SUBCONTRACT AGREEMENT

This Subcontract is entered into on Subcontract Date Here by and between **FILANC** ("Contractor"), with its principal office at 740 North Andreasen Drive, Escondido, CA 92029 and the following subcontractor ("Subcontractor"):

SUBCONTRACTOR NAME HERE **SUBCONTRACT NO.** Enter SC # Here
Subcontractor Address #1
Subcontractor Address #2
Subcontractor Phone:
Subcontractor Authorized Representative:

Contractor has entered into a contract ("Prime Contract") with the following Owner ("Owner"):

Owner Name
Owner Address #1
Owner Address #2

To perform certain construction work, ("the Work") as defined in the Subcontract Documents, at the project location (the "Project") known as:

Project Name Here FCC Project # XXXXX
Project Address #1 Here
Project Address #2 Here

Contractor desires to subcontract some of the Work, as defined in Exhibit "A", to the Subcontractor per the terms and conditions and for compensation to be calculated as described in this Subcontract. A brief description of the scope of Work of this Subcontract is as follows:

Enter a brief Description of the Subcontracted Work Here

Subcontractor should read the entire document. This Subcontract has important legal and insurance consequences. Consultation with an attorney and insurance consultant is encouraged prior to its execution.

No handwritten, or typewritten modifications made to this document after its first printing by Contractor shall be considered valid or accepted unless the initials of both the Contractor and Subcontractor signing parties are affixed on the margin near to the modification(s).

NOTICE TO THE PARTIES SHALL BE GIVEN AT THESE ADDRESSES PROVIDED ABOVE

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION THAT MAY BE ENFORCED BY THE PARTIES

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EXHIBIT E	FAR FLOW DOWN CLAUSES -FED CONTRACTS ONLY
EXHIBIT F	PERFORMANCE AND PAYMENT BOND FORMS
EXHIBIT X	SPECIAL PROVISIONS

The titles given to the Articles and paragraphs of this Subcontract are for ease of reference only and shall not be relied upon or cited for any other purpose. All attachments to this Subcontract are incorporated herein by their reference.

ARTICLE 1
SAFETY

1.1 Safety – Subcontractor is responsible for prevention of accidents arising from or relating to its Work. Subcontractor is responsible for the safe performance of its Work by Subcontractors' employees. Subcontractor shall establish its own safety program implementing safety measures, policies and standards conforming to those required by governmental authorities having jurisdiction and by Contractor and Owner. Subcontractor shall maintain a written Illness and Injury Prevention Program (IIPP) as required by regulations and law and shall submit to Contractor's field representative prior to its commencement of Work.

1.2 The Subcontractor shall give all notices required by applicable Laws and the Subcontract Documents and comply with all applicable rules, regulations, orders and other lawful requirements concerning safety or established to prevent injury, loss or damage to persons or property, including, among others, the Occupational Safety and Health Act, as amended, and all standards, rules, regulations and orders which have been or shall be adopted or issued thereunder.

1.3 Subcontractor shall comply with the accident prevention and safety program of Owner and Contractor, including attendance at any required safety meetings held by Contractor or Owner, or their agents. Establishment of a safety program by Contractor shall not relieve Subcontractor of its own safety responsibilities. Contractor reserves the right to audit Subcontractor's compliance with any accident prevention or safety program. Neither the establishment of a safety program by Contractor nor the audit of Subcontractor's compliance with same shall relieve Subcontractor of its own safety responsibilities.

1.4 Subcontractor shall notify Contractor immediately following an accident or incident involving an injury or a "near miss" and promptly confirm the notice in writing. A preliminary report shall be furnished within 24 hours of any accident or incident with a detailed written report to be furnished within 72 hours.

1.5 Subcontractor shall indemnify and hold Contractor harmless from all fines, penalties or costs of abatement imposed on Contractor because of safety violations caused by Subcontractor's failure to comply with applicable safety requirements and/or with any Law(s).

1.6 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.

1.7 Should Subcontractor encounter any hazardous substances at the site which are potentially harmful to persons or property, Subcontractor shall take all steps required by the Subcontract Documents 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 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.

1.8 All Material Safety Data Sheets (MSDS), plans, submittals or other such documents required by Law or the Subcontract Documents pertaining to all materials or substances used or consumed in the performance of Subcontractor's Work shall be submitted to Contractor by Subcontractor. Subcontractor shall comply with all safety requirements and recommendations as published in such documents. Any such MSDS, plans or submittals obtained by Contractor from other subcontractors or sources shall be made available to Subcontractor by Contractor at the Project Site. Electronic maintenance of MSDS data is acceptable if compliant with regulations. Any other safety documentation including but not limited to JSAs, safety meetings and/or training records shall be provided to Contractor upon request.

1.11 The Subcontractor shall remove from the Project any person for whose acts Subcontractor is responsible who creates an unsafe condition, or who performs Work in an unsafe manner on the Project, or who fails any drug and/or alcohol test given in accordance with Contractor's safety policies or procedures, or who violates the Contractor's safety policies or procedures. The Subcontractor agrees not to assign that

person to this or any of the Contractor's other projects for the period of time as reasonably requested by Contractor.

ARTICLE 2
SUBCONTRACT DOCUMENTS

2.1 The Subcontract Documents include this Agreement, the exhibits to the Agreement, all documents identified in Exhibit C, the agreement between Owner and Contractor, including all exhibits, addenda, plans, drawings, specifications, special or supplementary conditions and other documents incorporated therein ("Prime Contract"), together with all authorized changes, additions and modifications to this Agreement or the Prime Contract. Notwithstanding anything in this Agreement to the contrary, in no event shall Subcontractor's proposal or bid be a part of this Agreement nor considered a Subcontract Document. If any provision of this Agreement irreconcilably conflicts with a provision of the Subcontract Documents, the provision granting greater rights or remedies to the Contractor or imposing the greater duty, standard or responsibility or obligation on the Subcontractor shall govern.

2.2 It is agreed that the Prime Contract is incorporated into this Subcontract with the same force and effect as if it was set forth in full, and that Subcontractor is bound to Contactor in the same manner and to the same extent that Contractor is bound to Owner by all terms of the Prime Contract as they relate in any way, directly or indirectly, to the Work covered by this Subcontract, and Subcontractor shall ensure that its subcontractors are likewise bound to such terms of the Prime Contract.

2.3 Upon written request by Subcontractor, Contractor shall provide to Subcontractor one copy of all portions of the Prime Contract in the Contractor's possession, from which Contractor may redact information Contractor deems confidential including pricing.

2.4 Nothing in the Subcontract shall be construed to create a contractual relationship between persons or entities other than Contractor and Subcontractor. This Agreement is not intended to, nor does it establish a partnership between the parties, nor make one party hereto a principal, a joint or single employer, fiduciary, agent or employee of the other. It does not authorize a party hereto to make or enter into any commitment for or on behalf of the other party. Subcontractor shall be solely responsible for its own employees, including without limitation the hiring, discipline and discharging of such employees, the assignment and scheduling of such employees' Work, such employees' wages, benefits and other compensation, the direct supervision and the Working conditions of such employees' Work, and the specific manner and methods of such employees' Work.

ARTICLE 3
SCOPE OF SUBCONTRACT WORK

3.1 Subcontract Work – Subcontractor shall provide all labor, materials, equipment and services, service permits, taxes, licenses and fees necessary or incidental to perform its Work as set forth in Exhibit C to this Agreement as an "independent contractor," in strict accordance with the Subcontract Documents and, consistent with the Project Schedule.

3.2 Deliveries and Traffic Control Subcontractor shall coordinate all deliveries and traffic control (including street markers and barricades) with Contractor. Contractor will assist wherever possible but any extra expenses and personnel are the responsibility of Subcontractor.

3.3 On-site Storage/Lay Down Area - Due to the constricted and dynamic nature of any jobsite, all on-site storage of equipment and materials must be authorized and coordinated with Contractor's Superintendent. If the equipment/material should require relocation at any time, Subcontractor shall be responsible to immediately relocate it at no additional costs to Contractor.

ARTICLE 4
SURETY BONDING

4.1 Copy of Contractor Bonds – Subcontractor is entitled to receive from Contractor, upon written request, copies of any payment and performance bonds furnished by Contractor for the project.

4.2 Subcontractor Bonds – Subcontractor surety bond requirements, if any, are as follows:

Subcontractor Performance and Payment Bond

☐ Required ☐ Not Required ☐ To Be Determined Before Work Start

4.2.1 Upon Contractor's request prior to the start of Subcontractor's Work, Subcontractor shall provide to Contractor documentation demonstrating the financial health and related project experience of the Subcontractor, including recent financial statements and other documentation to allow Contractor to decide whether or not bonds will be required of the Subcontractor. If the Subcontractor refuses to cooperate with such reasonable requests, then Contractor shall have the right to require performance and payment bonds as described in this Section and the premiums for such bonds are to be deemed included in the Subcontract Price.

4.2.2 If a performance or payment bond, or both, are required of Subcontractor, such bonds shall name Contractor as Obligee, (and others as Co-Obligee if required in the contract documents) be in the full amount of the Subcontract Price, and shall be in a form and by a surety acceptable to Contractor. If the premiums for such bonds are notably and expressly excluded from the Subcontract Price, then Contractor shall reimburse Subcontractor for the cost of such premiums, without markup.

4.2.3 In the event Subcontractor shall fail to provide any required bonds within 10 days of Contractor's written notification to do so, Contractor may terminate this Subcontract for default. All costs and expenses incurred by Contractor as a result of such a termination shall be paid by Subcontractor in accordance with the termination for default article of the Subcontract.

4.2.4 No change, 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 in part, any surety on any bond given in connection with this Subcontract and neither Owner nor Contractor shall be under any obligation to notify the surety or sureties of any change, directive, clarification or communication with Subcontractor.

ARTICLE 5
PERFORMANCE OF WORK

5.1 Schedule of Work – Time is of the essence with respect to Subcontractor's prosecution of its Work. Subcontractor shall provide its Work within the time allocated in the progress schedule ("Schedule") which shall be prepared by the Contractor, and which may be modified or revised from time to time by Contractor to coordinate and sequence the remaining Work. The Subcontractor shall cooperate with the Contractor throughout the project sequence and plan for the Subcontractor's Work however, the duration of time established for Subcontractor's Work may not be lengthened without the mutual consent of the Contractor and the Subcontractor. At the request of the Contractor, the Subcontractor shall provide a proposed schedule for its Work in P6 or another electronic CPM format.

5.1.1 Subcontract Start Work Date – Subcontractor shall start its Work within 48 hours of being notified by Contractor that its Work shall commence. If Subcontractor starts Work prior to the execution of this Subcontract, all terms and conditions of this Subcontract shall apply to such Work retroactively.

5.1.2 Contractor shall have the right to determine and, if necessary, change the time, order and priority in which the various portions of the Work shall be performed and all other matters relative to the orderly performance of Subcontractor's Work in accordance with the Schedule.

5.1.3 Updated Schedules will be distributed regularly to the Subcontractor throughout the life of the Project. The Subcontractor shall provide detailed information regarding updates to the Subcontract Work and as requested by the Contractor. This information includes but is not limited to updated actual start states, actual finish dates, any revised planned start dates and planned finish dates, installed quantities/percent complete information, and changes to activity scope, sequence, duration or resources. The Subcontractor will be responsible to review each Schedule and provide written notification of any impacts to the Subcontract Work in accordance with Article 14. Failure to provide written notification in accordance with Article 14 shall be deemed Subcontractor's acceptance of the updated Schedule with no impacts, and Subcontractor's waiver of its right to make a claim relating to such Schedule update.

5.2 Subcontract Performance – Subcontractor shall use its best care, skill and diligence in supervising, directing and performing its Work. Subcontractor shall have responsibility and control over the performance of its Work, including the construction methods, techniques, means and sequences for coordinating and completing the various portions of its Work.

5.3 Use of Contractor's Equipment – Subcontractor, its agents, employees, subcontractors or suppliers shall use Contractor's equipment only with the express written permission of Contractor's designated representative and in accordance with Contractor's terms and conditions for such use. If Subcontractor uses any such Equipment or temporary facilities, (with or without express written permission) it assumes all risk of damage, injury or loss and shall fully defend and indemnify Contractor from any and all claims of such damage, injury or loss regardless of cause.

ARTICLE 6
PAYMENT

6.1 Subcontract Price As full compensation for satisfactory performance of the Subcontract, Contractor agrees to pay Subcontractor the firm **fixed-price of Enter Fixed Price Here Dollars ($_____),** subject to all provisions of the Subcontract including additions and deductions as provided for in the Subcontract (the "Subcontract Price"). This is a lump-sum, fixed price agreement and Subcontractor agrees that it has contemplated and assumes the risk of any escalation in material, labor, taxes and other costs affecting Subcontractor's Scope Work under this Subcontract.

6.2 Schedule of Values – Within 10 days of Contractor's request (or a lesser time if required under the Prime Contract), Subcontractor shall prepare and submit to Contractor a Schedule of Values which 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 shall equal the Subcontract Price. The Schedule of Values shall be prepared in a form and in such detail as may be required by Owner and/or Contractor.

6.3 Progress Payment Applications – Subcontractor's applications for payment shall be itemized and in accordance with Subcontractor's Schedule of Values and any other substantiating data as required in the Prime Contract for Contractor's payment applications. Subcontract payment applications may include amounts for Subcontract change orders which have been fully executed by Subcontractor and Contractor. Subcontractor cannot include in its payment applications any amounts for changes which have not been fully executed by Subcontractor and Contractor, or for disputed Work.

6.4 Stored Materials and Equipment – If allowed by Owner, applications for payment may include materials and equipment not incorporated into Subcontractor's Work but suitably stored on or off the site. Approval of payment applications for materials and equipment stored on or off the site shall be conditioned on: (1) submission by Subcontractor of bills of sale and applicable insurance or such other procedures satisfactory to Owner and Contractor to establish the proper valuation and protection of the stored materials and equipment; (2) Owner's and/or Contractor's title to such materials and equipment; (3) Consent of Subcontractor's surety; (4) Segregated and secured storage facilities in the US only; (5) Right for the Contractor and Owner to inspect stored materials at any time; and (6) any other documents or procedures to protect Owner's and Contractor's interests, including during the transportation of such items to the site by Subcontractor.

