



# SUBCONTRACT AGREEMENT



Subcontract No.: SUBCONTRACTNUMBER  
Subcontract Date: SUBCONTRACTDATE  
Cost Code: COSTCODE

PROJECT NAME: PROJECTNAMENUMBER  
PROJECT LOCATION: PROJECTADDRESS  
OWNER: OWNERNAME

Contractor Job Number: XXX

**CONTRACTOR:**  
Straub Construction, Inc.  
202 West College Street, Suite 201  
Fallbrook, CA 92028  
Phone: (760) 414-9000

**SUBCONTRACTOR:**  
SUBNAME  
SUBADDRESS  
Phone: (xxx) xxx-xxxx  
Representative:  
Title:  
Email:

Trade(s) / Scope(s) of Work: SUBSCOPE

Subcontract Amount: CONTRACTAMOUNT\$

Payment & Performance Bonds are / are not required for this subcontract scope of work.

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- Attachment B: General Scope of Work Attributable to All Trades
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- Attachment E: Subcontractor Design-Assist Services for Design-Build Projects [is / is not applicable]
- Attachment F: California Labor Addenda [is / is not applicable]

The parties have signed this Subcontract for themselves, their heirs, executors, successors, administrators and assignees at the place and on the day and year first written above.

**SUBCONTRACTOR**

**CONTRACTOR**

Firm: \_\_\_\_\_

Firm: STRAUB CONSTRUCTION, INC.

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

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

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

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

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

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

California Contractor's License No.: 506797

Federal ID No. \_\_\_\_\_

**PROJECTNAMENUMBER**  
Subcontract No. **SUBCONTRACTNUMBER**  
Subcontractor: **SUBNAME**

This subcontract (“Subcontract”) is entered into on **SUBCONTRACTDATE**, in San Diego County, California, by and between Straub Construction, Inc. (“Contractor”) and **SUBNAME** (“Subcontractor”).

Contractor has entered or anticipates entering into a contract with **OWNERNAME** (“Owner”) to perform certain work described as **PROJECTNAMENUMBER** (“Project”), in accordance with the terms of the contract between Contractor and Owner (“Contract”).

### **SECTION 1: SUBCONTRACT DOCUMENTS**

1.1 The Subcontract consists of the documents described in Sections 1.1.1 and 1.1.2 below, in order of preference:

1.1.1 This subcontract agreement, including the attachments identified in the table of contents of the cover page of this Subcontract, all of which are incorporated at this point as if fully set forth.

1.1.2 The Contract, which consists of the entire agreement between Contractor and Owner, as more particularly though not exclusively specified in the prime contract, including but not limited to all general, special, supplementary and other conditions, drawings/plans, specifications, addenda, bulletins, wage determinations and related documents.

1.2 Subcontractor is fully familiar with all of the terms of the Subcontract, including but not limited to the Contract, the location of the job site, and the conditions under which the work is to be performed. Subcontractor enters into this Subcontract based upon its investigation of all such matters and is in no way relying upon any opinions or representations of Contractor. The Contract is incorporated into this Subcontract with the same force and effect as if it were set forth in full. Subcontractor and its subcontractors are bound by all terms of the Contract as they relate in any way, directly or indirectly, to the work covered by this Subcontract. Subcontractor is bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the Contract.

1.3 Upon written request by Subcontractor, Contractor shall provide to Subcontractor at Subcontractor’s expense one copy of all portions of the Contract in Contractor’s possession. Neither this section nor any other shall obligate Contractor to obtain for Subcontractor copies of any portion of the Contract not in the possession of Contractor, and Subcontractor shall not be excused from performance of its work because it does not have such contracts.

1.4 Nothing in this Subcontract creates or shall be construed to create a contractual relationship between persons or entities other than Contractor and Subcontractor.

### **SECTION 2: SCOPE OF SUBCONTRACT WORK**

2.1 Subcontract Work – Subcontractor shall provide all labor, services, materials, tools, equipment, supplies and other facilities of every kind necessary or incidental for the prompt and efficient performance of the work described in Attachments A and B.

2.2 Temporary Services – Subcontractor shall provide, at its own expense and without increase in the Subcontract Price defined in Section 3.1 below, all temporary services in connection with its work, including but not limited to hoisting, scaffolding, trash/debris cleanup and disposal off-site, temporary offices and storage facilities, security and electrical cords.

### **SECTION 3: SUBCONTRACT PRICE**

3.1 Refer to Attachment A for Subcontract Price.

### **SECTION 4: PAYMENT**

4.1 Schedule of Values – Within seven days of the signing of this Subcontract, Subcontractor shall prepare and submit to Contractor a schedule of values that breaks down Subcontractor’s work into individual activities. Each activity contained in the schedule of values shall be assigned a monetary price such that the total of all such items

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Subcontractor Initials

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Straub Construction, Inc. Initials

**PROJECTNAMENUMBER**

Subcontract No. **SUBCONTRACTNUMBER**

Subcontractor: **SUBNAME**

shall equal the Subcontract Price. The schedule of values shall be prepared in such manner or detail as may be required by Owner and/or Contractor.

4.2 Payment and Verification – Subcontractor is required to pay for all labor, materials and equipment used in the performance of Subcontractor’s work through the most current period applicable to progress payments received from Contractor. Such obligation is a condition precedent to Subcontractor’s right to receive payment for the work performed. Contractor may require evidence from Subcontractor to show that all obligations relating to Subcontractor’s work are current through all payments received from Contractor before releasing any payment due for Subcontractor’s work.

4.3 Progress Payment Applications – Subcontractor’s applications for payment shall be itemized and in accordance with the Subcontract, Subcontractor’s schedule of values, Contractor’s billing procedures and any other substantiating data as required in the Contract for Contractor’s payment applications. Subcontract payment applications may include amounts for Subcontract change orders that have been fully signed by Subcontractor and Contractor. Subcontractor may not include in its payment applications any amounts for alleged changes that have not been fully signed by Subcontractor and Contractor, or for disputed work.

4.4 Time for Submission of Application – Subcontractor’s progress payment application shall be submitted to Contractor in sufficient time for Contractor to include it in Contractor’s payment request to Owner.

4.5 Payroll Documents and Lien Waivers – Subcontractor shall provide, in a form satisfactory to Owner and Contractor, payroll affidavits, receipts, vouchers, and lien and claim waivers for itself and for all labor, material, equipment, subcontractors and suppliers performing work or furnishing material under this Subcontract. Subcontractor shall comply with Contractor’s procedures for certified payroll. Contractor may refuse to pay Subcontractor if Subcontractor fails to provide such documents.

4.6 Withholding, Reduction, Rejection or Nullification – Contractor may withhold current or future payments due Subcontractor, and/or may reduce or reject a Subcontractor payment application or nullify a previously approved Subcontractor payment application, in whole or in part, as may be necessary to protect Contractor from loss or damage, including but not limited to attorneys’ fees, based upon:

- (a) Subcontractor’s failure to comply with its obligations under the Subcontract;
- (b) Loss or damage to Owner, Contractor or others to whom Contractor may be liable arising out of or relating to the Subcontract and caused by or attributable to Subcontractor or anyone for whom Subcontractor is responsible;
- (c) Subcontractor’s failure to properly pay for labor, materials, equipment or supplies furnished in connection with its work;
- (d) Rejected, nonconforming or defective work that has not been corrected;
- (e) Delay in the performance of Subcontractor’s work such that the work may not be completed in the time required by the Subcontract;
- (f) Evidence demonstrating that the unpaid balance of the Subcontract Price may be insufficient to cover the cost to complete Subcontractor’s work;
- (g) Third party claims against Subcontractor or evidence demonstrating that third party claims are likely to be filed; or
- (h) Owner’s reduction, rejection or nullification of any part of a payment application.

4.7 Retention – Contractor may withhold from Subcontractor retention up to a rate of 10 percent, or as provided by law.

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Subcontractor Initials

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4.8 No Acceptance of Work – Payment to Subcontractor does not constitute or imply acceptance or approval of any portion of Subcontractor’s work. In addition, the filing of notice of completion or occupancy shall not constitute or imply acceptance or approval by Contractor of any portion of Subcontractor’s work, or constitute or imply a waiver by Contractor of any claims or back charges it may have against Subcontractor.

4.9 Final Payment Application – Contractor shall incorporate Subcontractor’s application for final payment into Contractor’s next application for payment to the Owner only after the following occur:

- (a) acceptance of Subcontractor’s work by Contractor and Owner;
- (b) if requested by Contractor, evidence acceptable to Contractor that all payrolls, bills for materials and equipment, and other indebtedness connected with Subcontractor’s work have been fully paid, or will be fully paid by issuance of joint checks in return for unconditional releases;
- (c) if requested by Contractor, consent of Subcontractor’s surety to final payment;
- (d) satisfaction of close-out procedures as may be required by the Subcontract; and
- (e) if requested by Contractor, releases and waivers of liens, stop notices, bond rights, or any rights against Contractor, its surety or Owner, effective upon payment, to the extent and in such form as may be designated by Contractor.

4.10 Effect of Final Payment – Acceptance of final payment by Subcontractor shall constitute a waiver of claims by Subcontractor, except for claims reserved in a final release.

