisition, that—

(1) Is at least 51 percent unconditionally and directly owned (as defined at 13 CFR 124.105) by—



- (i) One or more socially disadvantaged (as defined at 13 CFR 124.103) and economically disadvantaged (as defined at 13 CFR 124.104) individuals who are citizens of the United States; and
  - (ii) Each individual claiming economic disadvantage has a net worth not exceeding \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and
- (2) The management and daily business operations of which are controlled (as defined at 13.CFR 124.106) by individuals, who meet the criteria in paragraphs (1)(i) and (ii) of this definition.

“Veteran-owned small business concern” means a small business concern—

- (1) Not less than 51 percent of which is owned by one or more veterans (as defined at [38 U.S.C. 101\(2\)](#)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and
- (2) The management and daily business operations of which are controlled by one or more veterans.

“Women-owned small business concern” means a small business concern—

- (1) That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(b) It is the policy of the United States that small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns shall have the maximum practicable opportunity to participate in performing contracts let by any Federal agency, including contracts and subcontracts for subsystems, assemblies, components, and related services for major systems. It is further the policy of the United States that its prime contractors establish procedures to ensure the timely payment of amounts due pursuant to the terms of their subcontracts with small business concerns, veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns, and women-owned small business concerns.

(c) The Contractor hereby agrees to carry out this policy in the awarding of subcontracts to the fullest extent consistent with efficient contract performance. The Contractor further agrees to cooperate in any studies or surveys as may be conducted by the United States Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the Contractor's compliance with this clause.

(d)(1) Contractors acting in good faith may rely on written representations by their subcontractors regarding their status as a small business concern, a veteran-owned small business concern, a service-disabled veteran-owned small business concern, a small disadvantaged business concern, or a women-owned small business concern.

(2) The Contractor shall confirm that a subcontractor representing itself as a HUBZone small business concern is certified by SBA as a HUBZone small business concern by accessing the System for Award Management database or by contacting the SBA. Options for contacting the SBA include—

- (i) HUBZone small business database search application web page at [http://dsbs.sba.gov/dsbs/search/dsp\\_searchhubzone.cfm](http://dsbs.sba.gov/dsbs/search/dsp_searchhubzone.cfm); or <http://www.sba.gov/hubzone>;
- (ii) In writing to the Director/HUB, U.S. Small Business Administration, 409 3rd Street, SW., Washington, DC 20416; or
- (iii) The SBA HUBZone Help Desk at [hubzone@sba.gov](mailto:hubzone@sba.gov).

(End of clause)

#### **52.219-9 Small Business Subcontracting Plan. (OCT 2015)**

(a) This clause does not apply to small business concerns.

(b) Definitions. As used in this clause—

“Alaska Native Corporation (ANC)” means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended ([43 U.S.C. 1601](#), et seq.) and which is considered a minority and economically disadvantaged concern under the criteria at [43 U.S.C. 1626\(e\)\(1\)](#). This definition also includes ANC direct and indirect subsidiary corporations, joint ventures, and partnerships that meet the requirements of [43 U.S.C. 1626\(e\)\(2\)](#).

“Commercial item” means a product or service that satisfies the definition of commercial item in section [2.101](#) of the Federal Acquisition Regulation.

“Commercial plan” means a subcontracting plan (including goals) that covers the offeror’s fiscal year and that applies to the entire production of commercial items sold by either the entire company or a portion thereof (e.g., division, plant, or product line).

“Electronic Subcontracting Reporting System (eSRS)” means the Governmentwide, electronic, web-based system for small business subcontracting program reporting. The eSRS is located at <http://www.esrs.gov>.

“Indian tribe” means any Indian tribe, band, group, pueblo, or community, including native villages and native groups (including corporations organized by Kenai, Juneau, Sitka, and Kodiak) as defined in the Alaska Native Claims Settlement Act ([43 U.S.C.A. 1601](#) et seq.), that is recognized by the Federal Government as eligible for services from the Bureau of Indian Affairs in accordance with [25 U.S.C. 1452\(c\)](#). This definition also includes Indian-owned economic enterprises that meet the requirements of [25 U.S.C. 1452\(e\)](#).

“Individual contract plan” means a subcontracting plan that covers the entire contract period (including option periods), applies to a specific contract, and has goals that are based on the offeror’s planned subcontracting in support of the specific contract, except that indirect costs incurred for common or joint purposes may be allocated on a prorated basis to the contract.

“Master plan” means a subcontracting plan that contains all the required elements of an individual contract plan, except goals, and may be incorporated into individual contract plans, provided the master plan has been approved.

“Subcontract” means any agreement (other than one involving an employer-employee relationship) entered into by a Federal Government prime Contractor or subcontractor calling for supplies or services required for performance of the contract or subcontract.