6.5 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, or the last day of the calendar month, which is being billed, whichever is earlier. Contractor shall incorporate the amount of Subcontractor's progress payment application approved by Owner into Contractor's payment application to Owner for the same period. If requested by Subcontractor, Contractor shall inform Subcontractor of Owner's changes to Subcontractor's percentages of completion reflected on Subcontractor's payment application and/or other adjustments affecting Subcontractor. All payment applications shall be submitted electronically to invoices@filanc.com.

6.6 Lien Waivers – Subcontractor shall provide, in a form satisfactory to Owner and Contractor, lien or claim waivers in the amount of the application for payment from Subcontractor, and its subcontractors, materialmen and suppliers for the completed Work. Contractor may refuse to pay Subcontractor if Subcontractor fails to provide such waivers. If such waivers are conditional upon payment, Contractor may choose to make payment by issuance of joint checks to Subcontractor and its subcontractors, materialmen and suppliers. Subcontractor shall not be required to sign an unconditional waiver of lien or claim prior to receiving payment, or in an amount in excess of what it has been paid.

6.7 Progress Payments - Progress payments to the Subcontractor for satisfactory performance of the Subcontract Work shall be made no later than ten (10) calendar days after receipt by the Contractor of payment from the Owner for the Subcontract Work, or such shorter period of time as required by Law. If payment from the Owner for such Subcontract Work is not received by the Contractor, through no fault of the Subcontractor, the Contractor will make payment to the Subcontractor within a reasonable time for the Subcontract Work satisfactorily performed. This reasonable period of time shall be defined to be that period of time which will allow the Contractor to diligently pursue dispute resolution procedures for non-payment available under the Prime Contract or by Law to collect such sums as are justly payable to the Contractor and all Subcontractors.

6.8 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. Contractor may require reasonable evidence 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. In the event it appears to the Contractor that the labor, material and other bills incurred in the performance of Subcontract Work are not being currently paid, the Contractor may, but is not required to, take such steps as it deems necessary to ensure the money paid with any progress payment will be utilized to pay such bills, with such steps including, but not limited to, payment by checks made jointly payable to the Subcontractor and the Subcontractor's subcontractors and/or materialmen, or if Subcontractor fails to cooperate in effecting such joint payments, by direct payment to such parties and withholding from progress payments an amount to protect the Contractor from any and all potential or actual claims, losses, or damages, including reasonable attorneys' fees arising out of the same. The Contractor shall have the right at all times to directly contact the Subcontractor's sub-subcontractors and suppliers to ensure the same are being paid promptly by the Subcontractor for the labor or materials furnished for use in performing the Subcontract Work.

6.9 Application Reduction, Rejection or Nullification – Contractor may withhold, reduce or reject a Subcontractor payment application or nullify a previously approved Subcontractor payment application, in whole or in part, as may reasonably be necessary to protect Contractor from loss or damage based upon:

(a) Subcontractor's failure to perform its Work as required by the Subcontract Documents;

(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 Subcontractor or its lower tier subcontractors or suppliers;

(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 which has not been corrected;

(e) Reasonable evidence of delay in performance of Subcontractor's Work such that the Work will not be completed within the time allotted by the updated progress schedule, and that the unpaid balance of the Subcontract Price is insufficient to offset the liquidated damages or actual damages that may be sustained by Contractor as a result of the anticipated delay caused by Subcontractor;

(f) Reasonable evidence demonstrating that the unpaid balance of the Subcontract Price is insufficient to cover the cost to complete Subcontractor's Work;

(g) Third party claims against Subcontractor or reasonable evidence demonstrating that third party claims are likely to be filed. Subcontractor can eliminate this basis by furnishing Contractor with adequate security in the form of a surety bond, letter of credit or other collateral or commitment which is sufficient to discharge such claims if established;

(h) Owner's reduction, rejection or nullification of any part of a payment application;

(i) Subcontractor's failure to submit Submittals and O&Ms in a timely manner per the Prime Contract Documents;

(j) Subcontractor's failure to provide "As Builts" with the monthly pay request;

(k) Subcontractor's failure to attend weekly planning meetings if required;

(l) Subcontractor's failure to submit certified payroll in a timely manner; or

(m) Any other failure to comply with the terms and conditions of the Subcontract Documents.

Contractor shall give written notice to Subcontractor, at the time of reducing, disapproving or nullifying an application for payment, of the specific reasons for Contractor's action. When the above reasons for reducing, disapproving, or nullifying an application for payment are removed, payment will be made for amounts previously withheld.

6.10 Retention – Contractor shall withhold from Subcontractor progress billings retention equal to the percentage retained from the Contractor's payment by the Owner for the Subcontract Work.

6.11 Payment Not Acceptance – Payment to Subcontractor does not constitute or imply acceptance of any portion of Subcontractor's Work.

6.12 Final Payment Application – Contractor is required to 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 Documents; 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.

6.12.1 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 conditional release. Contractor shall make payment of such amounts not otherwise in dispute. Contractor's making of such final payment shall in no way relieve the Subcontractor of liability for the obligations assumed under Paragraphs 8.13 and 8.14, or for faulty or defective Subcontract Work discovered after final payment. Payment to the Subcontractor does not constitute or imply acceptance of any portion of the Subcontract Work.

6.12.2 If the Owner or its designated agent does not issue a certificate for final payment or the Contractor does not receive such payment for any cause which is not the fault of the Subcontractor, the Contractor shall promptly inform the Subcontractor in writing. The Contractor shall also diligently pursue, with the assistance of the Subcontractor, the prompt release by the Owner of the final payment due for the Subcontract Work. If final payment from the Owner for such Subcontract Work is not received by the Contractor, through no fault of the Subcontractor, the Contractor will make payment to the Subcontractor within a reasonable time for the Subcontract Work satisfactorily performed. If the non-payment by Owner is not attributable to the Contractor's default, a reasonable period of time will be allowed Contractor to diligently pursue dispute resolution procedures for non-payment available under the Prime Contract or by Law to collect such sums as are justly payable to the Contractor and all Subcontractors.

6.12.3 If any claim or lien is made or filed with or against the Contractor, the Contractor's surety (if any), the Owner, the Project, or the Project funds by any person, entity, union or fund by any subcontractor or supplier, of any tier, performing under Subcontractor, or if the Subcontractor or any subcontractor or supplier, of any tier, performing under Subcontractor causes damage to the Subcontract Work or any other Work on the Project, Subcontractor shall defend and indemnify Contractor, Contractor' surety, and Owner from and against any and all losses, damages, lawsuits and costs, including legal fees and expenses, any such claim, lien or damage. To the extent any such lien is filed, Subcontractor shall also shall remove or secure Contractor, Contractor's Surety and Owner against loss on account thereof with an adequate surety bond, satisfactory in the discretionary judgment of the Contractor and the Owner, in the amount required by any applicable state statute, or if no statute is applicable, then in an amount equal to 150% of the lien or payment claimed, within fourteen (14) calendar days. If the Subcontractor fails to so remove or secure such liens, the Contractor may remove the liens at the Subcontractor's expense, including bond costs and attorney's fees. This sub-paragraph shall be applicable even in the event the Subcontractor has posted a full payment and performance bond.

6.12.4 Sums Are Tentatively Earned All sums tentatively earned by Subcontractor by the partial or complete performance of the Subcontract Work and any balance of unearned Subcontract Price, if and when paid by Owner to the Contractor, shall constitute a fund for the purpose of (a) full and timely completion of the Subcontract Work and fulfillment of all Subcontract requirements, (b) payment of any backcharges or claims due Contractor from Subcontractor based upon this Agreement or otherwise, and (c) payment to the sub-subcontractors, Workers, design professionals, material and service suppliers of Subcontractor, and others who have valid and enforceable mechanic's lien claims or valid and enforceable bond claims (if the Project is bonded). Such tentative earnings shall not be due or payable to Subcontractor or anyone else claiming in Subcontractor's place and stead, including but not limited to a Trustee in bankruptcy or receiver, until and unless such Subcontract Work is fully and satisfactorily completed, all Subcontract requirements are fulfilled, and Contractor and such persons are fully paid and satisfied. Subcontractor declares all funds received by Subcontractor from Contractor hereunder shall be deemed to be held by Subcontractor in Trust for the benefit of those furnishing Work, labor, materials, services, equipment, etc., to or through Subcontractor for the Subcontract Work

6.12.5 Interest No interest shall accrue or be due the Subcontractor on any funds or payments described in this Article, including reserves, paid within the time periods set forth herein, nor shall interest accrue or

be due the Subcontractor for any funds withheld to protect the interests of the Contractor or the Owner as set forth in this Agreement.

ARTICLE 7
CONTRACTOR'S OBLIGATIONS

7.1 Information and Services Provided by Contractor Upon Subcontractor's written request, and only to the extent the Contractor has obtained any information and services identified below from the Owner that may impact Subcontractor's Work, the Contractor shall provide them to the Subcontractor. The Subcontractor shall be entitled to rely on such information and services to the same extent as the Contractor is entitled to rely on such information and services under the Prime Contract. However, the Contractor does not warrant the accuracy or completeness of such information or services.

a) All necessary information describing the physical characteristics of the site, including surveys, site evaluations, legal descriptions, existing conditions, subsurface and environmental studies, reports and investigations.

b) Necessary approvals, site plan review, rezoning easements and assessments, necessary permits, fees and charges required for the construction, use, occupancy or renovations of permanent structures, including legal and other services required, therefore.

c) Such information as the Contractor has obtained relative to the Owner's financial ability to pay for the Work.

d) Contract Documents issued by the Owner and the Architect/Engineer.

ARTICLE 8
SUBCONTRACTOR'S OBLIGATIONS

8.1 Compliance with Laws, Rules, Ordinances and Regulations – Subcontractor shall, at its sole cost and expense, and without increase in the Subcontract Price, comply with all laws, statutes, ordinances, rules, regulations, building codes, erosion control plans, air quality management plans, storm water pollution prevention plans, recycling plans; and orders and directives of all public authorities including federal, state tribal and local governments, and all utility services and other agencies having jurisdiction over the Work or project ("Laws" or "Law"), and all noise ordinances or limitations impose by municipalities or Owner, pay all manufacturers' taxes, sales taxes, use taxes, and all federal and state taxes, insurance and contribution for Social Security and unemployment which are measured by wages, salaries or other remunerations paid to Subcontractor's employees, whether levied under existing or subsequently enacted laws, rules or regulations.

8.2 Subcontractor represents and warrants to Contractor that Subcontractor is in compliance with all immigration and work authorization laws, as applicable, including but not limited to laws prohibiting hiring and continued employment of unauthorized aliens, requiring verification and record keeping with respect to identity and eligibility for employment and prohibiting discrimination on the basis of national original, United States citizenship, or intending citizen status. Subcontractor agrees to defend, indemnify and hold harmless Contractor from all liability, including liability for interest and penalties, Contractor incurs which results from or is attributable to Subcontractor's failure to comply with any provisions of any applicable Laws, including reimbursing Contractor for any moneys expended by Contractor to participate in or respond to any investigation, suit, civil or criminal immigration matter involving Subcontractor. As it relates to immigration compliance, Subcontractor shall be responsible for completing any and all required documentation in accordance with requirements set forth by the Owner, Contractor or applicable Law.

8.3 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 Documents.

8.4 Quality Assurance – Subcontractor shall take proactive steps to ensure that all Work performed will be of the quality and Workmanship intended by the Subcontract Documents. This shall include but is not limited to:

a) ensuring that all materials and products are installed and utilized in complete accordance with the manufacturer's recommendations;

b) assigning quality crafts-persons experienced in the trade to the project who are capable of properly installing the materials as required by the contract documents. Apprentices and trainees shall always be carefully supervised by an experienced craftsperson;

c) providing onsite quality supervision of its Work force every day. The onsite supervisor shall be fully conversant in the English language and fully capable of communicating with Subcontractor's field crews. The supervisor shall be fully qualified to understand the written plans and specifications and safety directives and given full authority to resolve field construction conflicts that may arise.

8.5 Site Visitation and Proceeding with Work

8.5.1 Subcontractor certifies and agrees that it has visited the location of the job site and is fully familiar with all of the terms, conditions and obligations of the Subcontract Documents, and the conditions under which the Work is to be performed, and that it enters into this Subcontract based upon its investigation of all such matters and is in no way relying upon any opinions or representations of Contractor.

8.5.2 By signing this Subcontract, Subcontractor represents and warrants that it does not know of nor does it suspect any design errors or omissions in the Subcontract Documents and that it does not know of nor does it suspect any site conditions that would cause delays in Subcontractor's performance of its Work or that would cause an increase in the Subcontract price or duration of Subcontract Work.

8.5.3 Subcontractor shall promptly and carefully review all of the Subcontract Documents, including any modifications or updates to the Subcontract documents issued throughout the project. Should inconsistencies, errors or omissions appear in the Prime Contract, it shall be the duty of Subcontractor to so notify Contractor in writing within the earlier of three (3) Working days of Subcontractor's discovery, or at least one (1) business day prior to the time required of Contractor under the Prime Contract. Upon receipt of such notice, Contractor shall inform Subcontractor as to the measures to be taken and Subcontractor shall comply with Contractor's instructions. If Subcontractor performs Work that it knows or should know is contrary to any applicable laws, statutes, ordinances, building codes, rules or regulations without notice to Contractor and advance 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 necessarily incurred to remedy the violation(s).

8.5.4 Before starting each portion of its Work, Subcontractor shall carefully study and compare the various Subcontract Documents and other documents relative to that portion of it Work, shall take field measurements of any existing conditions related to that portion of its Work and shall observe any conditions at the site affecting it. Any errors, inconsistencies or omissions discovered or suspected by subcontractor shall be reported promptly in writing to Contractor as a request for information in such form as Contractor or Owner may require.

8.5.5 If part of Subcontractor's Work depends for proper execution or results upon construction or operations by Owner, Contractor or a separate subcontractor, Subcontractor shall, prior to proceeding with that portion of its Work, promptly report in writing to Contractor any apparent or expected discrepancies or defects in such other construction or operations that would render it unsuitable for the proper execution and required results of Subcontractor's Work. Failure of Subcontractor to provide this report shall constitute an acknowledgment that such others' completed or partially completed construction or operations are fit to receive Subcontractor's Work.