4.11 Pay When Paid – All payments are due to Subcontractor by Contractor within seven calendar days of Contractor’s receipt of payment from Owner for Subcontractor’s approved and billed work. If this Subcontract relates to a project located in California, all payments are due to Subcontractor by Contractor within seven calendar days of Contractor’s receipt of payment from Owner for Subcontractor’s approved and billed work, but in any event, within a reasonable time considering all of the circumstances.

4.12 Joint Checks – Contractor may make any payment due Subcontractor by issuance of joint checks to Subcontractor and its subcontractors, materialmen and suppliers.

## **SECTION 5: SUBCONTRACT BONDS**

5.1 If required by Contractor, within 10 days of signing of this Subcontract or at any time during the performance of its work, Subcontractor shall furnish a performance bond in an amount equal to the full amount of the Subcontract Price and a payment bond in an amount equal to the full amount of the Subcontract Price. Such performance and payment bonds shall name Contractor as obligee, and be in the form and content shown at Attachment D. The surety/sureties on such bonds shall be listed on the most current U.S. Treasury Circular #570, shall have an underwriting limit in excess of the bond amount, and shall have a rating of “A” or better in the current A.M. Best rating Guide of Property/Casualty Insurance Companies. The premiums for such bonds are included in the Subcontract Price.

5.2 If Subcontractor fails to provide any required bonds within 48 hours of Contractor’s written notification to do so, Contractor may terminate this Subcontract for cause. All costs and expenses incurred by Contractor as a result of such termination shall be paid by Subcontractor in accordance with the terms of this Subcontract.

5.3 The surety/sureties on any required bond shall stand in the same place as Subcontractor to the fullest extent permitted by law. No change, alteration, modification, directive, clarification or communication regarding this Subcontract, whether made in the manner specified in the Subcontract or not, shall release or exonerate, in whole or part, any surety on any required bond, and neither Owner nor Contractor shall be under any obligation to notify the surety/sureties of any such change, alteration, modification, directive, clarification or communication.

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Subcontractor Initials

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Straub Construction, Inc. Initials

## SECTION 6: PERFORMANCE OF SUBCONTRACT WORK

6.1 Subcontract Performance – Subcontractor shall use its best care, skill and diligence in supervising, directing and performing its work, and every part of Subcontractor’s work shall be executed in strict accordance with the Subcontract and in the most sound and workmanlike manner. All materials used by Subcontractor shall be furnished in sufficient quantities to facilitate the proper 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 Subcontract to be otherwise.

6.2 Time Is of the Essence – Time is of the essence in this Subcontract. Subcontractor shall ensure the performance of its work and the work of its subcontractors and/or suppliers allows for the entire Project to be completed in accordance with the Contract and Contractor’s schedule, as updated by Contractor.

6.3 Schedule of Work – Subcontractor shall begin its work as soon as instructed by Contractor, and shall perform its work promptly, efficiently and at a speed that will not delay or disrupt the progress of Contractor’s work or the work of other subcontractors. Subcontractor shall perform and complete its work in accordance with Contractor’s progress schedule, as updated by Contractor. Subcontractor shall timely prepare and obtain approval as required by the Subcontract for all shop drawings, details and samples; shall timely perform any required Subcontractor testing; and shall do all other things necessary and incidental to the prosecution of the Subcontract in order to comply with Contractor’s schedule. Subcontractor shall coordinate the work covered by this Subcontract with Contractor and all other subcontractors in a manner that will allow for the efficient completion of the entire work. If requested by Contractor, Subcontractor shall have an acceptable representative present at all job meetings and shall timely submit progress reports to Contractor.

6.3.1 Contractor shall have the right to decide the time or order in which the various portions of the work shall be installed, the priority of Subcontractor’s work as it relates to the work of other subcontractors, and, in general, all matters representing the timely and orderly performance of Subcontractor’s work on the Project. If Subcontractor falls behind in the progress of the work, Contractor may direct Subcontractor to take such steps as Contractor deems appropriate to improve the rate of progress, including but not limited to requiring Subcontractor to increase the number of shifts, personnel, overtime, operations, days of work, equipment, or other remedies, and to submit to Contractor for Contractor’s approval a schedule demonstrating the manner in which the required rate of progress will be regained without additional cost to 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.

6.4 Use of Contractor’s Equipment – Subcontractor may use Contractor’s equipment and/or facilities only with the express written permission of Contractor’s designated representative and in accordance with Contractor’s terms and conditions for such use. Should Subcontractor so use Contractor’s equipment and/or facilities, Subcontractor shall reimburse Contractor at a predetermined rate, and Subcontractor shall be responsible for, and shall defend, indemnify and hold Contractor harmless from, any and all claims, actions, demands, damages, liabilities or expenses, including attorneys’ fees, resulting from such use.

## SECTION 7: SUBCONTRACTOR’S OBLIGATIONS

7.1 Responsibilities – Subcontractor shall furnish all labor, services, materials, tools, equipment, supplies and other facilities of every kind necessary or incidental to perform its work in accordance with the Subcontract.

7.2 Independent Contractor – Subcontractor shall perform all obligations of the Subcontract as an independent contractor.

7.3 Compliance with Laws – Subcontractor shall, at its sole expense, comply with all laws, orders, rules, ordinances and regulations of all governing bodies having jurisdiction over the work, whether federal, state, local or otherwise, including but not limited to any and all applicable laws, orders, rules, ordinances and regulations pertaining to labor, wage/hour, safety, small business, Federal Acquisition Regulations, equal opportunity, employment eligibility, compensation reporting, non-disclosure, etc. Subcontractor shall pay all manufacturers’ taxes, sales taxes, use taxes, and processing taxes. Subcontractor shall pay all federal and state taxes, insurance and contributions for Social

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Subcontractor Initials

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Straub Construction, Inc. Initials

**PROJECTNAMENUMBER**

Subcontract No. **SUBCONTRACTNUMBER**

Subcontractor: **SUBNAME**

Security, unemployment and workers' compensation that are measured by wages, salaries or other remunerations paid to Subcontractor's employees, whether levied under existing or subsequently enacted laws, rules or regulations. Subcontractor shall give adequate notices to all required parties pertaining to Subcontractor's work, and secure and pay for all permits, fees, licenses, assessments and inspections necessary to complete its work in accordance with the Subcontract. Any conflicts between or among such laws, orders, rules, ordinances and regulations shall be resolved in favor of the stricter requirement. Subcontractor shall be compensated for additional costs resulting from laws, ordinances, rules and/or regulations enacted after the date of the Subcontract only to the extent such additional costs are paid to Contractor by Owner.

7.3.1 Subcontractor is responsible for prevention of accidents arising from or relating to its work. In addition to complying with all applicable laws, orders, rules, ordinances and regulations relating to accident prevention, safety and health, including but not limited to the Occupational Safety and Health Act and any like state law, Subcontractor shall comply with the accident prevention, safety and health rules, regulations and programs of Owner and Contractor. Establishment of accident prevention, safety and health rules, regulations and programs by Contractor or Owner shall not relieve Subcontractor of its responsibilities. Subcontractor shall establish its own accident prevention, safety and health rules, regulations and/or programs implementing measures, policies and standards conforming to those required by governmental authorities having jurisdiction over the work and by Contractor and Owner. Subcontractor shall maintain an accurate record of all accidents incidental to the Subcontract work resulting in death, injury, occupational disease or damage to property, materials, supplies or equipment. Subcontractor shall notify Contractor immediately following such an accident and promptly confirm the notice in writing. A detailed written report shall be furnished to Contractor. Subcontractor shall provide Contractor with copies of all accident reports filed with federal, state and/or local governmental agencies and such additional data as may be requested by Contractor. Subcontractor shall notify Contractor of any unsafe condition it discovers or observes and shall stop work until informed by Contractor that it may resume work.

7.3.2 While it is Subcontractor's sole responsibility and obligation to furnish a safe place to work for its employees, Contractor may notify Subcontractor of any noncompliance with applicable safety requirements and the corrective action required. Such notice, when delivered to Subcontractor or Subcontractor's representative at the site of work, shall be deemed sufficient notice of noncompliance. After receiving such notice, Subcontractor shall promptly take corrective action. If Subcontractor fails or refuses to promptly take corrective action, Contractor may issue an order suspending all or part of Subcontractor's work until satisfactory corrective action has been taken. Contractor's failure to so suspend Subcontractor's work shall not relieve Subcontractor of its responsibilities. Subcontractor shall not base any claim or request for additional time or compensation upon any suspension issued under or in connection with this section.

7.3.3 Should Subcontractor encounter any hazardous substances at the Project site that are potentially harmful to persons or property, Subcontractor shall take all steps required by the Subcontract and by law to protect persons and property from injury or damage, including stopping Subcontractor's work in the affected area(s) and promptly notifying Contractor in writing of the conditions encountered at the site. Should Subcontractor be required to stop work in any area of the Project as a result of hazardous substances located at the Project site, Subcontractor shall not resume work in the affected area(s) until the hazardous substances have been removed or made harmless, all necessary approvals to resume work are obtained and Contractor gives Subcontractor written direction to resume work.

7.3.4 Subcontractor shall be responsible for the fulfillment of the obligations set forth in Sections 7.3, 7.3.1, 7.3.2 and 7.3.3 by those working under Subcontractor in the performance of the Subcontract work.