(c) The offeror, upon request by the Contracting Officer, shall submit and negotiate a subcontracting plan, where applicable, that separately addresses subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business concerns, small disadvantaged business, and women-owned small business concerns. If the offeror is submitting an individual contract plan, the plan must separately address subcontracting with small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns, with a separate part for the basic contract and separate parts for each option (if any). The plan shall be included in and made a part of the resultant contract. The subcontracting plan shall be negotiated within the time specified by the Contracting Officer. Failure to submit and negotiate the subcontracting plan shall make the offeror ineligible for award of a contract.

(d) The offeror’s subcontracting plan shall include the following:

(1) Goals, expressed in terms of percentages of total planned subcontracting dollars, for the use of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns as subcontractors. The offeror shall include all sub-contracts that contribute to contract performance, and may include a proportionate share of products and services that are normally allocated as indirect costs. In accordance with [43 U.S.C. 1626](#):

(i) Subcontracts awarded to an ANC or Indian tribe shall be counted towards the subcontracting goals for small business and small disadvantaged business (SDB) concerns, regardless of the size or Small Business Administration certification status of the ANC or Indian tribe.

(ii) Where one or more subcontractors are in the subcontract tier between the prime contractor and the ANC or Indian tribe, the ANC or Indian tribe shall designate the appropriate contractor(s) to count the subcontract towards its small business and small disadvantaged business subcontracting goals.

(A) In most cases, the appropriate Contractor is the Contractor that awarded the subcontract to the ANC or Indian tribe.

(B) If the ANC or Indian tribe designates more than one Contractor to count the subcontract toward its goals, the ANC or Indian tribe shall designate only a portion of the total subcontract award to each Contractor. The sum of the amounts designated to various Contractors cannot exceed the total value of the subcontract.

(C) The ANC or Indian tribe shall give a copy of the written designation to the Contracting Officer, the prime Contractor, and the subcontractors in between the prime Contractor and the ANC or Indian tribe within 30 days of the date of the subcontract award.

(D) If the Contracting Officer does not receive a copy of the ANC’s or the Indian tribe’s written designation within 30 days of the subcontract award, the Contractor that awarded the subcontract to the ANC or Indian tribe will be considered the designated Contractor.

(2) A statement of—

(i) Total dollars planned to be subcontracted for an individual contract plan; or the offeror’s total projected sales, expressed in dollars, and the total value of projected subcontracts to support the sales for a commercial plan;

(ii) Total dollars planned to be subcontracted to small business concerns (including ANC and Indian tribes);

(iii) Total dollars planned to be subcontracted to veteran-owned small business concerns;

(iv) Total dollars planned to be subcontracted to service-disabled veteran-owned small business;

(v) Total dollars planned to be subcontracted to HUBZone small business concerns;

(vi) Total dollars planned to be subcontracted to small disadvantaged business concerns (including ANCs and Indian tribes); and

(vii) Total dollars planned to be subcontracted to women-owned small business concerns.

(3) A description of the principal types of supplies and services to be subcontracted, and an identification of the types planned for subcontracting to—

(i) Small business concerns;

(ii) Veteran-owned small business concerns;

(iii) Service-disabled veteran-owned small business concerns;

(iv) HUBZone small business concerns;

(v) Small disadvantaged business concerns; and

(vi) Women-owned small business concerns.

(4) A description of the method used to develop the subcontracting goals in paragraph (d)(1) of this clause.

(5) A description of the method used to identify potential sources for solicitation purposes (e.g., existing company source lists, the System for Award Management (SAM), veterans service organizations, the National Minority Purchasing Council Vendor Information Service, the Research and Information Division of the Minority Business Development Agency in the Department of Commerce, or small, HUBZone, small disadvantaged, and women-owned small business trade associations). A firm may rely on the information contained in SAM as an accurate representation of a concern’s size and ownership characteristics for the purposes of maintaining a small, veteran-owned small, service-disabled veteran-owned small, HUBZone small, small disadvantaged, and women-



owned small business source list. Use of SAM as its source list does not relieve a firm of its responsibilities (e.g., outreach, assistance, counseling, or publicizing subcontracting opportunities) in this clause.

(6) A statement as to whether or not the offeror included indirect costs in establishing subcontracting goals, and a description of the method used to determine the proportionate share of indirect costs to be incurred with—

- (i) Small business concerns (including ANC and Indian tribes);
- (ii) Veteran-owned small business concerns;
- (iii) Service-disabled veteran-owned small business concerns;
- (iv) HUBZone small business concerns;
- (v) Small disadvantaged business concerns (including ANC and Indian tribes); and
- (vi) Women-owned small business concerns.

(7) The name of the individual employed by the offeror who will administer the offeror’s subcontracting program, and a description of the duties of the individual.

(8) A description of the efforts the offeror will make to assure that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns have an equitable opportunity to compete for subcontracts.