8.6 Shop Drawings, Samples, Product Data and Manufacturers' Literature – Subcontractor shall promptly submit to Contractor for approval all shop drawings, samples, product data, manufacturers' literature and similar submittals ("Submittals") required by the Prime Contract. Subcontractor shall be responsible to

Contractor for the accuracy and conformity of its submittals to the Prime Contract requirements. 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 Prime Contract Work, or fifteen (15) Working days prior to when Contractor must provide Submittals to Owner as defined on the Project Schedule, whichever is earlier. The approval of any Subcontractor Submittal shall not be deemed to authorize deviations, substitutions or changes in the requirements of the Subcontract Documents unless express written approval is obtained from Contractor and Owner authorizing such deviation, substitution or change. In the event the Prime Contract does not contain submittal requirements pertaining to Subcontractor's Work, Subcontractor agrees upon request to submit to Contractor for approval within 5 days any Submittal as may reasonably be requested. Quantity of Submittals required are two more than is required by the Prime Contract, and in the format(s) as required by the Prime Contract.

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

8.7 Coordination and Cooperation – Subcontractor shall:

(a) cooperate with Contractor and all others whose Work may interface with Subcontractor's Work;

(b) specifically note and immediately notify Contractor of any interference with Subcontractor's Work; and

(c) participate in the preparation of coordination drawings and Work schedules involving Subcontractor's Work.

Subcontractor agrees that in the event a dispute should occur between Subcontractor and another subcontractor or Contractor as to who has the responsibility to perform a particular item of Work or repair damage to any particular item of Work, the determination of such responsibility to perform the Work shall be made by Contractor.

8.8 Communications – Subcontractor communications by and with Owner, Engineer, separate contractors and/or other subcontractors and suppliers of Contractor, regardless of tier, shall be through Contractor. No party, other than Contractor as provided herein, including Owner and Engineer shall be authorized to direct, change or modify any requirement of the Subcontract Documents. If Subcontractor receives such direction from any party other than Contractor, it shall immediately confer with the Contractor for clarification in writing.

8.9 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.

8.10 Workmanship – Every part of Subcontractor's Work shall be executed in accordance with the Subcontract Documents in the best and most workmanlike manner. All materials needed by Subcontractor shall be furnished in sufficient quantities to facilitate the proper and expeditious execution of the Work and shall be new except such materials as may be expressly provided in the Subcontract Documents to be otherwise.

8.11 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, store, protect 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 materials or equipment.

8.12 Substitutions – No substitutions shall be made by Subcontractor unless permitted in the Subcontract Documents and only then upon Subcontractor first receiving all approvals required under the Subcontract Documents for substitutions. If Subcontractor initiates a substitution, deviation or change in the Work which affects the scope of the Work or the expense of other trades, Subcontractor shall be liable for all resulting expenses.

8.13 Warranty – Subcontractor warrants all materials and Workmanship and agrees to replace at its sole cost and expense, and to the satisfaction of Owner and Contractor, any materials or Workmanship that are defective, non-conforming or improperly installed, and defends and indemnifies Contractor from and against any liability, loss or damage arising from or relating to such materials and installation through the period of Subcontractor's performance and for a period of one year from final completion of the Prime Contract. If the period of warranty is specified in excess of one year by the Prime Contract, Subcontractor shall be bound for the longer period specified. As a convenience for the Contractor and the Owner, Subcontractor shall execute a separate written warranty in a form acceptable to the Owner and Contractor reciting the terms of this warranty requirement. In the event of a conflict between this paragraph and any separately executed written warranty, the strictest interpretation in favor of the Contractor and Owner shall prevail.

8.14 Uncovering of Work – If required in writing by Contractor, Subcontractor must uncover any portion of its Work which has been covered. All costs associated with the uncovering and related Work shall be borne as follows:

(a) If the Work was covered in violation of the Subcontract Documents or contrary to a written directive issued to Subcontractor by Contractor, the uncovering, any corrective Work and restoration shall be at Subcontractor's expense.

(b) If the Work was not covered in violation of the Subcontract Documents or contrary to a written directive issued to Subcontractor by Contractor, the Subcontract shall be adjusted by change order for all costs of uncovering and restoring any Work which proves to be installed in accordance with the Subcontract Documents.

(c) If any uncovered Work does not comply with the Subcontract Documents and Subcontractor is responsible for the nonconforming condition, Subcontractor shall be responsible for all costs of uncovering, correcting and restoring the Work so as to make it conform to the Subcontract Documents.

8.15 Correction of Work – Subcontractor is required to correct within 3 days of notice any of its Work rejected by Contractor or Owner for failing to comply with the Subcontract Documents 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.

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

(a) at all times keep the building and premises free from debris resulting from Subcontractor's Work;

(b) broom or rake clean each Work area prior to discontinuing Work in each area; and

(c) Subcontractor's Work shall not be considered complete until Subcontractor removes from the site all temporary structures, debris and waste incident to its operation and cleans all surfaces, fixtures, equipment, etc., relative to the performance of its Work.

If Subcontractor fails to immediately commence compliance with the above cleanup duties after written notification from Contractor of noncompliance, Contractor may implement appropriate cleanup measures

without further notice and deduct the resulting costs from any amounts due or to become due Subcontractor under the Subcontract.

8.17 Delegation or Subcontracting of Duties – Subcontractor is prohibited from delegating, transferring, conveying, subcontracting, relinquishing or otherwise disposing of the whole or any part of its duties under this Subcontract without the prior written approval of Contractor, which shall not be unreasonably withheld. Prior to commencement of any delegated Work, Subcontractor shall inform contractor in writing of any proposed subcontractor to whom such Work will be delegated, and Contractor shall inform Subcontractor within three (3) Working days of any objection.

Subcontractor shall incorporate all terms of this Subcontract in any subcontracts or purchase orders with its subcontractors and suppliers.

8.18 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 performance of its Work pending resolution of such dispute or controversy. Contractor shall continue to make payments in accordance with the Subcontract.

8.19 Force Account Work – When directed in writing by Contractor, Subcontractor shall perform such additional Work as directed by Contractor and Contractor shall pay to Subcontractor the actual costs of such directed Work plus Subcontractor's overhead and profit at a combined rate specified in the Prime Contract documents, which shall not exceed 15%.

8.20 Workers – At no time, shall the Subcontractor allow on the project site any alcohol, illegal drugs, drug paraphernalia, weapons, pornography, gambling materials, or other items not required for the proper performance of the Work. At no time, shall the Subcontractor allow any behavior by any of its employees, sub subcontractors, or vendors which is detrimental to the progress of the Work and/or offensive to others including, gambling, cat calling, name calling, lewd gestures, hazing, teasing, harassment, or any other such disruptive behavior. This policy is to ensure maximum efficiency of the Work and to protect other jobsite Workers as well as third parties such as neighbors, and passers-by from unwanted harassment. Contractor may order the removal from the job of any Workers the Contractor finds disruptive, incompetent, in violation of these requirements, safety requirements/programs or otherwise detrimental to the successful completion of the project.

8.21 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% per annum from the time said money is expended or said costs or expenses are incurred until those amounts are repaid to Contractor by Subcontractor. Nothing contained in this provision or Subcontract shall be construed as requiring Contractor to make any such expenditure, advance any such money, or incur any such expenses. In the event that the balance of the monies due pursuant to this Subcontract are insufficient to cover Contractor's damages or exposure, then Contractor shall have the right to offset against monies owed Subcontractor on other projects, if any.

8.22 Protection of the Work – Subcontractor shall secure and protect the Work done pursuant to this Subcontract until final acceptance by Contractor and Owner.

8.23 Subcontractor Daily Report – Subcontractor shall prepare each day that it Works on the project site a subcontractor daily report that records a) the number of Subcontractor employees, by trade classification and hours Worked; b) a listing of all sub-subcontractors that Worked on the project during the day, and a description of the Work performed; c) any material or equipment deliveries to the site; d) a record of Work accomplished by area of the project; e) a listing of any safety concerns observed, or accidents or incidents that occurred during the day; f) a listing of any issues that are interfering with the Subcontractor's performance of the Work; g) any other data requested by the Superintendent. The subcontractor daily report must be

completed and submitted to the Contractor's superintendent on the next Workday. It is preferred that the subcontractor daily reports are submitted in electronic form, by e-mail or upload to the project's project management system.

8.24 Procore Requirements - Procore is a cloud-based construction management software, and serves as a centralized hub, housing all project information for every team member. The Subcontractor shall utilize Procore's project management and collaboration system to access all project documentation. Subcontractor shall have responsibility to regularly check and review updated schedule documents as they are added including, but not limited to, all schedule updates, three-week look ahead schedules and meeting minutes. Subcontractor shall promptly notify Contractor of any discovered discrepancies. Failure by Subcontractor to stay informed and up to date on project updates, via Procore, will not relieve Subcontractor from its responsibilities under this Agreement and the Prime Contract Documents. Contractor shall not be responsible for Subcontractor's negligence. If required by Contractor, Subcontractor shall prepare and submit various items through Procore, including but not limited to RFIs, CCOs, submittals, and other communications. All of Contractor's Procore data, technical information, documents and other records remain the exclusive property of Contractor. Subcontractor shall not use the data nor download information for any use other than the furtherance of the legitimate needs of the project.

ARTICLE 9
LABOR RELATIONS

9.1 General Provisions – Employment of labor by Subcontractor shall be affected under conditions which are satisfactory to Contractor. Subcontractor shall keep a representative at the job site during all times when Subcontractor's Work is in progress, and such representative shall be authorized to represent Subcontractor as to all phases of the Work. Prior to commencement of the Work, Subcontractor shall notify Contractor in writing who Subcontractor's representative is to be, and in the event of any change of representative Subcontractor shall notify Contractor who the new representative is to be prior to such change becoming effective.

9.1.1 Subcontractor acknowledges that Contractor has entered into labor agreements with certain labor unions covering Work at its construction job sites in certain counties as follows:

	CA San Diego	CA 11 S Counties	CA 46 Northern	AZ All
• Carpenters	X	X	X	X
• Millwrights	X	X	X	X
• Laborers	X	X	X	
• Cement Finishers		X		

If requested by Subcontractor, Contractor shall provide copies of all such labor agreements to Subcontractor. Subcontractor agrees to comply with all of the terms and conditions of those labor agreements set forth above. Subcontractor agrees, at its own expense, upon request of Contractor, to take all lawful steps to secure a binding and final determination of any jurisdictional dispute by the National Labor Relations Board.

9.1.2 Subcontractor will require all of its subcontractors and their subcontractors performing job site Work to comply with the labor agreements specified above, and labor agreements which are binding upon them.

9.1.3 Subcontractor will defend, indemnify and hold Contractor harmless from and against any liability, loss, damage, cost, claims, awards, judgments, fines, expenses, including litigation expenses, reasonable attorneys' fees and any other costs which may be incurred by Contractor resulting from Subcontractor's failure to comply with the above requirements.

9.2 Reserved Gate Usage – Subcontractor shall notify in writing and assign its employees, materialmen and suppliers to such gates or entrances as may be established for their use by Contractor and in accordance with such conditions and at such times as may be imposed by Contractor. Strict compliance with Contractor's

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

9.3 Work Stoppages – Work stoppages (including sympathy strikes) 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 proper performance of its Work, regardless of whether the strike or other stoppage of Work is attributed to union action or the action of an individual employee.

9.4 Prevailing Wage Laws – If the project is covered by a Federal or State prevailing wage decision, Subcontractor shall fully comply with all requirements of such prevailing wage laws and regulations. Subcontractor represents that it is familiar with such requirements and is fully prepared to administratively and practically comply with all such requirements (as defined in the regulations) including but not limited to:

- The proper classification of Work performed and Working rules for such classifications;
- The calculation and payment of prevailing wages and benefits.
- The proper timekeeping, recording and reporting of certified payrolls.
- The proper apprentice training requirements, including journeymen to apprentice ratios.
- Sign and return Labor Law Requirements Form and Final Affidavit when due. **See Exhibit "D"**
- Progress or final payment may be withheld for failure to comply with these requirements.

9.4.1 Contractor shall provide to Subcontractor additional written materials it receives regarding the application of prevailing wages for the project.

9.4.2 Subcontractor shall fully indemnify and defend Contractor from and against any penalties, interest, fines, or withholdings it incurs as a result of Subcontractor's alleged or actual failure to comply with this Section. Contractor may withhold any such amounts from payments owed to Subcontractor.

9.4.3 If Subcontractor subcontracts any of its Work to another sub-subcontractor it shall be liable for and shall ensure that such sub-subcontractor also complies with any such prevailing wage regulations.

ARTICLE 10
INSURANCE

10.1 Subcontractor's Insurance – Before commencing the Subcontract Work, and as a condition of payment, the Subcontractor shall purchase and maintain insurance that will protect it from the claims arising out of its operations under this Agreement, whether the operations are by the Subcontractor, or any of its consultants, Sub-subcontractors, Suppliers, or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The Subcontractor shall maintain insurance of the types and at least the limits of liability in a company satisfactory to the Contractor as set forth in Exhibit B. Subcontractor shall comply with all requirements for insurance set forth on Exhibit B.

10.2 Other Insurance By Subcontractor – Contractor makes no representation that the limits or kinds of insurance listed in **Exhibit "B"** are adequate for the Subcontractor's purposes. Subcontractor shall carry any other insurance that it deems necessary for the proper operation of its business and may carry limits above those specified in the Subcontract Documents and Prime Contract.

ARTICLE 11
INDEMNIFICATION

11.1 General Indemnity –To the fullest extent permitted by law, Subcontractor shall, indemnify, hold harmless and defend Contractor, Owner, and all others to whom Contractor is obligated to defend and indemnify under the Prime Contract ("Indemnitees") to the same extent Contractor is obligated to defend, indemnify and hold harmless the Indemnitees under the Prime Contract. In the absence of such Owner-required defend and indemnification the Subcontractor shall defend, indemnify and hold harmless the Indemnitees from and against any and all allegations, losses, claims, actions, demands, damages, liabilities, or expenses (including costs, expenses and attorneys' fees) ("Claims"), arising from or relating to the Work,

operations or activities of the Subcontractor, anyone directly or indirectly employed by Subcontractor, its subcontractors or suppliers of any tier, or anyone for whose acts Subcontractor may be liable, including, but not limited to Claims related to (1) the death of or bodily injury to persons, (2) injury to or destruction of property, both real and personal, (3) design defects (if design originated by Subcontractor), (4) product defects, or (5) liquidated damages assessed against the Contractor to the extent caused by the Subcontractor failure to perform its Work in accordance with the Schedule. However, Subcontractor shall not be obligated to indemnify or defend any Indemnitee with respect to the sole or active negligence, or willful misconduct, of that Indemnitee. With respect to any defense obligation owed by Subcontractor to Contractor, Subcontractor shall comply with Civil Code section 2782.05, subdivision (e), upon receipt of a written tender of claim by Contractor.