7.3.5 Upon Contractor's request, Subcontractor shall provide to Contractor satisfactory evidence that the obligations set forth in Sections 7.3, 7.3.1, 7.3.2, 7.3.3 and 7.3.4 have been fulfilled.

7.3.6 Subcontractor's failure to comply with the obligations of Section 7.3, 7.3.1., 7.3.2, 7.3.3, 7.3.4 and 7.3.5 shall constitute a material breach of this Subcontract, and Contractor may in its discretion exercise all of the rights and remedies provided by law or under the terms of this Subcontract, including but not limited to withholding from amounts due or that may become due to Subcontractor a sum equal to 150 percent of the amount by which Contractor reasonably believes it may be damaged as a result of such failure to comply by Subcontractor.

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Subcontractor Initials

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**PROJECTNAMENUMBER**

Subcontract No. **SUBCONTRACTNUMBER**

Subcontractor: **SUBNAME**

7.4 Site Visitation – Subcontractor acknowledges that it has visited the Project site and visually inspected the general and local conditions that could affect its work. Any failure of Subcontractor to reasonably ascertain, from a visual inspection of the site, the general and local conditions that could affect its work will not relieve Subcontractor from its responsibility to properly complete its work without change in the Subcontract Price.

7.5 Shop Drawings, Samples, Product Data and Manufacturers' Literature – Subcontractor shall submit to Contractor for review and approval all shop drawings, samples, product data, manufacturers' literature and similar submittals as required by the Subcontract in a format acceptable to Owner and Contractor by date(s) set by Contractor. Subcontractor shall be responsible to Contractor for the accuracy of its submittals and their compliance with the Subcontract. Subcontractor shall prepare and deliver its submittals to Contractor in a manner consistent with the progress schedule and in such time and sequence so as not to delay Contractor or others in the performance of the Contract work. The approval of any Subcontractor submittal shall not be deemed to authorize deviations, substitutions or changes in the requirements of the Subcontract, and does not relieve Subcontractor of its obligation to perform its work in accordance with the Subcontract. In the event the Contract does not contain submittal requirements pertaining to Subcontractor's work, Subcontractor agrees upon request to submit to Contractor in a timely fashion for approval any shop drawings, samples, product data, manufacturers' literature or similar submittals as may reasonably be required. Should Subcontractor's submittals be in an unacceptable or incomplete format, Contractor may, after notice to Subcontractor, reassemble and reorganize the submittals as required and Subcontractor shall be liable for all resulting costs incurred by Contractor.

7.5.1 All safety sheets, plans, submittals or other such documents required by law or the Subcontract pertaining to materials or substances used or consumed in the performance of Subcontractor's work shall be submitted to Contractor by Subcontractor. Any such safety sheets, plans or submittals obtained by Contractor from other subcontractors or sources shall be made available to Subcontractor by Contractor.

7.5.2 Contractor and Owner are entitled to rely on the accuracy and completeness of any professional certifications required by the Subcontract concerning the performance criteria of systems, equipment or materials, including all calculations and any governing performance requirements.

7.6 Tests, Inspections and Approvals – Subcontractor shall coordinate and notify Contractor of all required tests, inspections and approvals of Subcontractor's work so as not to delay the performance of the work. Subcontractor shall schedule and provide proper written notice to all required parties of such tests, inspections and approvals.

7.7 Authorized Representative – Before starting its work, Subcontractor shall notify Contractor in writing who Subcontractor's authorized representative(s) is/are to be and provide the contact information of such representative(s). In the event of any change of such representative(s), Subcontractor shall notify Contractor who the new representative(s) is/are to be, and the contact information of the new representative(s), before such change becomes effective. Such authorized representative(s) shall be authorized to receive orders and have full authority to make decisions regarding Subcontractor's work, and shall be the only person(s) to whom Contractor shall issue instructions, orders or directions, except in an emergency. Such authorized representative(s) shall be present at the job site at all times when Subcontractor's work is in progress.

7.8 Communications – Subcontractor communications with Owner, Architect, separate contractors and/or other subcontractors and suppliers of Contractor, regardless of tier, shall be through Contractor only.

7.9 Materials or Equipment Furnished by Others – In the event the scope of Subcontractor's work includes installation of materials or equipment furnished by others, it shall be the responsibility of Subcontractor to inventory, examine, handle, store and install the items with such skill and care as to ensure a satisfactory and proper installation. Subcontractor shall promptly notify Contractor in writing of any defective or missing materials or equipment. Loss or damage arising from or in connection with materials or equipment furnished by others shall be charged to the account of Subcontractor and deducted from sums due or to become due to Subcontractor under this Subcontract.

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Subcontractor Initials

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Straub Construction, Inc. Initials

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Subcontract No. **SUBCONTRACTNUMBER**

Subcontractor: **SUBNAME**

7.10 Substitutions – No substitutions shall be made by Subcontractor unless permitted by the Contract, and only then upon Subcontractor first receiving all approvals required under the Contract and this Subcontract for such substitutions. Subcontractor shall be liable for, and defend, indemnify and hold Contractor and Owner harmless from and against, any and all claims, losses, damages, delays, costs or expenses arising from or in connection with such substitutions, whether or not Subcontractor made such substitutions in accordance with the Contract and this Subcontract.

7.11 Coordination and Cooperation – Subcontractor shall:

- (a) cooperate with Contractor and all others whose work may interface with Subcontractor's work so as not to delay the work;
- (b) specifically note and immediately notify Contractor in writing of any interference with Subcontractor's work; and
- (c) participate in the preparation of coordination drawings and work schedules involving Subcontractor's work.

7.12 Warranty – Subcontractor warrants all of its work in accordance with the Subcontract, shall remedy any work determined to be defective or improperly installed at Subcontractor's sole expense and to the satisfaction of Contractor, and shall defend, indemnify and hold Contractor and Owner harmless from and against any liability, loss or damage arising from or relating to such work through the period of Subcontractor's performance of its work and for a period of one year from completion and acceptance of the work covered by the Contract. If the period of warranty is specified in excess of one year by the Contract, Subcontractor shall be bound for the longer period specified.

7.13 Correction of Work – Subcontractor is required to correct in a timely fashion any of its work rejected by Contractor or Owner for failing to comply with the Subcontract, whether observed prior to the commencement of the warranty period(s) or during the warranty period(s). Subcontractor shall correct at its own cost and bear the expense of additional services for any nonconforming work for which it is responsible, and shall remain responsible even after the warranty period for fraud, misrepresentation or latent defects.

7.14 Cleanup – Subcontractor shall follow Contractor's cleanup directions, and:

- (a) during the course of construction, remove waste materials from the site with such recurrence as is necessary to maintain the premises in a clean and orderly condition;
- (b) at all times keep the building and premises free from debris resulting from Subcontractor's work;
- (c) broom or rake clean each work area prior to discontinuing work in each area; and
- (d) Subcontractor's work shall not be considered complete until Subcontractor removes from the site all temporary structures, debris and waste incidental to its operation and cleans all surfaces, fixtures, equipment, etc., relative to the performance of its work.

If Subcontractor fails to perform the above cleanup obligations, Contractor may implement cleanup measures as it deems appropriate, without additional justification and in any manner it deems expedient, and all costs associated with such implementation shall be charged to Subcontractor and deducted from any amounts due or to become due to Subcontractor under this Subcontract. Should it be impossible for Subcontractor to perform the above cleanup obligations because of the continuing work of other subcontractors, Subcontractor shall share the costs associated with Contractor's implementation of remedial cleanup measures on a prorated basis with such other subcontractors. The proration of such costs is to be made by Contractor in its discretion.

7.15 Layout – Subcontractor shall layout in accordance with the Subcontract, be strictly responsible for the accuracy of Subcontractor's work, and ensure actual final conditions and details result in alignment of finish

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Subcontractor Initials

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surfaces in accordance with the Subcontract. Subcontractor shall be liable for any loss or damage arising from or in connection with Subcontractor's failure to set out or perform its work correctly. Subcontractor's failure to promptly notify Contractor in writing of any alleged defects in any work performed by others in or adjacent to the area of Subcontractor's work shall be an acknowledgement by Subcontractor that such other work is fit and proper for the reception, attachment or covering by Subcontractor. Upon such failure of Subcontractor, no alleged defects in such other work may be asserted by Subcontractor to justify any failure to perform on its part.

7.16 Supervision – Subcontractor shall provide efficient and knowledgeable supervision of its Subcontract work, using its best skill and attention. Should Subcontractor fail to perform its duties under this paragraph or perform the same negligently, Subcontractor shall be liable to Contractor for any and all resulting costs.

7.17 Inspecting Materials – Subcontractor shall furnish to Contractor ample facilities at all times for inspecting materials under this Subcontract at the Project site, at the shops or any place where such materials may be in the course of preparation, process, manufacture or treatment. As often as required, Subcontractor shall furnish to Contractor full reports of the progress of the work at any place where materials under this Subcontract may be in the course of preparation, process, manufacture or treatment. Such reports shall show the progress of such preparation, process, manufacture or treatment in such details as may be required by Contractor, including any plans, drawings or diagrams. Contractor and/or Owner may have a full or part-time quality control individual or inspector on the Project site or may conduct inspections of all or any part of the work at various times. Any such individual or inspector shall not relieve or diminish Subcontractor's responsibility to ensure that its Subcontract work is in full and complete compliance with the Subcontract and approved by Owner.