(9) Assurances that the offeror will include the clause of this contract entitled “Utilization of Small Business Concerns” in all subcontracts that offer further subcontracting opportunities, and that the offeror will require all subcontractors (except small business concerns) that receive subcontracts in excess of \$700,000 (\$1.5 million for construction of any public facility) with further subcontracting possibilities to adopt a subcontracting plan that complies with the requirements of this clause.

(10) Assurances that the offeror will—

- (i) Cooperate in any studies or surveys as may be required;
- (ii) Submit periodic reports so that the Government can determine the extent of compliance by the offeror with the subcontracting plan;
- (iii) Submit the Individual Subcontract Report (ISR) and/or the Summary Subcontract Report (SSR), in accordance with paragraph (I) of this clause using the Electronic Subcontracting Reporting System (eSRS) at <http://www.esrs.gov>. The reports shall provide information on subcontract awards to small business concerns (including ANCs and Indian tribes that are not small businesses), veteran-owned small business concerns, service-disabled veteran-owned small business concerns, HUBZone small business concerns, small disadvantaged business concerns (including ANCs and Indian tribes that have not been certified by the Small Business Administration as small disadvantaged businesses), women-owned small business concerns, and for NASA only, Historically Black Colleges and Universities and Minority Institutions. Reporting shall be in accordance with this clause, or as provided in agency regulations;
- (iv) Ensure that its subcontractors with subcontracting plans agree to submit the ISR and/or the SSR using eSRS;
- (v) Provide its prime contract number, its DUNS number, and the e-mail address of the offeror’s official responsible for acknowledging receipt of or rejecting the ISRs, to all first-tier subcontractors with subcontracting plans so they can enter this information into the eSRS when submitting their ISRs; and
- (vi) Require that each subcontractor with a subcontracting plan provide the prime contract number, its own DUNS number, and the e-mail address of the subcontractor’s official responsible for acknowledging receipt of or rejecting the ISRs, to its subcontractors with subcontracting plans.

(11) A description of the types of records that will be maintained concerning procedures that have been adopted to comply with the requirements and goals in the plan, including establishing source lists; and a description of the offeror’s efforts to locate small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns and award subcontracts to them. The records shall include at least the following (on a plant-wide or company-wide basis, unless otherwise indicated):

- (i) Source lists (e.g., SAM), guides, and other data that identify small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns.
- (ii) Organizations contacted in an attempt to locate sources that are small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, or women-owned small business concerns.
- (iii) Records on each subcontract solicitation resulting in an award of more than \$150,000, indicating—

- (A) Whether small business concerns were solicited and, if not, why not;
- (B) Whether veteran-owned small business concerns were solicited and, if not, why not;
- (C) Whether service-disabled veteran-owned small business concerns were solicited and, if not, why not;
- (D) Whether HUBZone small business concerns were solicited and, if not, why not;
- (E) Whether small disadvantaged business concerns were solicited and, if not, why not;
- (F) Whether women-owned small business concerns were solicited and, if not, why not; and
- (G) If applicable, the reason award was not made to a small business concern.

(iv) Records of any outreach efforts to contact—

- (A) Trade associations;
- (B) Business development organizations;
- (C) Conferences and trade fairs to locate small, HUBZone small, small disadvantaged, and women-owned small business sources; and
- (D) Veterans service organizations.

(v) Records of internal guidance and encouragement provided to buyers through—

(A) Workshops, seminars, training, etc.; and

(B) Monitoring performance to evaluate compliance with the program’s requirements.

(vi) On a contract-by-contract basis, records to support award data submitted by the offeror to the Government, including the name, address, and business size of each subcontractor. Contractors having commercial plans need not comply with this requirement.

(e) In order to effectively implement this plan to the extent consistent with efficient contract performance, the Contractor shall perform the following functions:

(1) Assist small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns by arranging solicitations, time for the preparation of bids, quantities, specifications, and delivery schedules so as to facilitate the participation by such concerns. Where the Contractor’s lists of potential small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business subcontractors are excessively long, reasonable effort shall be made to give all such small business concerns an opportunity to compete over a period of time.

(2) Provide adequate and timely consideration of the potentialities of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business concerns in all “make-or-buy” decisions.

(3) Counsel and discuss subcontracting opportunities with representatives of small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women-owned small business firms.

(4) Confirm that a subcontractor representing itself as a HUBZone small business concern is identified as a certified HUBZone small business concern by accessing the SAM database or by contacting SBA.

(5) Provide notice to subcontractors concerning penalties and remedies for misrepresentations of business status as small, veteran-owned small business, HUBZone small, small disadvantaged, or women-owned small business for the purpose of obtaining a subcontract that is to be included as part or all of a goal contained in the Contractor’s subcontracting plan.

(6) For all competitive subcontracts over the simplified acquisition threshold in which a small business concern received a small business preference, upon determination of the successful subcontract offeror, the Contractor must inform each unsuccessful small business subcontract offeror in writing of the name and location of the apparent successful offeror prior to award of the contract.