11.1.1 To the extent any part of Paragraph 11.1, is found as a matter of law to be void or unenforceable, the contrary terms shall be deemed stricken and the balance of the paragraph shall be enforceable to the fullest extent permitted by law.

11.1.2 In any and all claims against the Indemnitees by any employee of the Subcontractor, Contractor or its agents or employees, anyone directly or indirectly employed by the Subcontractor or anyone for whose acts or omissions the Subcontractor may be liable, the indemnification obligation under this Article shall not be limited in any way by any limitation on the amount or types of damages, compensation or benefits payable by or for the Subcontractor under Worker's Compensation acts, disability benefit acts or other employee benefit acts.

11.3 Intellectual Property Rights – Subcontractor shall pay all royalties and license fees which may be due on the inclusion of any patented or protected materials in Subcontractor's Work. Subcontractor shall defend and indemnify the Indemnitees against all suits or claims for infringement of any patent or other intellectual property rights related to or arising out of Subcontractor's Work, which may be brought against an Indemnitee, and shall be liable to any Indemnitee for all loss, including all costs, expenses and attorneys' fees in any such suit or claim.

ARTICLE 12
CHANGES

12.1 Performance **–** Subcontractor shall proceed with all written directions issued by Contractor so as not to delay the Work. Subcontractor shall adhere strictly to the Subcontract Documents unless directed otherwise in writing. Subcontractor shall not make any changes to the Work set forth in the Subcontract Documents, either as additions or deletions, without the written direction of Contractor.

12.2 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 said changes or extras were incorporated in the Subcontract.

12.3 Types of Changes – Changes can be initiated by a) the Owner or Engineer, b) a Governmental authority, c) the Contractor. However, Subcontractor shall not proceed with any such changes unless directed to proceed in writing only by the Contractor. Such written direction may include the methodology for calculating the cost and time impact of the change, if any. No Change Order is created until a formal Change Order is executed in accordance with this Section.

12.4 Change Orders – When a change occurs, and the parties agree on the cost and time impacts of the change, a "Change Order" shall be executed by both parties to document the change to this Subcontract. Subcontractor may not bill for change order Work until such change order is executed by both parties. Additionally, if Subcontractor makes a claim as provided elsewhere in this Subcontract, any agreement between the Contractor and Subcontractor to resolve the claim shall be included in a "Change Order."

12.5 Notification of Additional Costs or Time – Subcontractor shall provide written notification to Contractor within 3 days if a written direction or other event or occurrence 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 Prime Contract. In the event

Subcontractor fails to provide notice as provided herein, then Subcontractor shall be deemed to have waived its right to seek additional compensation or time due to any such written direction, event or other occurrence.

12.6 Submission of Cost Proposals and Requests For Time Extensions – Subcontractor shall submit its cost proposal(s) in sufficient time for Contractor to comply with any submission requirements of Owner. All such cost proposals shall itemize, in a form acceptable to Contractor, any change in costs or time for performance which result from any written direction issued by Contractor or other event or occurrence.

12.7 Change Order Pricing – When a change does occur, Subcontractor shall apply pricing estimates for the impact of the Change which are commercially reasonable and not inflated. Subcontractor markup for overhead and profit shall not exceed the markup allowed under the Prime Contract, or 15% in the absence of any specified rates. Subcontractor shall provide in its proposal, all assumptions, quantities, estimates and unit prices figured to calculate the impact. At the request of Contractor, Subcontractor shall meet with Contractor to review the calculations and agree on the change order amount. Change Order pricing may be based on any of the methods described below.

12.7.1 Lump Sum Agreement between the parties.

12.7.2 Application of Unit Prices as described in this Subcontract.

12.7.3 Application of Alternate Pricing as described in this Subcontract.

12.7.4 Time and Materials Costs – If a change order is to be calculated on a Time and Materials Basis, then the Subcontractor must comply with the following requirements to calculate such value:

A) Subcontractor must keep daily records of all Work performed relating to the Change. Such records shall include the names of all Workers who Worked on the Change, the hours Worked by such Workers, the materials and equipment consumed. The Daily record shall be signed by the Contractor's representative at the end of each Workday to confirm Contractor's agreement with the hours Worked and the materials and equipment consumed.

B) Subcontractor shall provide pricing for all labor, materials equipment and tools used in the performance of the Change Work at its actual costs for same. The Subcontractor may include a reasonable allowance for payroll taxes and insurance.

C) Subcontractor must provide backup for all costs if requested by Contractor.

D) Notwithstanding the foregoing, Subcontractor shall not include any item of cost that is not authorized under the Prime Contract.

12.8 Reduction in Work – If a change is made that reduces the Work of the Subcontractor, the Subcontractor shall provide a credit for the fair value of the Work.

12.9 Dispute of Change Order Pricing – In the event the Contractor and Subcontractor cannot agree on a pricing method for a change, the Time and Materials method shall be used by the parties.

12.10 Cost Proposal Negotiations – For changes that are to be funded by the Owner, rather than the Contractor, the Contractor will not approve Subcontractor's pricing or time impacts until the Owner has also approved the same. At Subcontractor's request, it shall be invited to attend and participate in all negotiations with Owner or others that relate to settlement or resolution of its cost proposals. 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 proposals.

ARTICLE 13
DELAYS

13.1 Excusable Delays – An Excusable Delay is one which is caused by circumstances or events beyond the control and without the fault or negligence of Contractor or Subcontractor, and which is recognized by the Prime Contract as "excusable" that is, a delay for which the contract time is extended, whether or not compensation by Owner is allowed. To the extent Excusable Delays occur and affect Contractor's and/or Subcontractor's ability to complete their Work in accordance with the updated progress schedule, the affected party's time for performance shall be extended, but only to the extent such extensions are allowed by Owner.

13.2 Subcontractor Caused Delays – Subcontractor Caused Delays are delays caused by the failure of Subcontractor, or any party for which Subcontractor is responsible, to perform any portion of its Work in accordance with the updated progress schedule. Subcontractor shall take immediate action to recover from any Subcontractor Caused Delays, including Working extra shifts, providing additional Workers, and overtime Work in an effort to recover and maintain the schedule. Failure to maintain the updated progress schedule or to recover from a Subcontractor Caused Delay when directed by Contractor, is considered a default of this Subcontract.

If Subcontractor Caused Delays cause delay and/or disruption to the Prime Contract Work, Subcontractor shall be liable for all costs and damages sustained by Contractor and for which Contractor may be liable to Owner and any other party, including consequential damages and liquidated damages. If Subcontractor Caused Delays are only one of multiple causes for delay to the Prime Contract Work, Subcontractor shall be liable for its proportionate share of any resulting costs and damages.

13.3 Contractor Caused Delays – Contractor Caused Delays are delays caused by the failure of Contractor, or any party for which Contractor is responsible, to perform any portion of its Work in accordance with the updated progress schedule due to events or occurrences that are under the reasonable control of Contractor. If a Contractor Caused Delay is the sole cause an actual delay and/or disruption to Subcontractor's Work that cannot be avoided by Subcontractor by use of commercially reasonable means, Subcontractor shall, as its sole remedy, be entitled to a time extension equal to the impact of the Contractor Caused Delay.

13.4 Disputed Delays – If Subcontractor disputes the determination of the cause of any delay and wishes to pursue that dispute, it must comply with the Claims article of the Subcontract.

ARTICLE 14
CLAIMS

14.1 Claim – A claim is a written demand by Subcontractor seeking an adjustment in the Subcontract Price and/or time, or the recovery of withheld disputed funds.

14.2 Notification of Claims – Subcontractor shall 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 Prime Contract, but in no event later than 5 days after the occurrence of the event giving rise to the Claim. In the event Subcontractor fails to provide notice as provided herein, then Subcontractor shall be deemed to have waived its right to such claim.

14.3 Submission of Claims – Subcontractor shall submit its claims in sufficient time for Contractor to comply with any submission requirements of Owner. All such claims shall itemize, in a form acceptable to Contractor, any additional costs or time for performance being sought by Subcontractor. In the event Subcontractor fails to timely submit its itemized claim as provided herein, and such failure results in Contractor being barred from submitting the itemized claim to Owner, then Subcontractor shall be deemed to have waived its right to pursue such claim.

14.4 Claims with Owner – To the extent Contractor determines Subcontractor's claim is one for which Owner may be liable, the following procedure shall apply:

(a) Contractor will present Subcontractor's claim to Owner per the Prime Contract requirements. The determination of such submission will be conveyed in writing to Subcontractor and such decision shall be final unless Subcontractor notifies

Contractor in writing of its desire to proceed further in sufficient time for Contractor to comply with any notification or submission requirements to Owner.

(b) Upon receipt of Subcontractor's notice to proceed further, at Contractor's option, Subcontractor's claim may be further pursued with Owner. In such event, Contractor may allow Subcontractor to act in its own behalf and with its own consultants/attorneys at Subcontractor's cost to continue the required process and any subsequent administrative proceeding or litigation. 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, and Contractor elects to allow the continued pursuit of Subcontractor's claim, 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, court costs and the costs of Contractor's personnel employed in pursuing the case against Owner.

(c) If Contractor elects to not allow further pursuit of Subcontractor's claim against Owner, and Subcontractor disputes such decision, Subcontractor may pursue its claim pursuant to the Disputes Resolution Article of the Subcontract.

(d) Nothing shall prevent Contractor from accepting a contract modification from Owner which preserves the rights of Subcontractor.

(e) If because of Subcontractor's claim, Owner withholds any sums due Contractor, then Subcontractor shall pay to Contractor interest on the amounts so withheld at the rate of 10 percent per annum.

ARTICLE 15
DISPUTE RESOLUTION

15.1 Dispute – To the extent Subcontractor submits a claim which Contractor determines is one for which Owner may not be liable, or is one which Contractor elects to not allow Subcontractor to further pursue with Owner, or to the extent Contractor has a claim against Subcontractor which is contested by the Subcontractor, (all of which shall be categorized as a "Dispute"), the following procedures shall apply:

15.1.1 Informal Dispute Resolution - If the dispute cannot be settled through direct discussions between the Contractor and Subcontractor's assigned project personnel, either party may make a written demand that the dispute be "elevated" in accordance with this paragraph for review and discussion of the Company's principals for an informal dispute resolution process. When such demand is made, the senior most officer (or owner) of the Contractor and the senior most officer (or owner) of the Subcontractor shall meet within 30 calendar days in a face-to-face meeting to discuss and attempt to resolve the matter. During the meeting, the parties may agree to any ground rules, procedures, additional meetings, time extensions, or any other dispute resolution process that suits their needs, as long as the agreement is mutual. The parties are each encouraged to consider alternatives to resolve the dispute including hiring a competent mediator to help the parties towards a solution, before proceeding with formal litigation.

In the interest of resolving disputes quickly and minimizing costs and disruption to the project, and to the parties, this first meeting shall be a condition precedent to the filing of any legal action or other formal dispute resolution process to resolve the dispute, except that litigation may be commenced in order to preserve any statutes of limitation that may relate to the dispute, and either party may petition or motion the court to stay such litigation pending the parties' compliance with this dispute resolution process. In the event that a party petitions or motions the court for such a stay, the other party irrevocably waives its right to object or oppose any such petition or motion.

Any settlement of a dispute shall be documented in writing and signed by both parties and shall be include in a formal Change Order to the Subcontract Agreement.

15.2 Multiparty Proceeding To the extent permitted by Subcontract Documents, all parties necessary to resolve a claim shall be parties to the same dispute resolution proceeding.

15.3 Disputes Relating to Owner To the extent disputes between the Contractor and the Subcontractor involve in whole or in part disputes between the Contractor and the Owner, disputes between the Subcontractor and the Contractor shall be decided by the same tribunal and in the same forum as disputes between the Contractor and the Owner. Subcontractor consents to be joined in any such proceeding. In the event the provisions for resolution of disputes between the Contractor and the Owner contained in the Subcontract Documents do not permit consolidation or joinder with disputes of third parties, such as the Subcontractor, resolution of disputes between the Subcontractor and the Contractor involving in whole or in part disputes between the Contractor and the Owner shall be stayed pending conclusion of any dispute resolution proceeding between the Contractor and the Owner. Subcontractor agrees to be bound by the procedure and final determinations in Contractor's dispute resolution with the Owner, and Subcontractor shall not be entitled to receive any greater amount from Contractor than Contractor is entitled to and actually does receive from the Owner on account of Subcontractor's Work, less any markups or costs incurred by the Contractor and to which Contractor is otherwise entitled, and Subcontractor agrees that it will accept such amount, if any, received by Contractor from Owner as full satisfaction and discharge of such claims. Subcontractor's proportionate share of recovery that Contractor receives from the Owner shall be Subcontractor's sole and exclusive remedy for any such claims.

15.4 Disputes Between Contractor and Subcontractor

15.4.1 Initial Dispute Resolution If, at any time, any dispute or controversy shall arise between Contractor and Subcontractor regarding anything pertaining to this Agreement or the Subcontract Work performed hereunder, and such controversy or dispute is not one described in Paragraph 14.3 and the dispute has not been resolved through informal dispute resolution, the parties shall resolve their disputes pursuant to the Construction Industry Mediation Rules and Arbitration Rules of the American Arbitration Association, adjusted as set forth in this Article 12. The location of the mediation shall be the place of the Project; and shall occur within sixty (60) days of the date a request or demand is submitted to the American Arbitration Association, unless otherwise agreed by the parties. No later than fourteen days prior to the mediation, each party shall serve upon the mediator and the other party its mediation position statement. No later than five days prior to the mediation, each party shall serve upon the mediator and the other party a response to the other party's mediation position statement. After eight hours of mediation conducted in a single day, if the matter is not resolved, each party shall submit its last, best and final offer and demand in writing to the mediator before adjourning the mediation that day ("Final Offers"). The mediator shall disclose the Final Offers to the parties.

15.4.2 Expedited Dispute Resolution If the amount remaining in dispute as disclosed in the Final Offers is less than $500,000, as determined by the mediator, the mediator shall immediately assume the role of arbitrator. The arbitrator shall not consider any item of evidence other than the parties' respective mediation position statements, responses, and information disclosed during the mediation, as determined in the arbitrator's discretion. Within three (3) days after receiving the Final Offers, the arbitrator shall issue an award adopting one and only one of the Final Offers, without modification or amendment. The parties hereby agree to the conversion of the mediator to an arbitrator and agree that the award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Each party shall bear its own costs and fees associated with the Expedited Dispute Resolution proceeding described herein.