7.18 Delegation or Subcontracting of Duties – Subcontractor is prohibited from delegating, transferring, conveying, subcontracting, relinquishing or otherwise disposing of its duties under this Subcontract, in whole or part, without the prior written approval of Contractor, which shall not be unreasonably withheld. Subcontractor shall incorporate all terms of this Subcontract in any subcontracts or purchase orders with its subcontractors and suppliers. Subcontractor shall cause its lower tiers to submit to Contractor a completed Organization and History Form on Contractor's standard Organization and History Form.

7.19 Duty to Proceed – In the event of any dispute or controversy with Contractor, another subcontractor or other third party involved with the Project, Subcontractor shall not cause or permit any delay or cessation of its work or cause delay or disruption to the work of any other subcontractor or Contractor on the Project, but shall proceed with the performance of its work pending resolution of such dispute or controversy.

7.20 Workers – Contractor may order the removal from the job of any workers of Subcontractor or Subcontractor's lower-tiers that Contractor finds disruptive, incompetent, in violation of safety requirements/programs or otherwise detrimental to the successful completion of the Project.

7.21 Contractor Expending Money – Whenever any money is expended or costs or expenses are incurred by Contractor on behalf of or on account of Subcontractor, which amounts Subcontractor should have paid, and for which amounts 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 rate of 10 percent per annum from the time such money is expended or such costs or expenses are incurred until those amounts are repaid to Contractor by Subcontractor. Nothing contained in this provision or the Subcontract shall require or be construed as requiring Contractor to make any such expenditures, advance any such money, or incur any such expenses.

7.22 Offsets – Contractor may deduct from any payments otherwise due Subcontractor the amount of any claim or sums due Contractor from Subcontractor related to this Subcontract.

7.23 Protection of the Work – Subcontractor shall secure and protect the work done pursuant to this Subcontract and assume full responsibility for its condition until final acceptance by Contractor and Owner. Subcontractor further agrees to provide such protection as is necessary to protect the work and representatives of Contractor and other subcontractors from Subcontractor's work. Subcontractor shall be liable for all loss or damage to any work in place or to any equipment and materials on the job site to the extent such loss or damage is caused by or attributable to Subcontractor or its agents, employees or guests.

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7.24 Subcontractor Business Type Designation – Subcontractor has represented itself as an entity that performs under a small business, a disadvantaged business or some other designation, as identified below, that requires Subcontractor to act within certain regulations and/or rules set forth by various authorities. Subcontractor warrants that it will abide by such regulations and/or rules. Further, Subcontractor will, upon reasonable notification, make available to Contractor documentation that substantiates its compliance with the applicable regulations and/or rules.

Subcontractor designation(s) are as follows:

- Small Business Enterprise (e.g., 8(a) approved Mentor/Protégé JV, WBE, etc.)  
Type: \_\_\_\_\_
- Disadvantaged Business Enterprise (e.g., SDVOSB, WOSB, HUBZone, etc.)  
Type: \_\_\_\_\_
- Minority Business Enterprise (e.g., Native Hawaiian, Native Alaskan, African American, Native American, Asian American, Hispanic American, etc.)  
Type: \_\_\_\_\_
- Veteran-Owned Business  
Type: \_\_\_\_\_
- Other  
Type: \_\_\_\_\_
- None of the above

7.25 Waiver of Excuse/Defense – Subcontractor waives any claim that its failure to perform the Subcontract work is excused because of an act or omission of Contractor unless Subcontractor notifies Contractor of its intent to assert such a claim within 10 days after the occurrence of any such act or omission. To a claim of poor, improper, substandard, incorrect or noncomplying work or materials, Subcontractor waives any asserted defense that such work or materials were inspected and/or approved by Contractor, Owner or Owner’s representatives, including but not limited to the architect.

7.26 Daily Reports – Subcontractor shall comply with all of Contractor’s procedures with respect to daily reports.

7.27 Licensure – To the extent applicable, Subcontractor warrants that it is properly licensed by the authority having jurisdiction over the Project with the proper license classifications for performance of the work described in this Subcontract. Subcontractor further warrants that its license is and will remain current, active and in good standing at all times during the performance of its work.

## **SECTION 8: LABOR RELATIONS**

8.1 General Provisions – Employment of labor by Subcontractor shall be effected under conditions that are satisfactory to Contractor.

8.2 Labor Agreements – Prior to starting its work, Subcontractor shall notify Contractor in writing of the collective bargaining agreement(s) to which it is signatory, and shall provide a copy of all such agreements within 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 its work, it will notify Contractor. With respect to any work covered by this Subcontract, Subcontractor agrees to comply with all of the terms and conditions of any collective bargaining agreement to which it is signatory. Upon Contractor’s request, Subcontractor agrees, at its own expense, to take all lawful steps to secure a binding and final determination of any jurisdictional dispute by the National Labor Relations Board.

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8.2.1 Subcontractor shall require all of its subcontractors and their subcontractors to comply with the collective bargaining agreement(s) to which Subcontractor is signatory, and the collective bargaining agreement(s) that are binding upon them.

8.2.2 Subcontractor will defend, indemnify and hold Contractor harmless from and against any liability, loss, damage, cost, claims, awards, judgments, fines, expenses and attorneys' fees arising out of or in connection with Subcontractor's failure to comply with Subcontractor's obligations set forth in Sections 8.1, 8.2 and 8.2.1 of this Subcontract.

8.3 Work Stoppages – Strikes, work stoppages (including sympathy strikes), picketing or any other stoppage of work by employees performing work on, or delivering supplies or materials to, the job site shall not excuse any delay of Subcontractor in the performance of its work, regardless of whether the strike, picketing or other work stoppage is attributed to union action or the act or omission of an individual employee.

8.4 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 Subcontractor who shall be responsible for such gate usage by its employees, materialmen, suppliers, subcontractors, and their materialmen and suppliers.

8.5 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 materialmen and suppliers.

8.6 Default – Notwithstanding any other provision of this Subcontract, Contractor has the absolute right to terminate this Subcontract in accordance with the termination provisions of this Subcontract if Subcontractor defaults in the performance of its work for any of the reasons specified in Section 8 of this Subcontract, or if, due to a labor dispute (which includes but is not limited to a dispute between a union and any other entity resulting in a work stoppage, work slowdown, or interruption of delivery of materials), there is an interruption in the performance of Subcontractor's work, including but not limited to Subcontractor's unwillingness or inability to continue the proper performance of its work, or Subcontractor's unwillingness or inability to provide qualified workers.

## **SECTION 9: INSURANCE**

9.1 Subcontractor's Insurance – Prior to the start of its work, Subcontractor shall procure for its work, and maintain in force at all times during its work, Comprehensive General Liability Insurance, Comprehensive Automobile Liability Insurance, Workers' Compensation Insurance and Employer's Liability Insurance as described in this section.

9.2 Minimum Requirements – All insurance required by this section shall be written in a manner and with limits of liability that meet the requirements of the Contract and Contractor's insurance requirements, but at a minimum in a manner and with limits of liability that are not less than the following:

A. Comprehensive General Liability Insurance

Form: ISO Form CG0001 or equivalent

Additional Insured Endorsement: Form CG 2010 (11/85) or equivalent

Limits:

General Aggregate: \$2,000,000

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Products — Completed Operations Aggregate:	\$2,000,000
Personal Injury Liability:	\$1,000,000
Each Occurrence (combined single limit for bodily injury and property damage):	\$1,000,000

Coverage shall include: (1) per project general aggregate endorsement; (2) explosion, collapse and underground coverage; and (3) subsidence/earth movement coverage.

B. Comprehensive Automobile Liability Insurance

Limits:

Each Occurrence (combined single limit for bodily injury and property damage):	\$1,000,000
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Automobile Liability Insurance must cover “any auto” and “non owned auto.”

C. Workers’ Compensation and Employer’s Liability Insurance

Limits:

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):	\$1,000,000

D. Excess Liability

Limit: minimum of \$1,000,000

9.3 Professional Liability – If the subcontractor is a licensed architect, engineer or designer, or 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.

9.4 Indemnification – Subcontractor’s insurance shall include contractual liability insurance covering Subcontractor’s obligations under the Subcontract, including all indemnification provisions included in the Subcontract.

9.5 Rating – Insurance companies shall have a minimum A.M. Best’s rating of A VII and be admitted in California, unless otherwise approved in writing by Contractor.

9.6 Products/Completed Operations – Subcontractor shall provide products/completed operations coverage and maintain the same in full force for the duration of Subcontractor’s work and for a period of ten years following completion of the Project.

9.7 Cancellation Clause – Any cancellation clause of an insurance policy obtained by Subcontractor as required by this Subcontract shall have “Endeavor to” and “but failure to mail such notice shall...or representatives” crossed out. Written notice of any such cancellation must be no less than 30 days.

9.8 Additional Insured – Contractor and Owner shall be named as additional insureds on all insurance policies required by this Subcontract, except for Workers’ Compensation. Such endorsements must state that the Subcontractor’s insurance is primary to any other insurance.

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**PROJECTNAMENUMBER**

Subcontract No. **SUBCONTRACTNUMBER**

Subcontractor: **SUBNAME**

9.9 Waiver of Subrogation – Subcontractor waives all rights against Contractor, Owner and others defined in the Contract for recovery of damages to the extent such damages are covered by the insurance described in this section. If the insurance policies required by this section require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be endorsed.