(f) A master plan on a plant or division-wide basis that contains all the elements required by paragraph (d) of this clause, except goals, may be incorporated by reference as a part of the subcontracting plan required of the offeror by this clause; provided—

(1) The master plan has been approved;

(2) The offeror ensures that the master plan is updated as necessary and provides copies of the approved master plan, including evidence of its approval, to the Contracting Officer; and

(3) Goals and any deviations from the master plan deemed necessary by the Contracting Officer to satisfy the requirements of this contract are set forth in the individual subcontracting plan.

(g) A commercial plan is the preferred type of subcontracting plan for contractors furnishing commercial items. The commercial plan shall relate to the offeror’s planned subcontracting generally, for both commercial and Government business, rather than solely to the Government contract. Once the Contractor’s commercial plan has been approved, the Government will not require another subcontracting plan from the same Contractor while the plan remains in effect, as long as the product or service being provided by the Contractor continues to meet the definition of a commercial item. A Contractor with a commercial plan shall comply with the reporting requirements stated in paragraph (d)(10) of this clause by submitting one SSR in eSRS for all contracts covered by its commercial plan. This report shall be acknowledged or rejected in eSRS by the Contracting Officer who approved the plan. This report shall be submitted within 30 days after the end of the Government’s fiscal year.

(h) Prior compliance of the offeror with other such subcontracting plans under previous contracts will be considered by the Contracting Officer in determining the responsibility of the offeror for award of the contract.

(i) A contract may have no more than one plan. When a modification meets the criteria in [19.702](#) for a plan, or an option is exercised, the goals associated with the modification or option shall be added to those in the existing subcontract plan.

(j) Subcontracting plans are not required from subcontractors when the prime contract contains the clause at [52.212-5](#), Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items, or when the subcontractor provides a commercial item subject to the clause at [52.244-6](#), Subcontracts for Commercial Items, under a prime contract.

(k) The failure of the Contractor or subcontractor to comply in good faith with—

(1) The clause of this contract entitled “Utilization Of Small Business Concerns;” or

(2) An approved plan required by this clause, shall be a material breach of the contract.

(l) The Contractor shall submit ISRs and SSRs using the web-based eSRS at <http://www.esrs.gov>. Purchases from a corporation, company, or subdivision that is an affiliate of the prime Contractor or subcontractor are not included in these reports. Subcontract award data reported by prime Contractors and subcontractors shall be limited to awards made to their immediate next-tier subcontractors. Credit cannot be taken for awards made to lower tier subcontractors, unless the Contractor or subcontractor has been designated to receive a small business or small disadvantaged business credit from an ANC or Indian Tribe. Only subcontracts involving performance in the United States or its outlying areas should be included in these reports with the exception of subcontracts under a contract awarded by the State Department or any other agency that has statutory or regulatory authority to require subcontracting plans for subcontracts performed outside the United States and its outlying areas.

(1) ISR. This report is not required for commercial plans. The report is required for each contract containing an individual subcontract plan.

(i) The report shall be submitted semi-annually during contract performance for the periods ending March 31 and September 30. A report is also required for each contract within 30 days of contract completion. Reports are due 30 days after the close of each reporting period, unless otherwise directed by the Contracting Officer. Reports are required when due, regardless of whether there has been any subcontracting activity since the inception of the contract or the previous reporting period.

(ii) When a subcontracting plan contains separate goals for the basic contract and each option, as prescribed by FAR 19.704(c), the dollar goal inserted on this report shall be the sum of the base period through the current option; for example, for a report submitted after the second option is exercised, the dollar goal would be the sum of the goals for the basic contract, the first option, and the second option.

(iii) The authority to acknowledge receipt or reject the ISR resides—

(A) In the case of the prime Contractor, with the Contracting Officer; and

(B) In the case of a subcontract with a subcontracting plan, with the entity that awarded the subcontract.

(2) SSR.

(i) Reports submitted under individual contract plans—

(A) This report encompasses all subcontracting under prime contracts and subcontracts with the awarding agency, regardless of the dollar value of the subcontracts.

(B) The report may be submitted on a corporate, company or subdivision (e.g. plant or division operating as a separate profit center) basis, unless otherwise directed by the agency.

(C) If a prime Contractor and/or subcontractor is performing work for more than one executive agency, a separate report shall be submitted to each executive agency covering only that agency's contracts, provided at least one of that agency's contracts is over \$700,000 (over \$1.5 million for construction of a public facility) and contains a subcontracting plan. For DoD, a consolidated report shall be submitted for all contracts awarded by military departments/agencies and/or subcontracts awarded by DoD prime Contractors. However, for construction and related maintenance and repair, a separate report shall be submitted for each DoD component.

(D) For DoD and NASA, the report shall be submitted semi-annually for the six months ending March 31 and the twelve months ending September 30. For civilian agencies, except NASA, it shall be submitted annually for the twelve month period ending September 30. Reports are due 30 days after the close of each reporting period.