15.4.3 Dispute Resolution If the amount remaining in dispute as disclosed in the Final Offers is $500,000 or more, as determined by the mediator, the mediation shall be adjourned, and either party may submit the dispute to arbitration. The dispute or controversy shall be resolved by binding arbitration in accordance with the Construction Industry Rules of the American Arbitration Association then in effect. Venue for the arbitration shall be in the city identified as Contractor's home office on page 1 of this Agreement, unless otherwise mutually agreed by the parties. Subcontractor and Contractor agree that the Federal Arbitration

Act shall be applicable to the arbitration contemplated by this Sub-paragraph. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

15.5 Cost of Dispute Resolution and Prevailing Party The cost of any mediation proceeding shall be shared equally by the parties participating. The prevailing party in any dispute arising out of or relating to this Agreement or its breach that is resolved by a dispute resolution procedure designated in the Subcontract Documents, other than an Expedited Dispute Resolution proceeding as set forth in Section 14.4.2, shall be entitled to recover from the other party those reasonable attorneys' fees, costs and expenses incurred by the prevailing party in connection with such dispute resolution process after direct discussions and mediation. The prevailing party in any such dispute shall be awarded its attorney's fees, expert witness fees, costs and expenses for all phases of the dispute (including, but not limited to, collection activities and electronic discovery).

ARTICLE 16
RECOURSE BY CONTRACTOR

16.1 Default – If the Subcontractor is unable, refuses or fails to supply enough properly-skilled Workers, proper materials, or maintain the Project Schedule, or fails to make prompt payment to its Workers, unions, subcontractors or suppliers, or violates or disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, violates safety policies, or breaches a provision of this Agreement, the Subcontractor shall be deemed in default of this Agreement. If the Subcontractor fails within three (3) business days after written notification to commence and continue satisfactory correction of the default with diligence and promptness, then the Contractor without prejudice to any other rights or remedies, shall have the right to any or all of the following remedies:

a) supply Workers, materials, equipment and facilities as the Contractor deems necessary for the completion of the Subcontract Work or any part which the Subcontractor has failed to complete or perform after written notification, and charge the cost, including reasonable overhead, profit, attorneys' fees, costs and expenses to the Subcontractor;

b) contract with one or more additional contractors to perform such part of the Subcontract Work as the Contractor determines will provide the most expeditious completion of the Subcontract Work, and charge the cost to the Subcontractor;

c) withhold any payments due or to become due the Subcontractor pending corrective action in amounts sufficient to cover losses and compel performance to the extent required by and to the satisfaction of the Contractor; and/or
d) terminate this Agreement for default.

In the event of an emergency affecting the safety of persons or property, Contractor may immediately proceed to commence correction of such failure without first giving written notice to Subcontractor but shall give prompt written notice of such action to Subcontractor.

ARTICLE 17
TERMINATION

17.1 Termination For Default – If Contractor elects to terminate for default, Contractor shall have the right to take and use any materials, equipment, appliances or tools furnished by, belonging or delivered to Subcontractor and located at the project for the purpose of completing any remaining Subcontractor Work. Subcontractor may not enter the site for any purpose and may not recover any property, materials, or equipment until released by Contractor.

In the event the Subcontract is terminated for default, Subcontractor shall not be entitled to receive any further payment until the Prime Contract Work is completed. If Contractor's Expense to complete Subcontractor's Work exceeds the amount unpaid under the Subcontract, Subcontractor shall promptly pay the excess amount to Contractor. The "Expense" incurred by Contractor shall include Contractor's costs for completing the Work, including overhead, profit and attorneys' fees, and any damages incurred by Contractor by reason of Subcontractor's default.

17.2 Termination by Owner – If Owner terminates the Prime Contract, or any part which 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.

17.2.1 Contractor's liability to Subcontractor for any damages incurred or claims resulting from Owner termination shall be limited to the amount allowed under the Prime Contract or the amount Owner is determined to be liable to Contractor for Subcontractor's damages.

17.3 Termination By Contractor – Contractor shall have the right to terminate this Subcontract for convenience. 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.

17.3.1 Contractor's liability to Subcontractor resulting from termination for convenience shall be equal to the Subcontract Price prorated to the percentage of completion of the Work properly performed and accepted by Contractor prior to termination, plus any demobilization reflected on Subcontractor's schedule of values, plus restocking or cancellation costs actually incurred by Subcontractor from its material suppliers, if any. In the event Subcontractor anticipates incurring restocking or cancellation charges for any materials, Subcontractor shall provide Contractor the opportunity to purchase any such materials at Subcontractor's cost instead of returning or cancelling such materials.

17.3.2 If it is determined or agreed that the Contractor wrongfully exercised its right to terminate for default, the Contractor shall be liable to the Subcontractor solely for the reasonable value of Subcontract Work performed by the Subcontractor prior to such action, including reasonable overhead and profit on the Subcontract Work performed, less prior payments made. Under no circumstances shall the Subcontractor be entitled to recovery of overhead or profit on Subcontract Work not performed.

ARTICLE 18
SUSPENSION OF WORK

18.1 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 Articles of the Subcontract. If the suspension is directed or caused by Owner, Contractor's liability to Subcontractor shall be limited to the amount Owner is determined to be liable to Contractor for Subcontractor's damages.

ARTICLE 19
ASSIGNMENT OF SUBCONTRACT

19.1 Subcontractor shall not, without written consent of Contractor, assign its rights in the Subcontract to others, including factoring of any amounts to become due to the Subcontractor and any attempt to assign this Subcontract without such written consent shall be null and void. This Subcontract may be assigned by Contractor to its bonding company or the Owner without the consent of the Subcontractor.

ARTICLE 20
GENERAL PROVISIONS

20.1 Signage & Publicity – This Agreement shall be confidential and not disclosed to any party other than what is necessary to carry out the obligations herein. Subcontractor shall post no signage at the Project site nor produce any media publicity of the project without first obtaining the written permission of Contractor and, if required, of Owner. All signage shall be subject to this paragraph including signs/logos painted on or affixed to the sides of trailers and other equipment.

20.2 Federal Projects – If the Project is on property owned or controlled by the US Federal Government or if the US Federal Government is providing funding for any part of the Project and therefore, the Project is deemed to be covered by federal law, then the Subcontractor agrees that it shall fully comply with all requirements for contracting and subcontracting on Federal projects. Subcontractor shall provide in a timely manner all reporting and monitoring and regulatory requirements described in the Federal Acquisition Regulations (FAR) applicable to the project and to the Subcontractor. All FAR requirements included in the Prime Contract are hereby included in this Subcontract by reference and Subcontractor shall be deemed bound to Contractor to the same extent that Contractor is bound to the Owner. Please refer to the attached **Federal Exhibit E – FAR Flow Down Clauses**.

20.3 DBE/MBE/WBE/DVBE/UDBE/SBE Requirements – Subcontractor hereby acknowledges that it is thoroughly familiar with all DBE/MBE/WBE/DVBE/UDBE/SBE requirements relating to the Project if there are any such requirements contained in or referred to in the Prime Contract Documents. If Subcontractor claims status as a DBE/MBE/WBE/DVBE/UDBE/SBE, Subcontractor shall fully comply with all requirements relating thereto, including but not limited to, maintaining necessary certifications so as to ensure that one hundred percent of the Work, materials, equipment and services provided by Subcontractor is counted as DBE/MBE/WBE/DVBE/UDBE/SBE participation. If any of Subcontractor's suppliers or subcontractors of a tier, claims status as, has been designated as or is required to be a DBE/MBE/WBE/DVBE/UDBE/SBE, Subcontractor shall ensure that each such supplier or subcontractor meets all applicable requirements relating thereto. If Subcontractor has represented or indicated to Contractor, in this Agreement, the bid proposal Subcontractor submitted to Contractor, or otherwise, that Subcontractor (or any of its subcontractors or suppliers of any tier) will or can provide any amount of DBE/MBE/WBE/DVBE/UDBE/SBE participation, Subcontractor shall ensure that amount of DBE/MBE/WBE/DVBE/UDBE/SBE participation is actually provided in full compliance with all applicable requirements. Any breach of any of the provisions of this Section shall be deemed a material breach of this Agreement.

20.4 Titles – The titles given to the Articles and paragraphs of the 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.

20.5 Entire Agreement – The Subcontract is solely for the benefit of the signatories and represents the entire and integrated agreement between the parties and, unless specifically stated otherwise, supersedes all prior negotiations, representations, proposals, quotes or agreements, either written or oral.

20.6 Waiver of Any Breach – Waiver of any breach, alleged breach, provision, covenant or condition of the Subcontract by Contractor shall not be construed as a waiver of the same or any other provision of the Subcontract on any other occasion, nor shall such waiver serve as an estoppel of any other right Contractor may have. Should any provision in the Subcontract, or its attachments, be held or declared void or invalid, all other provisions shall remain in full force and effect.

20.7 Law and Effect – The Subcontract shall be governed by the law of the State in which the project is located.

20.8 Severability and Waiver – The partial or complete invalidity of any one or more provisions of this Subcontract shall not affect the validity or continuing force and effect of any other provision. The failure of either party to insist, in any one or more instances, upon the performance of any of the terms, covenants or conditions of the Subcontract, or to exercise any right provided to it, shall not be construed as a waiver or relinquishment of such term, covenant, condition or right with respect to further performance.

--- End of Section, Signature Page follows ---

SIGNATURE PAGE

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

SUBCONTRACTOR	CONTRACTOR
Firm:	Firm: Filanc
Signature	Signature
Date:	Date:
Name:	Name:
Title:	Title:
State Contractors License:	CA Contractor's License #134877 AZ Contractor's License # ROC088901, ROC216888
Federal Tax I.D.:	
State of Incorporation:	
DIR#	

Legal Entity Form (Check One):

- ☐ Individual
- ☐ Sole Proprietorship
- ☐ Partnership
- ☐ LLC
- ☐ Corporation

EXHIBIT "A"
SCOPE OF WORK

1. Subcontractor shall provide all (ENTER TRADE DESCRIPTION HERE) Work, per the Subcontract Documents, including, but not limited to, all Work specified in, ancillary to, or contemplated by specification sections.
    a. (ENTER APPLICABLE SPECIFICATION SECTIONS HERE)
    b.
    c.
    d.

2. SPECIFIC INCLUSIONS - Without limiting the generality of the above, but to highlight certain scope-of-Work items for the benefit of the parties the following Work items are INCLUDED in the "Subcontractor's Scope Of Work":
    a. Labor (union where required), including fringe benefits, taxes, insurances
    b. Materials, including sales and use taxes, freight, delivery, handling and storage
    c. Equipment, including sales and use taxes, freight, delivery, handling and storage
    d. Services
    e. Hoisting
    f. Tools
    g. Temporary Provisions
    h. Supervision
    i. Applicable Taxes
    j. All required Bonds and Insurance
    k. Licenses
    l. Submittals and Close Out Documents including O&M Manuals
    m. Permits (but not building permit)
    n. Calculations as required
    o. Tests and Inspections
    p. Daily Cleanup of its own Work
    q. Removal of spoils and debris resulting from its own Work, including trenching, excavation, and demolition.
    r. Materials & Equipment Delivery and Onsite Storage
    s. Material & Equipment Identification Tagging
    t. Equipment Training
    u. Spare Parts
    v. Attic Stock
    w. Retention at 5%

3. Subcontractor shall furnish Contractor per the progress schedule and well prior to Substantial Completion of the Project all necessary "CLOSE OUT DOCUMENTS." Close-out Documents include warranties, guarantee, attic stock of materials, manuals, instructions, maintenance recommendations (in writing) and as-built record drawings, plus all other items required of the Contractor under the Contract. Subcontractor shall furnish two more than is required by the Contract, but no less three (3) sets of all the above documents.

4. "The following QUALIFICATIONS or CLARIFICATIONS shall apply to the "Subcontractor's Scope of Work":
    a)
    b)

5. The following is specifically EXCLUDED from "Subcontractor's Scope Of Work":

a)
b)

6. The following ALTERNATES (if any) shall be included in this Subcontract.

a)
b)

7. The following ALLOWANCES (if any) shall be included in this Subcontract.

a)
b)

8. The following UNIT PRICES shall be included in the Subcontract

a)
b)

END EXHIBIT "A"

EXHIBIT "B"
INSURANCE REQUIREMENTS

The insurance requirements set out in this Exhibit are independent from all other obligations of the Subcontractor under this Subcontract and apply whether or not required by any other provision of this Subcontract.

Contractor utilizes myCOI Central, a software management system used to track certificates of insurance and to track and verify insurance coverage. Upon Subcontractor's receipt of this Agreement, Subcontractor will receive an e-mail from registration@myCOItracking.com. Subcontractor must follow the instructions contained in the e-mail and complete the online registration. Upon completion of registration, Contractor will request proof of insurance directly from Subcontractor's insurance agent(s). In addition to the other terms and conditions contained herein, Subcontractor may not commence Work, and no payments will be made, until Subcontractor is registered in myCOI Central, and a compliant Certificate of Insurance has been received.

Certificates of Insurance ("Certificates") are to be issued on ACORD Form 25 and show that the below required insurance coverages in companies with a minimum A.M. Best's Rating of A-, VIII or companies acceptable to Contractor are in force. Required endorsements must be attached to such Certificates. All certificates must reference the specific project in the certificate description/comments area for identification purposes.

Subcontractor waives against Contractor any and all rights of recovery for loss, damage, or expense to the extent the same are recovered pursuant to valid and collectible policies of insurance and to the extent such waiver is permitted by such policies of insurance. In addition, Subcontractor waives all such claims against Owner and any other contractors, subcontractors, or suppliers to the same extent.

If coverage limits specified by the Owner are required of Subcontractor and if greater than the coverage limits reflected on the Certificates provided to Contractor, Subcontractor shall immediately obtain the required higher coverage limits and furnish Contractor with replacement Certificates showing proper coverage limits and otherwise complying with this Exhibit B.