9.10 Insurance Requirements for Sub-Tier Subcontractors – Subcontractor shall require and ensure that all of its sub-tier subcontractors procure and maintain, at all times during their respective work, insurance coverage in like forms, amounts and content as described in this section of the Subcontract.

9.11 Evidence of Insurance – Prior to the start of its work, Subcontractor shall provide to Contractor at its home office copies of all insurance policies required by this Subcontract, including the policies of sub-tier subcontractors, and originals of all certificates of insurance for such insurance policies.

9.12 Breach – Should Subcontractor fail to fulfill the obligations of this section, Subcontractor shall be in material breach of this Subcontract, and Contractor shall: (a) be entitled to default and terminate Subcontractor for cause pursuant to the Termination section of this Subcontract; and (b) be justified in withholding payment to Subcontractor for all its progress and retention billings unless and until Subcontractor cures its failure to fulfill such obligations.

**SECTION 10: INDEMNIFICATION**

10.1 General Indemnity – All work that is covered by or incidental to the Subcontract shall be at the risk of Subcontractor exclusively. To the fullest extent permitted by law, Subcontractor shall defend, indemnify and hold Contractor harmless from and against any and all allegations, losses, claims, actions, demands, damages, liabilities or expenses (including but not limited to costs, expenses and attorneys’ fees) of any kind whatsoever arising out of or in connection with all work that is covered by or incidental to the Subcontract, including but not limited to death or bodily injury to persons, injury to property, design defects (if design originated by Subcontractor), or any other loss, damage or expense (“Claims”). Subcontractor’s obligations pursuant to this section shall extend to all Claims arising out of or in connection with any alleged or actual negligent act or omission, whether active or passive, of: (a) Subcontractor; (b) anyone directly or indirectly employed by Subcontractor; and (c) anyone for whose acts Subcontractor may be liable. Subcontractor shall not be obligated to indemnify Contractor for Claims arising from the sole negligence, active negligence or willful misconduct of Contractor.

10.2 Indemnification for Noncompliance with Laws – To the fullest extent permitted by law, Subcontractor shall defend, indemnify and hold Contractor and Owner harmless from all losses, penalties, fines, assessments, forfeitures, costs and expenses caused by or attributable to any acts or omissions of Subcontractor that constitute or are alleged to constitute failure(s) to comply with any laws, orders, rules, ordinances and/or regulations of any entity having jurisdiction over the work, including but not limited to failure(s) to comply with applicable safety requirements of Contractor and/or Owner.

10.3 Liens and Related Claims – Subcontractor shall defend, indemnify and hold Contractor, Contractor’s surety/sureties and Owner harmless from and against all claims and liens for labor or services performed or materials or equipment used or furnished to be used in connection with work covered by or incidental to the Subcontract, including but not limited to lower tier demands for payment, payment bond claims, stop payment notices and mechanics liens (“Lien Claims”). Subcontractor’s obligations under this section extend to and include, but are not limited to, all costs, expenses, attorneys’ fees, incidental damages and consequential damages incurred by Contractor, Contractor’s surety/sureties and/or Owner as a result of such Lien Claims. Should a legal action, arbitration or proceeding be brought upon such Lien Claims, Subcontractor shall defend such legal action, arbitration or proceeding at its own expense, and shall pay and satisfy any lien or judgment as may be established by the decision of the court in such legal action, arbitration or proceeding without any contribution or indemnification from Contractor, Contractor’s surety/sureties and/or Owner.

10.3.1 Within 48 hours of Contractor’s written demand to Subcontractor, Subcontractor shall cause the discharge, release and/or removal of any and all Lien Claims. Should Subcontractor fail to do so, Contractor may use any means it believes in its discretion is appropriate to cause such Lien Claim(s) to be discharged, released or removed,

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and Subcontractor shall be liable to Contractor for all costs incurred in connection with any such means utilized by Contractor, including Contractor's reasonable attorneys' fees.

10.4 Intellectual Property – Subcontractor shall pay all royalties and license fees that may be due upon the inclusion of any intellectual property in Subcontractor's work. Subcontractor shall defend, indemnify and hold Contractor, Contractor's surety/sureties and Owner harmless from and against all claims, suits and other legal proceedings that may be brought against Contractor, Contractor's surety/sureties and/or Owner for actual or alleged infringement of any intellectual property rights arising out of or in connection with Subcontractor's work, and Subcontractor shall be liable to Contractor, Contractor's surety/sureties and Owner for all loss arising out of such claims, suits and/or other legal proceedings, including but not limited to costs, expenses and reasonable attorneys' fees.

## **SECTION 11: CHANGES**

11.1 Performance – Subcontractor shall adhere strictly to the Subcontract unless directed otherwise in writing. Subcontractor shall not make any changes to the work set forth in the Subcontract, either as additions or deductions, without the written direction of Contractor. Contractor may, without invalidating the Subcontract, direct changes to the Subcontract consisting of additions, deletions or other revisions, the Subcontract Price and/or time for performance of the Subcontract work being adjusted accordingly pursuant to the terms of this Subcontract. Subcontractor shall proceed with all changes as directed in writing by Contractor, and in a manner so as not to delay the Project.

11.1.1 If Subcontractor initiates a substitution, deviation or change in the work that affects the scope of the work or the expense of other subcontractors, Subcontractor shall be liable for all resulting costs and expenses.

11.2 Incorporating Changes – All provisions of this Subcontract shall apply to any changes or extras in a like manner and to the same extent as though such changes or extras were incorporated into the Subcontract.

11.3 Notification of Additional Costs or Time – Subcontractor shall immediately provide written notification to Contractor if a written direction by Contractor could result in additional costs or time of performance so that Contractor has sufficient time to take actions to minimize any additional costs or time, and has sufficient time to provide notification to Owner in accordance with the Contract.

11.4 Submission of Cost and Time Proposals – Subcontractor shall immediately submit in writing its cost and/or time proposal(s) for alleged changes in the work so that Contractor has sufficient time to comply with any and all submission requirements of Owner. All such cost and/or time proposals by Subcontractor shall be in the format required by the Contract and shall contain all content required by the Contract.

11.5 Cost and/or Time Proposal Negotiations – At Contractor's request, Subcontractor shall attend and participate in negotiations with Owner or others that relate to settlement or resolution of Subcontractor's cost and/or time proposals.

## **SECTION 12: DELAYS**

12.1 Subcontractor Delays – Subcontractor delays are delays caused by the failure of Subcontractor, or anyone for whom Subcontractor is responsible, to perform any portion of its work in accordance with the Subcontract, including but not limited to the updated progress schedule. If a Subcontractor delay occurs, Subcontractor shall be liable to Contractor for all costs and damages sustained by Contractor, including but not limited to costs and damages for which Contractor may be liable to Owner, other subcontractors or any other party.

12.2 Owner Delays – Owner delays are delays caused by: (i) an act or omission of Owner for which Contractor is entitled to a time extension and/or additional compensation under the terms of the Contract; or (ii) other events for which Contractor is entitled to a time extension and/or additional compensation under the terms of the Contract. If an Owner delay occurs and affects the critical path of the Project, Subcontractor shall be entitled to an appropriate equitable adjustment in the Subcontract Price and/or time for performance of the Subcontract work, but only to the extent allowed by Owner or adjudicated against the Owner pursuant to the dispute resolution provisions of the

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Contract. The notification, documentation and/or submission requirements of the Contract shall apply to Owner delays and Subcontractor shall comply with all such requirements with respect to any Owner delay for which it seeks relief.

12.3 Contractor Delays – Contractor delays are delays caused by an act or omission of Contractor. If a Contractor delay occurs and affects the critical path of the Project, Subcontractor shall be entitled to an appropriate equitable adjustment in the Subcontract Price and/or time for performance of the Subcontract work. The notification, documentation and/or submission requirements of the Contract shall apply to Contractor delays and Subcontractor shall comply with all such requirements with respect to any Contractor delay for which it seeks relief.

12.4 Concurrent Delays – Entitlement and/or liability for concurrent delays shall be governed by the applicable laws concerning concurrent delays.

12.5 Disputed Delays – If Subcontractor disputes Contractor’s determination of any alleged delay and wishes to pursue that dispute, it must comply with the Claims section of this Subcontract.

### **SECTION 13: CLAIMS**

13.1 Claim – For purposes of the Claims and Dispute Resolution sections of this Subcontract, a claim is a written demand by Subcontractor seeking an equitable adjustment in the Subcontract Price and/or time, or the recovery of withheld disputed funds.

13.2 Notification of Claims – Subcontractor shall immediately provide written notification to Contractor of any claims so that Contractor has sufficient time to take actions to minimize any additional costs or time, and has sufficient time to provide notification to Owner in accordance with the Contract.

13.3 Submission of Claims – Subcontractor shall submit its claims in sufficient time for Contractor to comply with any and all submission requirements of Owner. All such claims shall be in the format required by the Contract and shall contain all content required by the Contract.