(E) Subcontract awards that are related to work for more than one executive agency shall be appropriately allocated.

(F) The authority to acknowledge or reject SSRs in eSRS, including SSRs submitted by subcontractors with subcontracting plans, resides with the Government agency awarding the prime contracts unless stated otherwise in the contract.

(ii) Reports submitted under a commercial plan—

(A) The report shall include all subcontract awards under the commercial plan in effect during the Government's fiscal year.

(B) The report shall be submitted annually, within thirty days after the end of the Government's fiscal year.

(C) If a Contractor has a commercial plan and is performing work for more than one executive agency, the Contractor shall specify the percentage of dollars attributable to each agency from which contracts for commercial items were received.

(D) The authority to acknowledge or reject SSRs for commercial plans resides with the Contracting Officer who approved the commercial plan.

(End of clause)

**Failure to complete and submit the "Individual Subcontracting report" and the Summary Subcontract report" in accordance with FAR 19.704(a)(10)(iii) and (iv) and FAR 52.219-9 using the web based Electronic Subcontracting Reporting System could result in liquidated damages or other penalties, including material breach of contract and termination for default.**

**FAR 52.219-16 - Liquidated Damages - Subcontracting Plan (Jan 1999)**

(a) "Failure to make a good faith effort to comply with the subcontracting plan", as used in this clause, means a willful or intentional failure to perform in accordance with the requirements of the subcontracting plan approved under the clause in this contract entitled "Small Business Subcontracting Plan," or willful or intentional action to frustrate the plan.

(b) Performance shall be measured by applying the percentage goals to the total actual subcontracting dollars or, if a commercial plan is involved, to the pro rata share of actual subcontracting dollars attributable to Government contracts covered by the commercial plan. If, at contract completion, or in the case of a commercial plan, at the close of the fiscal year for which the plan is applicable, the Contractor has failed to meet its subcontracting goals and the Contracting Officer decides in accordance with paragraph (c) of this clause that the Contractor failed to make a good faith effort to comply with its subcontracting plan, established in accordance with the clause in this contract entitled "Small Business Subcontracting Plan," the Contractor shall pay the Government liquidated damages in an amount stated. The amount of probable damages attributable to the Contractor's failure to comply, shall be an amount equal to the actual dollar amount by which the Contractor failed to achieve each subcontract goal.

(c) Before the Contracting Officer makes a final decision that the Contractor has failed to make such good faith effort, the Contracting Officer shall give the Contractor written notice specifying the failure and permitting the Contractor to demonstrate what good faith efforts have been made and to discuss the matter. Failure to respond to the notice may be taken as an admission that no valid explanation exists. If, after consideration of all the pertinent data, the Contracting Officer finds that the Contractor failed to make a good faith effort to comply with the subcontracting plan, the Contracting Officer shall issue a final decision to that effect and require that the Contractor pay the Government liquidated damages as provided in paragraph (b) of this clause.

(d) With respect to commercial plans; the Contracting Officer who approved the plan will perform the functions of the Contracting Officer under this clause on behalf of all agencies with contracts covered by that commercial plan.

(e) The Contractor shall have the right of appeal, under the clause in this contract entitled, Disputes, from any final decision of the Contracting Officer.

(f) Liquidated damages shall be in addition to any other remedies that the Government may have.

**Criteria For Small Business Classification**

The Small Business Administration (SBA) defines a small business as one that is organized for profit, has a place of business in the United States, makes a significant contribution to the U.S. economy by paying taxes or using American products, materials or labor and does not exceed the numerical size standard for its industry.

The following industry group is small if its size is not greater than:

<u>Industry Group</u>	<u>Size Standard</u>
Manufacturing	500 Employees
Wholesale Trade	100 Employees
General & Heavy Construction	\$33.5 Million*
Specialty Trade Contractors	\$ 14.0 Million*

\*\*With exceptions. Please review the [small business size standards at http://www.sba.gov/services/contractingopportunities/sizestandardsttopics/tableofsize/index.html](http://www.sba.gov/services/contractingopportunities/sizestandardsttopics/tableofsize/index.html) for additional information.

**Small Business Definitions and Certification Requirements**

**Woman Owned Small Business (WOSB)**

- ❖ Must be a small business by SBA standards
- ❖ That is at least 51 percent owned by one or more women, or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.
- ❖ The business must be open for at least six months
- ❖ The business owner must be a U.S. citizen or legal resident alien
- ❖ May be self-certified or certified through the Small Business Administration

**Veteran Owned Small Business (VOSB)**

A veteran is a person who served in the active military, naval or air service, and who was discharged or released under conditions other than dishonorable.