Subcontractor shall maintain in effect all insurance coverage required under this Agreement at Subcontractor's sole expense and with insurance companies acceptable to Contractor. Subcontractor agrees to notify Contractor in writing, at least 30 days in advance, of any reduction by the insurers in required coverages or coverage limits, cancellation, or non-renewal of Subcontractor's policies. Subcontractor agrees to file new, complying Certificates showing proper renewal coverages and limits in force at least 10 days prior to expiration of the current policies.

(a) WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

1) Workers' Compensation coverage in accordance with the laws of the State within the jurisdiction the Work is performed. In the event that the Work of this contract falls within the Federal Employer's Liability Act, the Subcontractor shall extend Workers' Compensation Insurance to provide and maintain in full force and effect during the period covered by this Subcontract, insurance against the liability imposed under the above-mentioned Act as applicable. No alternative or benefit plan in lieu of statutory Workers' Compensation coverage will be acceptable even in those jurisdictions where permitted.

2) Employer's Liability Coverage with a minimum limit of: $1,000,000 Bodily Injury by Accident – Each Accident; $1,000,000 Bodily Injury by Disease – Policy Limit; $1,000,000 Bodily Injury by Disease – Each Employee

Where permitted by law the Subcontractor waives subrogation against Filanc, Owner, and others as required by the Prime Contract.

(b) COMMERCIAL GENERAL LIABILITY INSURANCE, on a coverage form at least equal to that provided under ISO CG 00 01, latest available edition, on an occurrence basis. This policy shall include but not be limited to, personal injury, contractual liability, collapse, explosion, and underground (x, c & u) coverage, per project aggregate endorsement, completed operations and products liability coverage. Subcontractor shall identify on the Certificate any Residential, Mold, EIFS, Silica or other major exclusions that impact the Subcontractor's ability to insure its risk. If the Project includes any Residential components or the proposed design includes EIFS systems, then the Subcontractor shall obtain appropriate endorsements acceptable to Contractor as a condition of this Subcontract. The above

coverage shall be written for not less than the following minimum limits:

$1,000,000 GENERAL AGGREGATE (PER PROJECT; if not PER PROJECT, the limit shall be $2,000,000)
$1,000,000 PRODUCTS-COMPLETED OPERATIONS AGGREGATE
$1,000,000 PERSONAL & ADV. INJURY
$1,000,000 EACH OCCURRENCE

Continuation of Coverage Subcontractor shall maintain Products-Completed Operations coverage under Commercial General Liability for the applicable Statute of Repose following Substantial Completion of the Work.

(c) AUTOMOBILE LIABILITY INSURANCE including the following coverages: Owned, Hired, and Non-Owned vehicles shall be written for not less than the following minimum limits: $1,000,000 PER ACCIDENT

(d) UMBRELLA (EXCESS) LIABILITY INSURANCE with combined single limits for bodily injury and property damage of not less than $5,000,000 EACH OCCURRENCE and $5,000,000 AGGREGATE. Such coverage shall be in excess of all liability insurance required under the above Paragraphs (a) 2, (b) and (c) and shall provide coverage as broad as the underlying coverage, including additional insured as required herein.

Continuation of Coverage Subcontractor shall maintain Products-Completed Operations coverage under Umbrella (Excess) Liability for the
applicable Statute of Repose following Substantial Completion of the Work.

(e) [AS APPLICABLE PER OUTLINED SCOPE] PROFESSIONAL LIABILITY INSURANCE is required for Subcontractor responsible for any professional services within their scope of Work. Coverage shall be written for not less than the following minimum limits: $1,000,000 EACH CLAIM and $1,000,000 AGGREGATE. Any retroactive date applicable to the policy shall precede the commencement of any professional services provided under this Agreement. Professional Liability Insurance coverage shall be maintained by the Professional Engineer/Subcontractor for not less than three (3) years beyond the completion of the project with no change in the original retroactive date. If Subcontractor utilizes a third-party Professional Engineer to perform all professional services under this Agreement, Contractor may accept evidence of Professional Liability coverage from such third-party Professional Engineer as compliance with this requirement.

(f) [AS APPLICABLE PER OUTLINED SCOPE] CONTRACTOR'S POLLUTION LIABILITY INSURANCE shall be written for not less than the following minimum limits: $1,000,000 EACH OCCURRENCE and $1,000,000 ANNUAL AGGREGATE. If coverage is written on a claims-made form, any retroactive date applicable to the policy shall precede the commencement of Work performed under this Agreement. This insurance shall be maintained for a period of three (3) years after completion of the Work by Subcontractor or its sub-subcontractors. Coverage shall include Filanc, Owner and others as required by the Prime Contract as primary/non-contributory additional insureds.

(g) [AS APPLICABLE PER OUTLINED SCOPE] AIRCRAFT LIABILITY INSURANCE including the following coverages: $5,000,000 Combined Single Limit for Bodily Injury and Property Damage for EACH OCCURRENCE. When contracting with a helicopter service, Subcontractor shall cause the provider of that service to provide evidence of a minimum of $5,000,000 coverage for EACH OCCURRENCE. The Contractor and Owner shall be added as additional insureds under the Aircraft Liability Insurance, and Subcontractor shall provide the Contractor with a copy of the Certificate of Insurance received from the helicopter service.

Filanc, Owner, and others as required by the Prime Contract shall be added as additional insureds under the Commercial General Liability and Automobile Liability coverages. The coverage afforded the additional insureds for Commercial General Liability must provide coverage at least equal to that of ISO form CG 20 10 07/04 for ongoing operations and CG 20 37 07/04 for completed operations. It is agreed by the parties that such coverage will be primary and non-contributory, and any coverage maintained by Contractor and/or Owner will be excess of Subcontractor's coverage. All limits of liability available to the Subcontractor shall inure to the benefit of the Additional Insureds.

The amount and types of insurance coverage required to be provided by Subcontractor herein, including any limitation on Subcontractor's obligation to include Contractor, Owner and others as required by the Prime Contract as Additional

Insureds on Subcontractor's liability policies, shall not be construed to be a limitation of the liability on the part of the Contractor or any of its Subcontractors.

Subcontractor shall be responsible for securing whatever fire and extended coverage Subcontractor may deem necessary for protection against loss of owned, rented, or borrowed equipment and tools, including, but not limited to any tools, equipment, scaffolding, staging and trailers owned, rented, or borrowed by Subcontractor. Contractor shall have no liability with respect to such equipment and tools. Failure of the Subcontractor to secure such insurance or to maintain adequate levels of coverage shall not obligate Contractor for any losses on owned, rented, or borrowed equipment.

To the fullest extent permitted by law, all insurance policies procured, paid for, and maintained by the Subcontractor for the Work performed according to this Subcontract must contain a Waiver of Subrogation in favor of the Contractor, Owner and others as required by the Prime Contract. This Waiver of Subrogation is required not only with respect to insurance required of Subcontractor in this article, but also with respect to
any other property, inland marine, liability, or other insurance the Subcontractor may have in force that may cover the Work performed for this job.

Contractor shall have no duty to Subcontractor or to any of its insurers or their insurance agents to review any Certificates or copies of insurance furnished to Contractor or to determine whether the terms of each Certificate or policy of insurance comply with the insurance-related provisions of the Subcontract Documents. A failure of Contractor to detect that Subcontractor has not submitted Certificates, or proper Certificates, or is otherwise not in compliance with the insurance-related provisions of the Subcontract Documents shall not be considered a waiver or other impairment of any of Contractor's rights under such insurance-related provisions.

Number of Policies Commercial General Liability Insurance and other liability insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess or Umbrella Liability Policy. If the full required limits are arranged under a combination of Primary and Excess or Umbrella policies, all policies will be primary and non-contributory, and any coverage maintained by Contractor and/or Owner will be excess of Subcontractor's coverage.

Any deductibles or retentions under Subcontractor's policies shall be paid by, assumed by, for the account of, and at Subcontractor's sole risk.

If the Subcontractor fails to procure and maintain such insurance, in addition to the option of declaring Subcontractor in default for breach of a material provision of the Subcontract, Contractor shall have the right, but not the duty, to procure and maintain the same insurance, or other insurance that provides Contractor with equivalent protection, and Subcontractor shall furnish all necessary information to make effective and maintain such insurance. At the option of Contractor, the cost of said insurance purchased by Contractor shall be charged against and deducted from any monies then due or to become due to Subcontractor or Contractor shall notify Subcontractor of the cost thereof and Subcontractor shall promptly pay such cost.

If Subcontractor enters into any subcontract with any lower-tier subcontractor, Subcontractor shall require such lower-tier subcontractor to maintain
insurance similar to that required of Subcontractor under this Agreement, including primary/non-contributory additional insured and waiver of
subrogation provisions as required hereunder.

BUILDER'S RISK coverage including the interests of the Subcontractor will be provided by Contractor as identified in the Subcontract Documents. The Subcontractor is responsible for the Builder's Risk deductible for each loss to the extent losses payable under the Builder's Risk policy are attributable to Subcontractor's Work, acts or omissions, or the Work, acts or omissions of any lower tier subcontractor, or any other party for whom Subcontractor may be responsible. Contractor and Subcontractor waive all rights against each other and any of their subcontractors for damages caused by fire or other causes of loss to the extent covered by Builder's Risk insurance, except such rights as they have to proceeds of such insurance held by the Contractor or Owner as fiduciary. Subcontractor shall require all of its subcontractors, by appropriate agreement, written where legally required for validity, similar waivers each in favor of other parties enumerated herein.

END EXHIBIT "B"

EXHIBIT "C"

The Subcontract Documents shall include:

1. The executed Subcontract between Contractor and Subcontractor, including all listed Attachments, which are incorporated into the Subcontract by this reference as if fully set forth therein.

2. The Prime Contract, consisting of the entire and integrated agreement between Owner and Contractor, as more particularly though not exclusively specified in the following:

(a) General, Special, Supplementary and other Conditions, reference standards or provisions of any nature;

(b) Geotechnical Manual/Specifications prepared by Enter Engineer dated Date Here.

(c) Specifications, including the Complete Project Manual/Specifications prepared by Enter Engineer dated Date Here.

(d) Addenda as follows:
   a. Number ___ prepared by Enter Engineer dated Date Here
   b. Number ___ prepared by Enter Engineer dated Date Here

(e) Plans and Drawings prepared by Enter Engineer Here.

3. Other Documents as follows:

All of the above documents are available from the Contractor at its Office and/or at the Project Site and can be electronically transmitted upon request.

END EXHIBIT "C"

EXHIBIT "D"
LABOR COMPLIANCE REQUIREMENTS - CALIFORNIA

As an employer Working the State of California, the Subcontractor shall carefully observe and follow all Federal and State laws governing the employment of Workers. Similarly, the Subcontractor shall ensure that any Sub-subcontractors who Work under the Subcontractor also shall follow all applicable Federal and State employment laws.

Public Works Law
In addition to employment laws affecting all employers, there are additional rules and regulations that affect employers Working on Public Works Construction contracts. Subcontractor, and its Sub-subcontractors are directed to California Labor Code Sections 1720-1815 which are partially included in this exhibit for convenience. It shall be the responsibility for the Subcontractor and its Sub-Subcontractors to fully comply with all such requirements.

Subcontractor Registration with the DIR
Subcontractor shall at all times during the performance of this Subcontract maintain a valid Public Works Contractor Registration with the CA Department of Industrial Relations pursuant to Labor Code 1725.5 and 1771.1. See https://efiling.dir.ca.gov/PWCR/ for more information.

Employment of Apprentices
Subcontractor shall employ apprentices in compliance with the Public Works Law.

Payment of Prevailing Wages
Subcontractor shall pay all its employees in compliance with the Public Works Law. See the State of California's website for the latest prevailing wage decisions: http://www.dir.ca.gov/OPRL/dprewagedetermination.htm

Certified Payroll Recordkeeping and Reporting and Compliance Monitoring
Subcontractor and all Sub-Subcontractors Working under the Subcontractor, shall keep payroll records in compliance with the Public Works Law and shall report all payroll data in compliance with the Law. This shall include both physical records reporting and electronic reporting as required. Subcontractor and all Sub-Subcontractors shall submit certified payrolls and labor compliance documentation electronically via LCP Tracker Electronic Payroll.
If the Owner has employed a "Labor Compliance Program" as provided under the Public Works Law, Subcontractor, and all Sub-Subcontractors, shall comply with the monitoring requirements of the Program. Similarly, in its role as the Prime Contractor, the Contractor is required to collect, monitor and verify Subcontractor's, and all Sub-Subcontractor's, compliance records +
with the Public Works laws.

Items to Submit Before First Weekly Payroll
- Authorized Signatory for Certified Payroll Reporting (FCC CPR #002)
- DAS 140 – Public Works Contract Award Information - confirmation of receipt from each program.
- DAS 142 – Request for Dispatch of an Apprentice as required.
- Apprenticeship Certification for Each Apprentice Employed on the Project
- Fringe Benefit Statement Including Each Trade Package

Items to Submit Immediately After Each Weekly Payroll
- PDF Version of Consecutively Numbered Weekly Payroll Report (DOL Form WH-347 or equal) Or- if no payroll occurred during a Work week, then a Statement of Non-Performance for the week.
- A copy of the DIR confirmation of receipt of electronic submission of the eCPR for the week.

Items to Submit Monthly
- Evidence of payment of Apprenticeship Training Contributions and Union Trust Funds, as required.

Items to Submit Immediately After the Final Payroll is Reported
- Final Affidavit of Compliance With California Prevailing Wage Law

Sample Forms
Attached to this Exhibit are sample forms which are provided for the convenience of the Subcontractor in their efforts to comply with the Public Works reporting requirements. These forms are examples only and are not certified to be current and are subject to change but are provided to assist in reducing the effort for the Subcontractor.

Payment Withholding
Contractor shall have the right to withhold payment of part or all of Subcontractor's payment requests if any of the required reporting is not properly and timely submitted and/or if the Contractor is notified of any penalties or assessments by the State DIR under the Public Works Laws.

Final Payment

Prior to making final payment Subcontractor shall be required to sign an affidavit under the penalty of perjury that the Subcontractor has paid all wages and all amounts due under California Public Works Laws.

Davis Bacon Requirements
In addition to the Public Works Laws defined above, some California Public Works projects are subject to Federal prevailing wage requirements, known as "Davis-Bacon" requirements. If such requirements do apply to this project a "Davis-Bacon Requirements Attachment" will be included as an additional Exhibit to this Subcontract. In any case where the requirements of the Public Works Laws and the Davis-Bacon Requirements may be in conflict, the more restrictive, or more expensive, or the more favorable requirement on behalf of the Worker shall apply.