13.4 Claims Involving Owner – To the extent Contractor determines Subcontractor’s claim is one for which Owner may be liable and elects to pursue it against Owner, such claim shall be resolved pursuant to the claims and dispute resolution provisions of the Contract. In such event:

- (a) Subcontractor shall fully cooperate with Contractor in the presentation and prosecution of such claim.
- (b) Contractor may allow Subcontractor to act in its own behalf and with its own consultants/attorneys at Subcontractor’s sole cost. If Contractor does not allow Subcontractor to act in its own behalf or it is procedurally impermissible for Subcontractor to proceed in its own behalf, then at the written request of Subcontractor, Contractor will proceed with the dispute on condition that Subcontractor pay to Contractor all of its actual costs arising out of such process, including but not limited to attorneys’ fees and costs.
- (c) During the pendency of the pursuit of Subcontractor’s claim in accordance with the dispute resolution provisions of the Contract, Subcontractor shall stay any action or other legal proceeding against Contractor or Contractor’s surety related to such claim, including but not limited to any Miller Act lawsuit, and shall refrain from taking any action that would impair Contractor’s right to receive sums due Contractor from Owner.
- (d) Subcontractor shall accept any relief obtained through the claims and/or dispute resolution processes of the Contract as full and final resolution of its claim.

### **SECTION 14: DISPUTE RESOLUTION**

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14.1 Claims Not Involving Owner – To the extent Subcontractor submits a claim that Contractor determines is one for which Owner may not be liable, or is one that Contractor elects to not pursue against Owner, or to the extent Contractor pursues a dispute or controversy against Subcontractor or Subcontractor’s surety, the following procedures shall apply:

- (a) The parties shall first attempt to negotiate a resolution of the dispute. The parties shall negotiate in good faith and in a timely manner. If negotiation does not resolve the dispute, the parties shall proceed pursuant to Section 14.1(b) or (c), as applicable.
- (b) For any dispute in which the maximum amount claimed by each party individually is \$200,000 or less, such amount to be exclusive of any interest, claim preparation costs and attorneys’ fees and costs, the parties shall participate in mediation before JAMS or, if agreed upon by the parties, another mediator. 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 arbitration 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.
- (c) For any dispute in which the maximum amount claimed by either party is greater than \$200,000, such amount to be exclusive of any interest, claim preparation costs and attorneys’ fees and costs, the procedures set forth in Section 14.1(b) shall apply with the following change: If 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 arbitration award may be entered in any court having jurisdiction thereof.
- (d) Venue for all disputes arising from or relating to this Subcontract shall be San Diego, California.
- (e) Each party shall bear its own attorneys’ fees and costs.

14.2 Participation in Proceedings – If a dispute or controversy arises between Contractor and any other party for which Contractor determines Subcontractor and/or Subcontractor’s surety may be liable, in whole or part, then Subcontractor and/or Subcontractor’s surety agrees to be joined or not joined as a party in such dispute resolution process at Contractor’s sole discretion; to cooperate with Contractor in the defense or prosecution of such dispute or controversy at Contractor’s sole discretion and at Subcontractor’s sole expense; and if joined, to be bound to the same extent as Contractor.

14.3 Indemnity / Contribution – Section 14.1 of this Subcontract shall not apply to any assertion of contribution or indemnity by one party to this Subcontract against the other party that arises out of an action or arbitration by a person, firm or entity who is under no obligation to arbitrate the subject matter of such action with either Subcontractor or Contractor or who does not consent to such arbitration.

## SECTION 15: RECOURSE BY CONTRACTOR

15.1 Failure of Performance – If Subcontractor refuses or fails to fully and timely perform any of its obligations under the Subcontract, Contractor may, after 48 hours’ written notice to Subcontractor, commence and continue satisfactory correction of such failure, and without prejudice to any other rights or remedies, provide the most expeditious correction of the failure by whatever means Contractor deems appropriate and charge the resulting costs to Subcontractor plus a markup of 15 percent for overhead and 10 percent for profit. In the event of an emergency affecting the safety of persons or property, Contractor may proceed to commence and continue satisfactory correction of such failure without first giving 48 hours’ written notice to Subcontractor.

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## SECTION 16: TERMINATION

16.1 Termination For Cause – If Subcontractor refuses or fails to fully and timely perform any of its obligations under the Subcontract, Contractor may, after 48 hours’ written notification and in lieu of or in addition to any other remedies, terminate the Subcontract. If such a termination occurs, Contractor shall have the right, for the purpose of completing any remaining Subcontract work, to enter upon the premises of the Project and take and use any materials, equipment, appliances or tools furnished by, belonging or delivered to Subcontractor and located at the Project, and employ any other person(s) to complete the Subcontract work and provide the materials for such work. In the event the Subcontract is terminated for cause, Subcontractor shall not be entitled to receive any further payment until the Contract work is completed and accepted. At that time, if the amounts earned but not paid to Subcontractor before the termination exceed the expenses incurred by Contractor in completing Subcontractor’s work, any excess shall be paid by Contractor to Subcontractor; but if Contractor’s expenses to complete Subcontractor’s work exceed the remaining Subcontract balance, Subcontractor shall promptly pay the excess amount to Contractor. The expenses incurred by Contractor shall include Contractor’s costs for completing the work, including but not limited to overhead, profit and attorneys’ fees, and any damages sustained by Contractor by reason of Subcontractor’s default, plus a markup of 15 percent for overhead and 10 percent for profit on any and all such expenses. In order to secure Subcontractor’s payment of such expenses of Contractor, Contractor shall have a lien upon all materials, tools, equipment and appliances of which Contractor has taken possession pursuant to this section.

16.2 Termination By Owner – If Owner terminates the Contract, or any part that includes any portion of Subcontractor’s work, Contractor shall notify Subcontractor in writing and Subcontractor shall immediately stop the performance of the terminated work, follow Contractor’s instructions regarding any shutdown and termination procedures, and mitigate all costs. If Owner’s termination partially eliminates Subcontractor’s work, Contractor may terminate the Subcontract in its entirety.

16.2.1 Contractor’s liability to Subcontractor for any damages incurred or claims resulting from Owner termination for convenience shall be limited to the extent of Contractor’s recovery on the Subcontractor’s behalf under the Contract for Subcontract work and material furnished as of the date of such termination. Contractor’s liability to Subcontractor for Owner’s termination for cause shall be determined pursuant to the Claims and Disputes Resolution sections of the Subcontract.

16.3 Termination For Convenience – Contractor shall have the absolute right at any time by written notice to the Subcontractor to terminate this Subcontract or any part of it without cause and require Subcontractor to cease its work under the Subcontract. Upon notification of termination, Subcontractor shall immediately stop performance of the terminated work, follow Contractor’s instructions regarding any shut down and termination procedures, and mitigate any costs. In the event of such termination for convenience, Contractor shall have no liability to Subcontractor, except that Subcontractor shall be entitled to payment only as follows:

- (a) the cost of the work actually completed in accordance with the Subcontract up to the date of the termination; and
- (b) 5 percent of the costs referred to in paragraph (a) above, for overhead and profit.

The amount of any and all payments made to Subcontractor before the date of termination shall be deducted from the sums set forth in paragraphs (a) and (b) above. If no work has been performed by Subcontractor, then Subcontractor is not entitled to any payment as a result of the termination.

16.4 Wrongful Termination – Should it be found that Subcontractor is wrongfully terminated under this Subcontract, the termination shall be deemed to be a termination for Contractor’s convenience and Subcontractor’s sole remedy shall be the entitlement to payment described in Section 16.3. This payment is agreed to compensate Subcontractor for all damages resulting from wrongful termination of all or any part of Subcontractor’s work. Subcontractor may not seek and may not recover anticipatory or lost profits, damages and/or consequential damages under any theory of recovery.

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### SECTION 17: SUSPENSION OF SUBCONTRACT WORK

17.1 Contractor may order Subcontractor in writing to suspend all or any part of Subcontractor's work for such period of time as Contractor deems appropriate. Contractor's liability to Subcontractor for any delay or disruption resulting from such suspension shall be determined pursuant to the Claims and Disputes Resolution sections of the Subcontract.

### SECTION 18: ASSIGNMENT OF SUBCONTRACT

18.1 Subcontractor shall not, without written consent of Contractor, assign its rights of all or any part of the Subcontract to others. Contractor may assign or transfer all or any part of this Subcontract to any person, firm or entity.

### SECTION 19: SUBCONTRACT INTERPRETATION

19.1 Inconsistencies, Errors and Omissions – Subcontractor shall carefully study and compare the plans, drawings, specifications and all other portions of the Subcontract. Should inconsistencies, errors or omissions appear in the Subcontract, it shall be Subcontractor's duty to notify Contractor of such inconsistencies, errors and/or omissions within three days of Subcontractor's discovery. Upon receipt of such notice, Contractor shall inform Subcontractor as to the measures to be taken, if any, and Subcontractor shall comply with Contractor's instructions. Should Subcontractor fail to perform its duties under this section or perform those duties negligently, Subcontractor shall be liable to Contractor for any and all resulting costs.

19.1.1 If Subcontractor performs work it believes or knows to be contrary to any applicable laws, statutes, ordinances, building codes, rules or regulations without prior written notice to Contractor and/or without prior written approval by appropriate authorities, including Contractor, then Subcontractor shall assume full responsibility for such work and shall bear all associated costs, charges, fees and expenses incurred in connection with remedying the violation(s).