- ❖ Must be a small business by SBA standards
- ❖ Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and the management and daily business operations of which are controlled by one or more veterans.
- ❖ The business must be open for at least six months
- ❖ The business owner must be a U.S. citizen or legal resident alien
- ❖ May be self-certified or certified through the Small Business Administration

**Service Disabled Veteran Owned Small Business (SDVOSB)**

A veteran is a person who served in the active military, naval or air service, and who was discharged or released under conditions other than dishonorable, and whose disability was incurred or aggravated in the line of duty. The veteran must have a letter from the Veterans Administration (VA) stating that the veteran has a service connected disability.

- ❖ Must be a small business by SBA standards
- ❖ Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and the management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a service-disabled veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.
- ❖ Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).
- ❖ The business must be open for at least six months
- ❖ The business owner must be a U.S. citizen or legal resident alien
- ❖ May be self certified or certified through the Small Business Administration

**Small Disadvantaged Business (SDB)**

- ❖ A firm may represent that it qualifies as a SDB if it believes in good faith that it is owned and controlled by one or more socially and economically disadvantaged individuals.
- ❖ Must be a small business by SBA standards

**Historically Underutilized Business Zone (HUBZone) Small Business**

SBA's HUBZone program is in line with the efforts of both the Administration and Congress to promote economic development and employment growth in distressed areas by providing access to more Federal contracting opportunities. To be eligible for the program, a concern must meet all of the following criteria:

- ❖ Must be a small business by SBA standards
- ❖ Must be located in a "historically underutilized business zone(HUBZone)
- ❖ Must be wholly owned and controlled by person(s) who are U.S. Citizens
- ❖ At least 35% of its employees must reside in a HUBZone.

**Straub Construction, Inc. - Small Business Subcontracting Goals – {Projects.Name}**

**(Individual Plan – project specific)**

The following percentage goals (expressed in terms of a percentage of total **subcontracting** dollars) are applicable to the contract.

- {Projects.UserText4} % Small Business (SB)
- {Projects.UserText5} % Woman Owned Small Business (WOSB)
- {Projects.UserText6} % Veteran Owned Small Business (SDVOSB)
- ({Projects.UserNum1} "#,##0.00;(#,##0.00)") % Service Disabled Veteran Owned Small Business (SDVOSB)
- ({Projects.UserNum2} "#,##0.00;(#,##0.00)") % Small Disadvantaged Business (SDB)
- ({Projects.UserNum3} "#,##0.00;(#,##0.00)") % Historically Underutilized Business Zone (HUB Zone)



**ATTACHMENT – F**

**{Projects.Name}**  
**{{Projects.GeneralNotes} ">"**  
**Contract No.: {LegalDocInfo.OwnerJobNum}**

**SUBCONTRACTOR: {ToCompany.Name}**  
**SUBCONTRACT NO.: {Contracts.ContractNumber}**

**FEDERAL EMPLOYMENT ELIGIBILITY REQUIREMENTS**

**52.222-54 Employment Eligibility Verification.**

**Employment Eligibility Verification (Oct 2015)**

(a) Definitions. As used in this clause—

“Commercially available off-the-shelf (COTS) item”—

(1) Means any item of supply that is—

(i) A commercial item (as defined in paragraph (1) of the definition at [2.101](#));

(ii) Sold in substantial quantities in the commercial marketplace; and

(iii) Offered to the Government, without modification, in the same form in which it is sold in the commercial marketplace; and

(2) Does not include bulk cargo, as defined in [46 U.S.C. 40102\(4\)](#), such as agricultural products and petroleum products. Per 46 CFR 525.1 (c)(2), “bulk cargo” means cargo that is loaded and carried in bulk onboard ship without mark or count, in a loose unpackaged form, having homogenous characteristics. Bulk cargo loaded into intermodal equipment, except LASH or Seabee barges, is subject to mark and count and, therefore, ceases to be bulk cargo.

“Employee assigned to the contract” means an employee who was hired after November 6, 1986 (after November 27, 2009 in the Commonwealth of the Northern Mariana Islands), who is directly performing work, in the United States, under a contract that is required to include the clause prescribed at [22.1803](#). An employee is not considered to be directly performing work under a contract if the employee—

(1) Normally performs support work, such as indirect or overhead functions; and

(2) Does not perform any substantial duties applicable to the contract.

“Subcontract” means any contract, as defined in [2.101](#), entered into by a subcontractor to furnish supplies or services for performance of a prime contract or a subcontract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

“Subcontractor” means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime Contractor or another subcontractor.

“United States”, as defined in [8 U.S.C. 1101\(a\)\(38\)](#), means the 50 States, the District of Columbia, Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, and the U.S. Virgin Islands.

(b) Enrollment and verification requirements.

(1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall—

(i) Enroll. Enroll as a Federal Contractor in the E-Verify program within 30 calendar days of contract award;

(ii) Verify all new employees. Within 90 calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); and

(iii) Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within 90 calendar days after date of enrollment or within 30 calendar days of the employee’s assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(i) All new employees.