Selected Sections Copied from the California Labor Code as of June 2024
(See CA website current law for subsequent changes and any additional sections)

DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
(PART 7 ENACTED BY STATS. 1937, CH. 90.)

CHAPTER 1. PUBLIC WORKS [1720 - 1861]
(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 1. SCOPE AND OPERATION [1720 - 1743]
(ARTICLE 1 ENACTED BY STATS. 1937, CH. 90.)

1720.
(A) AS USED IN THIS CHAPTER, "PUBLIC WORKS" MEANS ALL OF THE FOLLOWING:
(1) CONSTRUCTION, ALTERATION, DEMOLITION, INSTALLATION, OR REPAIR WORK DONE UNDER CONTRACT AND PAID FOR IN WHOLE OR IN PART OUT OF PUBLIC FUNDS, EXCEPT WORK DONE DIRECTLY BY A PUBLIC UTILITY COMPANY PURSUANT TO ORDER OF THE PUBLIC UTILITIES COMMISSION OR OTHER PUBLIC AUTHORITY. FOR PURPOSES OF THIS PARAGRAPH, "CONSTRUCTION" INCLUDES WORK PERFORMED DURING THE DESIGN, SITE ASSESSMENT, FEASIBILITY STUDY, AND OTHER PRECONSTRUCTION PHASES OF CONSTRUCTION, INCLUDING, BUT NOT LIMITED TO, INSPECTION AND LAND SURVEYING WORK, REGARDLESS OF WHETHER ANY FURTHER CONSTRUCTION WORK IS CONDUCTED, AND WORK PERFORMED DURING THE POSTCONSTRUCTION PHASES OF CONSTRUCTION, INCLUDING, BUT NOT LIMITED TO, ALL CLEANUP WORK AT THE JOBSITE. FOR PURPOSES OF THIS PARAGRAPH, "INSTALLATION" INCLUDES, BUT IS NOT LIMITED TO, THE ASSEMBLY AND DISASSEMBLY OF FREESTANDING AND AFFIXED MODULAR OFFICE SYSTEMS.
(2) WORK DONE FOR IRRIGATION, UTILITY, RECLAMATION, AND IMPROVEMENT DISTRICTS, AND OTHER DISTRICTS OF THIS TYPE. "PUBLIC WORKS" DOES NOT INCLUDE THE OPERATION OF THE IRRIGATION OR DRAINAGE SYSTEM OF AN IRRIGATION OR RECLAMATION DISTRICT, EXCEPT AS USED IN SECTION 1778 RELATING TO RETAINING WAGES.
(3) STREET, SEWER, OR OTHER IMPROVEMENT WORK DONE UNDER THE DIRECTION AND SUPERVISION OR BY THE AUTHORITY OF AN OFFICER OR PUBLIC BODY OF THE STATE, OR OF A POLITICAL SUBDIVISION OR DISTRICT THEREOF, WHETHER THE POLITICAL SUBDIVISION OR DISTRICT OPERATES UNDER A FREEHOLDER'S CHARTER OR NOT.
(4) THE LAYING OF CARPET DONE UNDER A BUILDING LEASE-MAINTENANCE CONTRACT AND PAID FOR OUT OF PUBLIC FUNDS.
(5) THE LAYING OF CARPET IN A PUBLIC BUILDING DONE UNDER CONTRACT AND PAID FOR IN WHOLE OR IN PART OUT OF PUBLIC FUNDS.
(6) PUBLIC TRANSPORTATION DEMONSTRATION PROJECTS AUTHORIZED PURSUANT TO SECTION 143 OF THE STREETS AND HIGHWAYS CODE.
(7) (A) INFRASTRUCTURE PROJECT GRANTS FROM THE CALIFORNIA ADVANCED SERVICES FUND PURSUANT TO SECTION 281 OF THE PUBLIC UTILITIES CODE.
(B) FOR PURPOSES OF THIS PARAGRAPH, THE PUBLIC UTILITIES COMMISSION IS NOT THE AWARDING BODY OR THE BODY AWARDING THE CONTRACT, AS DEFINED IN SECTION 1722.
(8) TREE REMOVAL WORK DONE IN THE EXECUTION OF A PROJECT UNDER PARAGRAPH (1).
(B) FOR PURPOSES OF THIS SECTION, "PAID FOR IN WHOLE OR IN PART OUT OF PUBLIC FUNDS" MEANS ALL OF THE FOLLOWING:
(1) THE PAYMENT OF MONEY OR THE EQUIVALENT OF MONEY BY THE STATE OR POLITICAL SUBDIVISION DIRECTLY TO OR ON BEHALF OF THE PUBLIC WORKS CONTRACTOR, SUBCONTRACTOR, OR DEVELOPER.
(2) PERFORMANCE OF CONSTRUCTION WORK BY THE STATE OR POLITICAL SUBDIVISION IN EXECUTION OF THE PROJECT.
(3) TRANSFER BY THE STATE OR POLITICAL SUBDIVISION OF AN ASSET OF VALUE FOR LESS THAN FAIR MARKET PRICE.
(4) FEES, COSTS, RENTS, INSURANCE OR BOND PREMIUMS, LOANS, INTEREST RATES, OR OTHER OBLIGATIONS THAT WOULD NORMALLY BE REQUIRED IN THE EXECUTION OF THE CONTRACT, THAT ARE PAID, REDUCED, CHARGED AT LESS THAN FAIR MARKET VALUE, WAIVED, OR FORGIVEN BY THE STATE OR POLITICAL SUBDIVISION.
(5) MONEY LOANED BY THE STATE OR POLITICAL SUBDIVISION THAT IS TO BE REPAID ON A CONTINGENT BASIS.
(6) CREDITS THAT ARE APPLIED BY THE STATE OR POLITICAL SUBDIVISION AGAINST REPAYMENT OBLIGATIONS TO THE STATE OR POLITICAL SUBDIVISION.

(C) NOTWITHSTANDING SUBDIVISION (B), ALL OF THE FOLLOWING APPLY:
(1) PRIVATE RESIDENTIAL PROJECTS BUILT ON PRIVATE PROPERTY ARE NOT SUBJECT TO THIS CHAPTER UNLESS THE PROJECTS ARE BUILT PURSUANT TO AN AGREEMENT WITH A STATE AGENCY, A REDEVELOPMENT AGENCY, A SUCCESSOR AGENCY TO A REDEVELOPMENT AGENCY WHEN ACTING IN THAT CAPACITY, OR A LOCAL PUBLIC HOUSING AUTHORITY.
(2) IF THE STATE OR A POLITICAL SUBDIVISION REQUIRES A PRIVATE DEVELOPER TO PERFORM CONSTRUCTION, ALTERATION, DEMOLITION, INSTALLATION, OR REPAIR WORK ON A PUBLIC WORK OF IMPROVEMENT AS A CONDITION OF REGULATORY APPROVAL OF AN OTHERWISE PRIVATE DEVELOPMENT PROJECT, AND THE STATE OR POLITICAL SUBDIVISION CONTRIBUTES NO MORE MONEY, OR THE EQUIVALENT OF MONEY, TO THE OVERALL PROJECT THAN IS REQUIRED TO PERFORM THIS PUBLIC IMPROVEMENT WORK, AND THE STATE OR POLITICAL SUBDIVISION MAINTAINS NO PROPRIETARY INTEREST IN THE OVERALL PROJECT, THEN ONLY THE PUBLIC IMPROVEMENT WORK SHALL THEREBY BECOME SUBJECT TO THIS CHAPTER.
(3) (A) IF THE STATE OR A POLITICAL SUBDIVISION REIMBURSES A PRIVATE DEVELOPER FOR COSTS THAT WOULD NORMALLY BE BORNE BY THE PUBLIC, OR PROVIDES DIRECTLY OR INDIRECTLY A PUBLIC SUBSIDY TO A PRIVATE DEVELOPMENT PROJECT THAT IS DE MINIMIS IN THE CONTEXT OF THE PROJECT, AN OTHERWISE PRIVATE DEVELOPMENT PROJECT SHALL NOT THEREBY BECOME SUBJECT TO THIS CHAPTER.
(B) (I) FOR PURPOSES OF SUBPARAGRAPH (A), A PUBLIC SUBSIDY IS DE MINIMIS IF IT IS BOTH LESS THAN SIX HUNDRED THOUSAND DOLLARS ($600,000) AND LESS THAN 2 PERCENT OF THE TOTAL PROJECT COST.
(II) NOTWITHSTANDING CLAUSE (I), FOR PURPOSES OF SUBPARAGRAPH (A), A PUBLIC SUBSIDY FOR A PROJECT THAT CONSISTS ENTIRELY OF SINGLE-FAMILY DWELLINGS IS DE MINIMIS IF IT IS LESS THAN 2 PERCENT OF THE TOTAL PROJECT COST.
(III) THIS SUBPARAGRAPH SHALL NOT APPLY TO A PROJECT THAT WAS ADVERTISED FOR BID, OR A CONTRACT THAT WAS AWARDED, BEFORE JULY 1, 2021.
(4) THE CONSTRUCTION OR REHABILITATION OF AFFORDABLE HOUSING UNITS FOR LOW- OR MODERATE-INCOME PERSONS PURSUANT TO PARAGRAPH (5) OR (7) OF SUBDIVISION (E) OF SECTION 33334.2 OF THE HEALTH AND SAFETY CODE THAT ARE PAID FOR SOLELY WITH MONEYS FROM THE LOW AND MODERATE INCOME HOUSING FUND ESTABLISHED PURSUANT TO SECTION 33334.3 OF THE HEALTH AND SAFETY CODE OR THAT ARE PAID FOR BY A COMBINATION OF PRIVATE FUNDS AND FUNDS AVAILABLE PURSUANT TO SECTION 33334.2 OR 33334.3 OF THE HEALTH AND SAFETY CODE DO NOT CONSTITUTE A PROJECT THAT IS PAID FOR IN WHOLE OR IN PART OUT OF PUBLIC FUNDS.
(5) UNLESS OTHERWISE REQUIRED BY A PUBLIC FUNDING PROGRAM, THE CONSTRUCTION OR REHABILITATION OF PRIVATELY OWNED RESIDENTIAL PROJECTS IS NOT SUBJECT TO THIS CHAPTER IF ONE OR MORE OF THE FOLLOWING CONDITIONS ARE MET:
(A) THE PROJECT IS A SELF-HELP HOUSING PROJECT IN WHICH NO FEWER THAN 500 HOURS OF CONSTRUCTION WORK ASSOCIATED WITH THE HOMES ARE TO BE PERFORMED BY THE HOME BUYERS.
(B) THE PROJECT CONSISTS OF REHABILITATION OR EXPANSION WORK ASSOCIATED WITH A FACILITY OPERATED ON A NOT-FOR-PROFIT BASIS AS TEMPORARY OR TRANSITIONAL HOUSING FOR HOMELESS PERSONS WITH A TOTAL PROJECT COST OF LESS THAN TWENTY-FIVE THOUSAND DOLLARS ($25,000).
(C) ASSISTANCE IS PROVIDED TO A HOUSEHOLD AS EITHER MORTGAGE ASSISTANCE, DOWNPAYMENT ASSISTANCE, OR FOR THE REHABILITATION OF A SINGLE-FAMILY HOME.
(D) THE PROJECT CONSISTS OF NEW CONSTRUCTION, EXPANSION, OR REHABILITATION WORK ASSOCIATED WITH A FACILITY DEVELOPED BY A NONPROFIT ORGANIZATION TO BE OPERATED ON A NOT-FOR-PROFIT BASIS TO PROVIDE EMERGENCY OR TRANSITIONAL SHELTER AND ANCILLARY SERVICES AND ASSISTANCE TO HOMELESS ADULTS AND CHILDREN. THE NONPROFIT ORGANIZATION OPERATING THE PROJECT SHALL PROVIDE, AT NO PROFIT, NOT LESS THAN 50 PERCENT OF THE TOTAL PROJECT COST FROM NONPUBLIC SOURCES, EXCLUDING REAL PROPERTY THAT IS TRANSFERRED OR LEASED. TOTAL PROJECT COST INCLUDES THE VALUE OF DONATED LABOR, MATERIALS, AND ARCHITECTURAL AND ENGINEERING SERVICES.
(E) THE PUBLIC PARTICIPATION IN THE PROJECT THAT WOULD OTHERWISE MEET THE CRITERIA OF SUBDIVISION (B) IS PUBLIC FUNDING IN THE FORM OF BELOW-MARKET INTEREST RATE LOANS FOR A PROJECT IN WHICH OCCUPANCY OF AT LEAST 40 PERCENT OF THE UNITS IS RESTRICTED FOR AT LEAST 20 YEARS, BY DEED OR REGULATORY AGREEMENT, TO INDIVIDUALS OR FAMILIES EARNING NO MORE THAN 80 PERCENT OF THE AREA MEDIAN INCOME.
(D) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE FOLLOWING PROJECTS ARE NOT, SOLELY BY REASON OF THIS SECTION, SUBJECT TO THIS CHAPTER:
(1) QUALIFIED RESIDENTIAL RENTAL PROJECTS, AS DEFINED BY SECTION 142(D) OF THE INTERNAL REVENUE CODE, FINANCED IN WHOLE OR IN PART THROUGH THE ISSUANCE OF BONDS THAT RECEIVE ALLOCATION OF A PORTION OF THE STATE CEILING PURSUANT TO CHAPTER 11.8 (COMMENCING WITH SECTION 8869.80) OF DIVISION 1 OF TITLE 2 OF THE GOVERNMENT CODE ON OR BEFORE DECEMBER 31, 2003.
(2) SINGLE-FAMILY RESIDENTIAL PROJECTS FINANCED IN WHOLE OR IN PART THROUGH THE ISSUANCE OF QUALIFIED MORTGAGE REVENUE BONDS OR QUALIFIED VETERANS' MORTGAGE BONDS, AS DEFINED BY SECTION 143 OF THE INTERNAL REVENUE CODE, OR WITH MORTGAGE CREDIT CERTIFICATES UNDER A QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM, AS DEFINED BY SECTION 25 OF THE INTERNAL REVENUE CODE, THAT RECEIVE ALLOCATION OF A PORTION OF THE STATE CEILING PURSUANT TO CHAPTER 11.8 (COMMENCING WITH SECTION 8869.80) OF DIVISION 1 OF TITLE 2 OF THE GOVERNMENT CODE ON OR BEFORE DECEMBER 31, 2003.
(3) LOW-INCOME HOUSING PROJECTS THAT ARE ALLOCATED FEDERAL OR STATE LOW-INCOME HOUSING TAX CREDITS PURSUANT TO SECTION 42 OF THE INTERNAL REVENUE CODE, CHAPTER 3.6 (COMMENCING WITH SECTION 50199.4) OF PART 1 OF DIVISION 31 OF THE HEALTH AND SAFETY CODE, OR SECTION 12206, 17058, OR 23610.5 OF THE REVENUE AND TAXATION CODE, ON OR BEFORE DECEMBER 31, 2003.
(E) NOTWITHSTANDING PARAGRAPH (1) OF SUBDIVISION (A), CONSTRUCTION, ALTERATION, DEMOLITION, INSTALLATION, OR REPAIR WORK ON THE ELECTRIC TRANSMISSION SYSTEM LOCATED IN CALIFORNIA CONSTITUTES A PUBLIC WORKS PROJECT FOR THE PURPOSES OF THIS CHAPTER.
(F) IF A STATUTE, OTHER THAN THIS SECTION, OR A REGULATION, OTHER THAN A REGULATION ADOPTED PURSUANT TO THIS SECTION, OR AN ORDINANCE OR A CONTRACT APPLIES THIS CHAPTER TO A PROJECT, THE EXCLUSIONS SET FORTH IN SUBDIVISION (D) DO NOT APPLY TO THAT PROJECT.