19.2 Disputes over Responsibility for Performance – In the event of a dispute between Subcontractor and Contractor, or between Subcontractor and another subcontractor, as to who has the responsibility to perform a particular item of work or repair any particular item of work, the determination of who shall perform the work shall be made by Contractor.

19.3 Law and Effect – This Subcontract shall be governed by the laws of California.

19.4 Severability – Should any provision in the Subcontract be held or declared partially or completely void or invalid, all other provisions shall remain in full force and effect.

19.5 Titles – The titles given to the sections of this Subcontract, and the order of their placement, are for ease of reference only and shall not be relied upon or cited for any other purpose.

19.6 Entire Agreement – This Subcontract represents the entire and integrated agreement between the parties with respect to the Subcontract work and Project, and unless specifically stated otherwise, this Subcontract supersedes all prior negotiations, representations or agreements, either written or oral, with respect to the Subcontract work and Project.

19.7 Waiver of Any Breach – The failure of Contractor to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of the Subcontract, or to exercise any right provided to Contractor, shall not be, nor shall it be construed as, a waiver or relinquishment of such term, covenant, condition or right with respect to any further performance. In the event of Contractor's waiver of any breach, alleged breach, provision, covenant or condition of the Subcontract, such waiver shall not be, nor shall it be construed as, a waiver of the same or any other provision on any other occasion, nor shall such waiver serve as an estoppel of any other right Contractor may have.

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**PROJECTNAMENUMBER**  
Subcontract No. **SUBCONTRACTNUMBER**  
Subcontractor: **SUBNAME**

19.8 Ambiguities or Uncertainties – Any rule of construction to the effect that ambiguities or uncertainties are to be resolved against the drafting party or against the party alleged to have caused the ambiguity or uncertainty, including but not limited to California Civil Code section 1654, shall not apply in interpreting this Subcontract.

19.9 Condition of Subcontract Enforceability – This Subcontract is subject to the award of the Project to Contractor by Owner and becomes null and void if award and notice to proceed with the Project are not received, and Subcontractor shall have no rights to receive payment or compensation of any sort from Contractor.

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

\_\_\_\_\_  
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ATTACHMENT A  
TRADE-SPECIFIC SCOPE OF WORK AND SUBCONTRACT PRICE

1 SPECIFIC INCLUSIONS:

- 1.0 Subcontractor shall furnish and install all labor, services, materials and equipment for the **SUBSCOPE** scope of work and other related components as required to provide a complete project in strict accordance with the Contract and all government codes, regulations and requirements.

This Subcontract specifically includes, but is not limited to, the following:

2 SUBCONTRACT PRICE:

Subject to all provisions of the Subcontract, as full compensation for strict performance of the Subcontract, Contractor shall pay Subcontractor the firm fixed price of **CONTRACTAMOUNTWORDS** (**\$CONTRACTAMOUNT\$**)\*, subject to additions and deductions as provided for in the Subcontract (“Subcontract Price”). \* **Tax Included**

**ATTACHMENT B**  
**GENERAL SCOPE OF WORK ATTRIBUTABLE TO ALL TRADES**

**1 GENERAL SCOPE OF WORK ATTRIBUTABLE TO ALL TRADES:**

The following items apply to all subcontractors, and shall not limit more stringent requirements found elsewhere in the contract documents. Subcontractor scope of work is further clarified in Trade-Specific Scope of Work Attachment A.

- 1.0 Comply with all requirements indicated in 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 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
- 1.3 The subcontractor is responsible for cleaning all track out generated from this scope of work as needed
- 1.4 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.
- 1.5 Provide field quality control for own work
- 1.6 Provide all warranties and guarantees as specified.
- 1.7 Provide safety requirements for own work, in compliance with most recent OSHA regulations, and in cooperation with general contractors Safety Program. Flammable products must be continually stored per OSHA regulations. Job Hazard Analysis required to be submitted by subcontractor for its' work prior to commencement of work.
- 1.8 Participate in and submit weekly safety audits as required by the general contractor.
- 1.9 Subcontractor must provide "competent" personnel for the following activities as applicable: Scaffolding, asbestos related work, fall protection, flammable material storage per OSHA, trenching and excavation, equipment operators, and environmental manager. Certification of competency must be on file at the project site.
- 1.10 Subcontractor responsible for procurement of all licenses, permits, fees, and certifications and arrange for inspections and tests as required for own 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 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.
- 1.14 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.
- 1.15 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.
- 1.16 Subcontractor shall work off-hours as required for critical tie-ins.
- 1.17 Subcontractor shall provide field measuring to ensure proper fit of Subcontractor's work.

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Subcontractor Initials

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

**PROJECTNAMENUMBER**

Subcontract No. **SUBCONTRACTNUMBER**

Subcontractor: **SUBNAME**

- 1.18 Subcontractor Agreement Number: Subcontract Agreement Number, on first page of Subcontract, must appear on all packages, bills of lading, packing slips, billings and correspondence.
- 1.19 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.
- 1.20 Provide full compliance and participation with all LEED, CalGreen, SWPPP, safety, waste management, and environmental requirements and regulations on project, including Compliance with regulatory agencies, prevailing wage requirements, trade organization, and governing bodies having jurisdiction over work. Full involvement is required by this trade, including but not limited to LEED submittals and waste management practices.
- 1.21 Any modification made by this subcontractor to fencing, SWPPPs, safety rails, work areas, etc. for any reason shall be returned to safe and prior conditions by this subcontractor immediately. Any temporary conditions required by this subcontractor's work shall be paid for by this subcontractor and wholly coordinated with general contractor's superintendent. Any and all changes must be approved by general contractor prior to commencement of work.
- 1.22 Subcontractor responsible for compliance with jobsite and/or base access requirements, traffic regulations, and parking regulations pertaining to project.
- 1.23 Subcontractor shall be responsible for specified environmental conditions for installation of own work including any action required under this Subcontract which disturbs surface soils. SUBCONTRACTOR will comply with Storm Water Pollution Prevention Plan of the contract Specifications General Requirements.
- 1.24 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.
- 1.25 Provide protection of Existing and Completed Work: Subcontractor shall be responsible for protection of existing and completed work.
- 1.26 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.
- 1.27 Subcontractor is responsibility for storage and security of own material and/or equipment on and off jobsite property. Own work shed, storage yard or trailers and security fence if required for own storage, location of which is to be approved/coordinated with Contractor's field supervisor and based on available site conditions. Any relocation of temporary storage facilities required during the project duration will be the responsibility of subcontractor. Subcontractor's staging area/storage containers may be subject to multiple moves/relocations over the duration of the project as directed by the project superintendent.
- 1.28 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.
- 1.29 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.
- 1.30 Clean up: Subcontractor shall provide waste disposal bins for their own work (unless otherwise indicated in SPECIFIC INCLUSIONS). 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

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Subcontractor Initials

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Straub Construction, Inc. Initials

**PROJECTNAMENUMBER**

Subcontract No. **SUBCONTRACTNUMBER**

Subcontractor: **SUBNAME**

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.

- 1.31 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.
- 1.32 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.
- 1.33 Subcontractor warrants that it has examined and fully understands the Plans, Specifications, and Reports listed as Contract Documents.
- 1.34 Subcontractor fully understands and will comply with Noise Restrictions, Dust Control, and Waste Management requirements.
- 1.35 Telephones: Subcontractor shall not use Contractor's telephones at the jobsite.
- 1.36 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.
- 1.37 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.
- 1.38 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.
- 1.39 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 re-inspection or retesting due to Subcontractor's failure to comply with any contract requirements necessary to pass the initial inspection or test.
- 1.40 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. SCI reserves the right to reject any proposed Contractor personnel. The Subcontractor or his designated authorized representative 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.
- 1.41 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.
- 1.42 The Project Schedule is dynamic and the work durations in the schedule are to allow the subcontractor a basis for determining manpower requirements to complete its work within the duration allotted by the schedule. The actual activity start and completion date(s) may change during the course of construction
- 1.43 Contract Drawings: Contractor will provide electronic access to all the contract documents. Subcontractor shall be responsible to obtain printed copies of Contract Drawings, Contract Specifications and Addenda at their own expense.
- 1.44 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

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Subcontractor Initials

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Straub Construction, Inc. Initials