(A) Enrolled 90 calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(B) Enrolled less than 90 calendar days. Within 90 calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within 3 business days after the date of hire (but see paragraph (b)(3) of this section); or

(ii) Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall initiate verification within 90 calendar days after date of contract award or within 30 days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section).

(3) If the Contractor is an institution of higher education (as defined at [20 U.S.C. 1001\(a\)](#)); a State or local government or the government of a Federally recognized Indian tribe; or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether

existing employees or new hires. The Contractor shall follow the applicable verification requirements at (b)(1) or (b)(2) respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Contractor shall initiate verification for each existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within 180 calendar days of—

- (i) Enrollment in the E-Verify program; or
- (ii) Notification to E-Verify Operations of the Contractor’s decision to exercise this option, using the contact information provided in the E-Verify program Memorandum of Understanding (MOU).

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

(i) The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor’s MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor will be referred to a suspension or debarment official.

(ii) During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the Contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.

(c) Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

(d) Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee—

- (1) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;
- (2) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top secret information in accordance with the National Industrial Security Program Operating Manual; or
- (3) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12, Policy for a Common Identification Standard for Federal Employees and Contractors.

(e) Subcontracts. The Contractor shall include the requirements of this clause, including this paragraph (e) (appropriately modified for identification of the parties), in each subcontract that—

- (1) Is for—
  - (i) Commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or
  - (ii) Construction;
- (2) Has a value of more than \$3,500; and
- (3) Includes work performed in the United States.

Subcontractor acknowledges and the undersigned warrants Subcontractor is familiar with, and will comply, the Employment Eligibility requirements above.

Subcontractor                    **{ToCompany.Name}**

Signature:                        \_\_\_\_\_

Print Name:                      \_\_\_\_\_

Title:                                \_\_\_\_\_

Dated:                                \_\_\_\_\_



ATTACHMENT – G

{Projects.Name}  
{Projects.GeneralNotes} ">"  
Contract No.: {LegalDocInfo.OwnerJobNum}

SUBCONTRACTOR: {ToCompany.Name}  
SUBCONTRACT NO.: {Contracts.ContractNumber}

**FEDERAL EXECUTIVE COMPENSATION AND FIRST-TIER SUBCONTRACT REPORTING REQUIREMENTS**

**FAR 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2015).**

(a) Definitions. As used in this clause:

“Executive” means officers, managing partners, or any other employees in management positions.

“First-tier subcontract” means a subcontract awarded directly by the Contractor for the purpose of acquiring supplies or services (including construction) for performance of a prime contract. It does not include the Contractor’s supplier agreements with vendors, such as long-term arrangements for materials or supplies that benefit multiple contracts and/or the costs of which are normally applied to a Contractor’s general and administrative expenses or indirect costs.

“Month of award” means the month in which a contract is signed by the Contracting Officer or the month in which a first-tier subcontract is signed by the Contractor.

“Total compensation” means the cash and noncash dollar value earned by the executive during the Contractor’s preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)):

(1) Salary and bonus.

(2) Awards of stock, stock options, and stock appreciation rights. Use the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Financial Accounting Standards Board’s Accounting Standards Codification (FASB ASC) 718, Compensation-Stock Compensation.

(3) Earnings for services under non-equity incentive plans. This does not include group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of executives, and are available generally to all salaried employees.

(4) Change in pension value. This is the change in present value of defined benefit and actuarial pension plans.

(5) Above-market earnings on deferred compensation which is not tax-qualified.

(6) Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the executive exceeds \$10,000.

(b) Section 2(d)(2) of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282), as amended by section 6202 of the Government Funding Transparency Act of 2008 (Pub. L. 110-252), requires the Contractor to report information on subcontract awards. The law requires all reported information be made public, therefore, the Contractor is responsible for notifying its subcontractors that the required information will be made public.

(c) Nothing in this clause requires the disclosure of classified information

(d)(1) Executive compensation of the prime contractor. As a part of its annual registration requirement in the System for Award Management (SAM) database (FAR provision [52.204-7](#)), the Contractor shall report the names and total compensation of each of the five most highly compensated executives for its preceding completed fiscal year, if—

(i) In the Contractor’s preceding fiscal year, the Contractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 ([15 U.S.C. 78m\(a\), 78o\(d\)](#)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

(2) First-tier subcontract information. Unless otherwise directed by the contracting officer, or as provided in paragraph (g) of this clause, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, the Contractor shall report the following information at <http://www.fsr.gov> for that first-tier subcontract. (The Contractor shall follow the instructions at <http://www.fsr.gov> to report the data.)

(i) Unique identifier (DUNS Number) for the subcontractor receiving the award and for the subcontractor's parent company, if the subcontractor has a parent company.

(ii) Name of the subcontractor.

(iii) Amount of the subcontract award.

(iv) Date of the subcontract award.