**PROJECTNAMENUMBER**

Subcontract No. **SUBCONTRACTNUMBER**

Subcontractor: **SUBNAME**

- 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.
- 1.45 Responsibility for environmental conditions affecting own work including covering and protection or stored materials.
  - 1.46 Provide layout and field measurements for own work
  - 1.47 Coordination and protection of own work with other trades.
  - 1.48 Provide required schedule and cost information to Contractor for compliance with project scheduling requirements.
  - 1.49 Subcontractor responsible for inspection and acceptance of surfaces to receive own work.
  - 1.50 If scope of work conflict appears in contract documents, the more stringent shall apply. If there is a scope overlap with another trade, it shall be assumed by this subcontractor that the work is included under both contracts. The value of this scope item in each contract shall be identified, and it will be up to the discretion of the Contractor as to which subcontractor a deductive change order will be issued.
  - 1.51 Provide manpower and equipment mobilizations/remobilizations as required for the work in accordance with project schedule including all phasing and interim milestone dates. Subcontractor in performance of this work agrees to cooperate and work harmoniously with other trades to achieve all interim and final completion dates and to coordinate the work to avoid compression (to the extent possible) for the benefit of all trades. If Work involves demolition of items to be salvaged and turned over to the Owner; this subcontractor shall remove, load, transfer and unload all salvaged items to and at locations designated by the Owner.
  - 1.52 Subcontractor shall provide the general contractor with minimum 72 hour written notification of work or demolition that will or potentially may affect the surrounding or adjacent structures not within the work area including but not limited to: restricting public access, hardscape protection, equipment access, and unsafe or potentially unsafe conditions due to the course of the work.
  - 1.53 Provide Compliance and participation in all building commissioning requirements as applies to this subcontractor's scope of work.
  - 1.54 Each subcontractor shall submit to general contractor in writing any framing and backing requirements within 10 working days of contract being issued for transmittal to framing subcontractor and for use in BIM coordination.
  - 1.55 Provide traffic Control for own scope of work, including flagmen and equipment.
  - 1.56 Subcontractor has primary responsibility for locating existing utilities prior to commencement of underground work. Subcontractor must make own notification to required agencies and hold a pre-dig conference prior to starting underground activities. Subcontractor shall not rely on any representation made by anyone other than those individuals duly authorized to survey, locate, and stake existing utilities.
  - 1.57 Subcontractor responsible for identifying and protecting existing utilities during performance of own work. Repair any existing utilities damaged during construction. Replace any damaged utilities with equal/like material or as directed by the general contractor or project inspector.
  - 1.58 Provide all submittals including product data, shop drawings, calculations, engineering, samples and as-built drawings for own work, including all deferred submittal requirements for completion of own work. Subcontractor agrees to provide all required documents in both printed and electronic format. Subcontractor is solely responsible to maintain project schedule in relation to submittals and procurement, which includes submitting proper documentation giving enough time for general contractor, design team, regulatory agency, and owner review per specifications and enough time for material procurement to maintain schedule. This also applies in the event subcontractor requests an alternate product or substitution in its submittal. Submittals are to be provided to contractor no later than 3 weeks following the date of this agreement.
  - 1.59 Subcontractor to perform a comprehensive review of the project plans and specifications and forward all Requests for Information (RFIs) within 30 days of receiving this agreement.
  - 1.60 Subcontractor responsible for layout and coordination with other trades to insure proper rough in. This includes furnishing shop drawings and coordinate drawings of all pertaining work items. Subcontractor is expected to be fully aware of most current schedule requirements and provide all rough opening, backing, fastening, shoring, curb layouts, and any other critical rough-in information no later than 20 days prior to masonry wall/framing start for each building. Subcontractor will be responsible for all rework or added costs due to layout not being provided before work is laid out and placed

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Subcontractor Initials

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Straub Construction, Inc. Initials



- 1.61 This subcontractor is responsible to provide proper layout and placement of all concrete embedded items which are part of this scope of work. Coordinate with Contractor and other subcontractors to ensure proper scheduling of embedded items, so that they do not delay scheduled concrete pours. Any embedded items that are missed by this subcontractor or not installed prior to scheduled concrete pours will be installed by this contractor in the finished concrete in a method acceptable to the project design team.

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.

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 \_\_\_\_\_.

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

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Straub Construction, Inc. Initials



**ATTACHMENT D: 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)

PLEASE EMAIL A COPY OF YOUR BONDS TO WILLIAM.HEREDIA@STRAUBINC.COM, PRIOR TO SUBMITTING THE ORIGINALS.

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

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

**PROJECTNAMENUMBER**  
Subcontract No. **SUBCONTRACTNUMBER**  
Subcontractor: **SUBNAME**

**PAYMENT BOND**  
(Subcontract)

Bond No. \_\_\_\_\_  
Premium Amount: \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS, that **SUBNAME** (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.**, 202 West College St., Fallbrook, CA 92028 (hereinafter called the "Obligee"), in the sum of **(CONTRACTAMOUNTWORDS)** Dollars **(CONTRACTAMOUNT\$)** "**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 **OWNERNAME**, for **PROJECTNAMENUMBER**.

WHEREAS, the Principal has entered into a written Subcontract with the Obligee, dated **(SUBCONTRACTDATE "Subcontract Date")** to perform, as Subcontractor, certain portions of the work in connection with said Prime Contract consisting of **SUBCONTRACTNUMBER, SUBSCOPE** 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 \_\_\_\_\_, 2020, 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.

_____	(Seal)
<b>Principal</b>	
_____	
<b>Business Address</b>	
_____	
<b>Signature</b>	
_____	
<b>Typed Name and Title</b>	
_____	(Seal)
<b>Surety</b>	
_____	
<b>Business Address</b>	
_____	
<b>Signature</b>	
_____	
<b>Typed Name and Title</b>	

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

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

**PROJECTNAMENUMBER**  
Subcontract No. **SUBCONTRACTNUMBER**  
Subcontractor: **SUBNAME**

**PERFORMANCE BOND**  
(Subcontract)

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

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

KNOW ALL MEN BY THESE PRESENTS, that **SUBNAME** (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.**, 202 West College St., Fallbrook, CA 92028 (hereinafter called the "Obligee"), in the sum of **(CONTRACTAMOUNTWORDS)** Dollars **(CONTRACTAMOUNT\$ "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 **OWNERNAME**, for **PROJECTNAMENUMBER**.

WHEREAS, the Principal has entered into a written Subcontract with the Obligee, dated **(SUBCONTRACTDATE "Subcontract Date")** to perform, as Subcontractor, certain portions of the work in connection with said Prime Contract consisting of **SUBCONTRACTNUMBER, SUBSCOPE** 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 \_\_\_\_\_, 2020, 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.

_____	(Seal)
<b>Principal</b>	
_____	
_____	
<b>Business Address</b>	
_____	
<b>Signature</b>	
_____	
<b>Typed Name and Title</b>	
_____	(Seal)
<b>Surety</b>	
_____	
_____	
<b>Business Address</b>	
_____	
<b>Signature</b>	
_____	
<b>Typed Name and Title</b>	

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

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

**PROJECTNAMENUMBER**

Subcontract No. **SUBCONTRACTNUMBER**

Subcontractor: **SUBNAME**

**ATTACHMENT E: SUBCONTRACTOR DESIGN ASSIST SERVICES FOR DESIGN-BUILD PROJECTS**

Subcontractor shall provide Contractor and Contractor's design professional(s) with all design-build review and assistance services with respect to **SUBSCOPE** and other related components in order to provide a complete project in strict accordance with all government codes, regulations, and requirements and the Contract ("Design Assist Services"). Such Design Assist Services shall include, but are not limited to, the following:

1. Subcontractor shall ensure the design is: (i) consistent with Subcontractor's experience in constructing the systems and elements within its scope of work; (ii) capable of being constructed in accordance with Subcontractor's construction obligations under this Agreement; (iii) compatible with the other scopes of work on the project; (iv) compliant with all applicable codes, regulations and standards concerning Subcontractor's scope of work; and (v) the most efficient and cost effective manner of constructing Subcontractor's scope of work.
2. Subcontractor acknowledges that the design documents to be utilized in the construction of Subcontractor's scope of work, including but not limited to the drawings and specifications, are incomplete at the time of contract and are the subject of completion during the project. The Subcontract price includes within its sufficient sums for construction costs that may be incurred by Subcontractor due to completion of the design documents. Subcontractor's scope of work and the Subcontract Price include all necessary components for **SUBSCOPE**, whether or not shown on the design documents, as required for a complete and operational project conforming to the requirements of the Owner, all applicable codes, and any authority having jurisdiction.
3. Subcontractor shall cooperate and coordinate with Contractor, Contractor's design professional(s) and any design-assist subcontractors that may be engaged by Contractor in the performance of Subcontractor's Design Assist Services.
4. Subcontractor shall provide sufficient number(s) of employees with requisite skills and experience for the successful performance of Subcontractor's Design Assist Services.
5. Subcontractor shall attend all meetings involving Contractor, Contractor's design professional(s) and any design-assist subcontractors that may be engaged by Contractor, for the purpose of performing Subcontractor's Design Assist Services.
6. Subcontractor shall prepare cost estimates and breakdowns relating to its scope of work during the development of design documents to verify the Subcontract price. If interim and/or "for construction" design documents submitted by Contractor's design professional(s) increase Subcontractor's construction costs, Subcontractor shall: (i) promptly notify Contractor of the details of such increase in sufficient time to enable such increases to be mitigated and/or eliminated; and (ii) work with Contractor and Contractor's design professional(s) to mitigate and/or eliminate such increases. If interim and/or "for construction" design documents submitted by Contractor's design professional(s) decrease Subcontractor's construction costs, Subcontractor shall promptly notify Contractor of the details of such decrease and the Subcontract price shall be equitably adjusted downward.
7. Subcontractor shall participate in constructability reviews with respect to its scope of work.
8. Subcontractor shall, upon request by Contractor, provide value engineering services with respect to its scope of work.
9. Subcontractor shall provide all Design Assist Services in a timely manner and in accordance with the design schedule between Contractor and Contractor's design professional(s). Such Design Assist Services shall continue to be provided, when appropriate, during construction of the project.

All terms and conditions of the Subcontract apply to Subcontractor's Design Assist Services.

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Subcontractor Initials

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Straub Construction, Inc. Initials