(v) A description of the products or services (including construction) being provided under the subcontract, including the overall purpose and expected outcomes or results of the subcontract.

(vi) Subcontract number (the subcontract number assigned by the Contractor).

(vii) Subcontractor’s physical address including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(viii) Subcontractor’s primary performance location including street address, city, state, and country. Also include the nine-digit zip code and congressional district.

(ix) The prime contract number, and order number if applicable.

(x) Awarding agency name and code.

(xi) Funding agency name and code.

(xii) Government contracting office code.

(xiii) Treasury account symbol (TAS) as reported in FPDS.

(xiv) The applicable North American Industry Classification System code (NAICS).

(3) Executive compensation of the first-tier subcontractor. Unless otherwise directed by the Contracting Officer, by the end of the month following the month of award of a first-tier subcontract with a value of \$30,000 or more, and annually thereafter (calculated from the prime contract award date), the Contractor shall report the names and total compensation of each of the five most highly

compensated executives for that first-tier subcontractor for the first-tier subcontractor’s preceding completed fiscal year at <http://www.fsr.gov>, if—

(i) In the subcontractor’s preceding fiscal year, the subcontractor received—

(A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants), cooperative agreements, and other forms of Federal financial assistance; and

(ii) The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/excomp.htm>.)

(e) The Contractor shall not split or break down first-tier subcontract awards to a value less than \$30,000 to avoid the reporting requirements in paragraph (d) of this clause.

(f) The Contractor is required to report information on a first-tier subcontract covered by paragraph (d) when the subcontract is awarded. Continued reporting on the same subcontract is not required unless one of the reported data elements changes during the performance of the subcontract. The Contractor is not required to make further reports after the first-tier subcontract expires.

(g)(1) If the Contractor in the previous tax year had gross income, from all sources, under \$300,000, the Contractor is exempt from the requirement to report subcontractor awards.

(2) If a subcontractor in the previous tax year had gross income from all sources under \$300,000, the Contractor does not need to report awards for that subcontractor.

(h) The FSR database at <http://www.fsr.gov> will be prepopulated with some information from SAM and FPDS databases. If FPDS information is incorrect, the contractor should notify the contracting officer. If the SAM database information is incorrect, the contractor is responsible for correcting this information.

(End of clause)

In order to comply with the federally mandated executive compensation and first-tier subcontract award reporting requirements as set forth above, please provide the following information:

1. Unique identifier (DUNS Number): \_\_\_\_\_
2. Parent Company, if any, unique identifier (DUNS Number): \_\_\_\_\_
3. Subcontractor Name: **{Company.Name}**
4. Amount of subcontract award: **{Contracts.OrigValue}**
5. Date of subcontract award: **{Contracts.ContractDate}**
6. Description of products or services provided pursuant to the subcontract: **{Contracts.Description}**
7. SCI’s subcontract number: **{Contracts.ContractNumber}**
8. Subcontractor’s physical address: **{Addresses.DisplayAddress}**
9. Subcontractor’s congressional district: \_\_\_\_\_
10. Subcontractor’s primary performance location: \_\_\_\_\_
11. Congressional district of Subcontractor’s primary performance location:  
\_\_\_\_\_
12. Prime Contract number: **{LegalDocInfo.OwnerJobNum}**
13. Awarding Agency name and code: \_\_\_\_\_
14. Funding Agency name and code: \_\_\_\_\_
15. Government contracting office code: \_\_\_\_\_
16. Treasury account symbol (TAS) as reported in FPDS: \_\_\_\_\_
17. Applicable NAICS code: \_\_\_\_\_

Please provide the names and total compensation (cash and noncash dollar value earned) of each of the five most highly compensated executives (officers, managing partners, or any other employees in management positions) for your preceding completed fiscal year:

<u>Name</u>	<u>Total Compensation</u>
1. _____ Print Name	_____
2. _____ Print Name	_____
3. _____ Print Name	_____
4. _____ Print Name	_____
5. _____ Print Name	_____

Subcontractor certifies that it is not required to provide information regarding the names and total compensation of each of its five most highly compensated executives because (check all that apply):
--

In the subcontractor’s preceding fiscal year, the subcontractor ***did not*** receive-

- (A) 80 percent or more of its annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements;
- (B) \$25,000,000 or more in annual gross revenues from Federal contracts (and subcontracts), loans, grants (and subgrants) and cooperative agreements; and

**Or**

The public ***does*** have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986.

Subcontractor acknowledges, and the undersigned warrants that Subcontractor is familiar with the Federal Executive Compensation and First-Tier Subcontract reporting requirements above. Subcontractor further warrants that the information provided to SCI herein is true and accurate to the undersigned’s best knowledge and information.

Subcontractor:                  **{Company.Name}**            
Signature:            \_\_\_\_\_  
Print Name:          \_\_\_\_\_  
Title:                 \_\_\_\_\_  
Dated:                \_\_\_\_\_