(G) FOR PURPOSES OF THIS SECTION, REFERENCES TO THE INTERNAL REVENUE CODE MEAN THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, AND INCLUDE THE CORRESPONDING PREDECESSOR SECTIONS OF THE INTERNAL REVENUE CODE OF 1954, AS AMENDED.
(H) THE AMENDMENTS MADE TO THIS SECTION BY EITHER CHAPTER 938 OF THE STATUTES OF 2001 OR THE ACT ADDING THIS SUBDIVISION SHALL NOT BE CONSTRUED TO PREEMPT LOCAL ORDINANCES REQUIRING THE PAYMENT OF PREVAILING WAGES ON HOUSING PROJECTS.
(AMENDED BY STATS. 2020, CH. 346, SEC. 1. (AB 2231) EFFECTIVE JANUARY 1, 2021.)

LABOR CODE - LAB
DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
(PART 7 ENACTED BY STATS. 1937, CH. 90.)

CHAPTER 1. PUBLIC WORKS [1720 - 1861]
(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 1. SCOPE AND OPERATION [1720 - 1743]
(ARTICLE 1 ENACTED BY STATS. 1937, CH. 90.)

1725.5.
A CONTRACTOR SHALL BE REGISTERED PURSUANT TO THIS SECTION TO BE QUALIFIED TO BID ON, BE LISTED IN A BID PROPOSAL, SUBJECT TO THE REQUIREMENTS OF SECTION 4104 OF THE PUBLIC CONTRACT CODE, OR ENGAGE IN THE PERFORMANCE OF ANY PUBLIC WORK CONTRACT THAT IS SUBJECT TO THE REQUIREMENTS OF THIS CHAPTER. FOR THE PURPOSES OF THIS SECTION, "CONTRACTOR" INCLUDES A SUBCONTRACTOR AS DEFINED BY SECTION 1722.1.
(A) TO QUALIFY FOR REGISTRATION UNDER THIS SECTION, A CONTRACTOR SHALL DO ALL OF THE FOLLOWING:
(1) (A) REGISTER WITH THE DEPARTMENT OF INDUSTRIAL RELATIONS IN THE MANNER PRESCRIBED BY THE DEPARTMENT AND PAY AN INITIAL NONREFUNDABLE APPLICATION FEE OF FOUR HUNDRED DOLLARS ($400) TO QUALIFY FOR REGISTRATION UNDER THIS SECTION AND AN ANNUAL RENEWAL FEE ON OR BEFORE JULY 1 OF EACH YEAR THEREAFTER. THE DIRECTOR MAY ESTABLISH AND ADJUST ANNUAL REGISTRATION AND RENEWAL FEES BY PUBLISHING THE FEES ON THE DEPARTMENT'S INTERNET WEBSITE. THE INITIAL REGISTRATION AND RENEWAL FEES MAY BE ADJUSTED NO MORE THAN ANNUALLY BY THE DIRECTOR TO SUPPORT THE COSTS SPECIFIED IN SECTION 1771.3.
(B) BEGINNING JUNE 1, 2019, A CONTRACTOR MAY REGISTER OR RENEW ACCORDING TO THIS SUBDIVISION IN ANNUAL INCREMENTS UP TO THREE YEARS FROM THE DATE OF REGISTRATION. CONTRACTORS WHO WISH TO DO SO WILL BE REQUIRED TO PREPAY THE APPLICABLE NONREFUNDABLE APPLICATION OR RENEWAL FEES TO QUALIFY FOR THE NUMBER OF YEARS FOR WHICH THEY WISH TO PREREGISTER.
(2) PROVIDE EVIDENCE, DISCLOSURES, OR RELEASES AS ARE NECESSARY TO ESTABLISH ALL OF THE FOLLOWING:
(A) WORKERS' COMPENSATION COVERAGE THAT MEETS THE REQUIREMENTS OF DIVISION 4 (COMMENCING WITH SECTION 3200) AND INCLUDES SUFFICIENT COVERAGE FOR ANY WORKER WHOM THE CONTRACTOR EMPLOYS TO PERFORM WORK THAT IS SUBJECT TO PREVAILING WAGE REQUIREMENTS OTHER THAN A CONTRACTOR WHO IS SEPARATELY REGISTERED UNDER THIS SECTION. COVERAGE MAY BE EVIDENCED BY A CURRENT AND VALID CERTIFICATE OF WORKERS' COMPENSATION INSURANCE OR CERTIFICATION OF SELF-INSURANCE REQUIRED UNDER SECTION 7125 OF THE BUSINESS AND PROFESSIONS CODE.
(B) IF APPLICABLE, THE CONTRACTOR IS LICENSED IN ACCORDANCE WITH CHAPTER 9 (COMMENCING WITH SECTION 7000) OF THE BUSINESS AND PROFESSIONS CODE.
(C) THE CONTRACTOR DOES NOT HAVE ANY DELINQUENT LIABILITY TO AN EMPLOYEE OR THE STATE FOR ANY ASSESSMENT OF BACK WAGES OR RELATED DAMAGES, INTEREST, FINES, OR PENALTIES PURSUANT TO ANY FINAL JUDGMENT, ORDER, OR DETERMINATION BY A COURT OR ANY FEDERAL, STATE, OR LOCAL ADMINISTRATIVE AGENCY, INCLUDING A CONFIRMED ARBITRATION AWARD. HOWEVER, FOR PURPOSES OF THIS PARAGRAPH, THE CONTRACTOR SHALL NOT BE DISQUALIFIED FOR ANY JUDGMENT, ORDER, OR DETERMINATION THAT IS UNDER APPEAL, PROVIDED THAT THE CONTRACTOR HAS SECURED THE PAYMENT OF ANY AMOUNT EVENTUALLY FOUND DUE THROUGH A BOND OR OTHER APPROPRIATE MEANS.
(D) THE CONTRACTOR IS NOT CURRENTLY DEBARRED UNDER SECTION 1777.1 OR UNDER ANY OTHER FEDERAL OR STATE LAW PROVIDING FOR THE DEBARMENT OF CONTRACTORS FROM PUBLIC WORKS.
(E) THE CONTRACTOR HAS NOT BID ON A PUBLIC WORKS CONTRACT, BEEN LISTED IN A BID PROPOSAL, OR ENGAGED IN THE PERFORMANCE OF A CONTRACT FOR PUBLIC WORKS WITHOUT BEING LAWFULLY REGISTERED IN ACCORDANCE WITH THIS SECTION, WITHIN THE PRECEDING 12 MONTHS OR SINCE THE EFFECTIVE DATE OF THE REQUIREMENTS SET FORTH IN SUBDIVISION (E), WHICHEVER IS EARLIER, AND HAS NOT BEEN AWARDED A CONTRACT FOR, OR HAS NOT ENGAGED IN THE PERFORMANCE OF, WORK ON PROJECTS OR DEVELOPMENTS WITHOUT BEING LAWFULLY REGISTERED IN ACCORDANCE WITH SECTION 1725.6 WITHIN THE PRECEDING 12 MONTHS. IF A CONTRACTOR IS FOUND TO BE IN VIOLATION OF THE REQUIREMENTS OF THIS PARAGRAPH, THE PERIOD OF DISQUALIFICATION SHALL BE WAIVED IF BOTH OF THE FOLLOWING ARE TRUE:
(I) THE CONTRACTOR HAS NOT PREVIOUSLY BEEN FOUND TO BE IN VIOLATION OF THE REQUIREMENTS OF THIS PARAGRAPH WITHIN THE PRECEDING 12 MONTHS.
(II) THE CONTRACTOR PAYS AN ADDITIONAL NONREFUNDABLE PENALTY REGISTRATION FEE OF TWO THOUSAND DOLLARS ($2,000).

(B) FEES RECEIVED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE STATE PUBLIC WORKS ENFORCEMENT FUND ESTABLISHED BY SECTION 1771.3 AND SHALL BE USED ONLY FOR THE PURPOSES SPECIFIED IN THAT SECTION.
(C) A CONTRACTOR WHO FAILS TO PAY THE RENEWAL FEE REQUIRED UNDER PARAGRAPH (1) OF SUBDIVISION (A) ON OR BEFORE THE EXPIRATION OF ANY PRIOR PERIOD OF REGISTRATION SHALL BE PROHIBITED FROM BIDDING ON OR ENGAGING IN THE PERFORMANCE OF ANY CONTRACT FOR PUBLIC WORK UNTIL ONCE AGAIN REGISTERED PURSUANT TO THIS SECTION. IF THE FAILURE TO PAY THE RENEWAL FEE WAS INADVERTENT, THE CONTRACTOR MAY RENEW ITS REGISTRATION RETROACTIVELY BY PAYING AN ADDITIONAL NONREFUNDABLE PENALTY RENEWAL FEE EQUAL TO THE AMOUNT OF THE RENEWAL FEE WITHIN 90 DAYS OF THE DUE DATE OF THE RENEWAL FEE.
(D) IF, AFTER A BODY AWARDING A CONTRACT ACCEPTS THE CONTRACTOR'S BID OR AWARDS THE CONTRACT, THE WORK COVERED BY THE BID OR CONTRACT IS DETERMINED TO BE A PUBLIC WORK TO WHICH SECTION 1771 APPLIES, EITHER AS THE RESULT OF A DETERMINATION BY THE DIRECTOR PURSUANT TO SECTION 1773.5 OR A COURT DECISION, THE REQUIREMENTS OF THIS SECTION SHALL NOT APPLY, SUBJECT TO THE FOLLOWING REQUIREMENTS:
(1) THE BODY THAT AWARDED THE CONTRACT FAILED, IN THE BID SPECIFICATION OR IN THE CONTRACT DOCUMENTS, TO IDENTIFY AS A PUBLIC WORK THAT PORTION OF THE WORK THAT THE DETERMINATION OR DECISION SUBSEQUENTLY CLASSIFIES AS A PUBLIC WORK.
(2) WITHIN 20 DAYS FOLLOWING SERVICE OF NOTICE ON THE AWARDING BODY OF A DETERMINATION BY THE DIRECTOR OF INDUSTRIAL RELATIONS PURSUANT TO SECTION 1773.5 OR A DECISION BY A COURT THAT THE CONTRACT WAS FOR PUBLIC WORK AS DEFINED IN THIS CHAPTER, THE CONTRACTOR AND ANY SUBCONTRACTORS ARE REGISTERED UNDER THIS SECTION OR ARE REPLACED BY A CONTRACTOR OR SUBCONTRACTORS WHO ARE REGISTERED UNDER THIS SECTION.
(3) THE REQUIREMENTS OF THIS SECTION SHALL APPLY PROSPECTIVELY ONLY TO ANY SUBSEQUENT BID, BID PROPOSAL, CONTRACT, OR WORK PERFORMED AFTER THE AWARDING BODY IS SERVED WITH NOTICE OF THE DETERMINATION OR DECISION REFERRED TO IN PARAGRAPH (2).
(E) THE REQUIREMENTS OF THIS SECTION SHALL APPLY TO ANY BID PROPOSAL SUBMITTED ON OR AFTER MARCH 1, 2015, TO ANY CONTRACT FOR PUBLIC WORK, AS DEFINED IN THIS CHAPTER, EXECUTED ON OR AFTER APRIL 1, 2015, AND TO ANY WORK PERFORMED UNDER A CONTRACT FOR PUBLIC WORK ON OR AFTER JANUARY 1, 2018, REGARDLESS OF WHEN THE CONTRACT FOR PUBLIC WORK WAS EXECUTED.
(F) THIS SECTION DOES NOT APPLY TO WORK PERFORMED ON A PUBLIC WORKS PROJECT OF TWENTY-FIVE THOUSAND DOLLARS ($25,000) OR LESS WHEN THE PROJECT IS FOR CONSTRUCTION, ALTERATION, DEMOLITION, INSTALLATION, OR REPAIR WORK OR TO WORK PERFORMED ON A PUBLIC WORKS PROJECT OF FIFTEEN THOUSAND DOLLARS ($15,000) OR LESS WHEN THE PROJECT IS FOR MAINTENANCE WORK.
(G) A CONTRACTOR THAT HAS PAID THE REGISTRATION OR RENEWAL FEE AND IS REGISTERED UNDER SECTION 1725.6 SHALL NOT PAY THE REGISTRATION OR RENEWAL FEE REQUIRED UNDER PARAGRAPH (1) OF SUBDIVISION (A) TO REGISTER AS A CONTRACTOR UNDER THIS SECTION.
(H) THIS SECTION SHALL REMAIN IN EFFECT ONLY UNTIL JULY 1, 2026, AND AS OF THAT DATE IS REPEALED.
(AMENDED (AS AMENDED BY STATS. 2023, CH. 39, SEC. 23) BY STATS. 2024, CH. 52, SEC. 21. (AB 171) EFFECTIVE JULY 2, 2024. REPEALED AS OF JULY 1, 2026, BY ITS OWN PROVISIONS. SEE LATER OPERATIVE VERSION, AS AMENDED BY SEC. 22 OF STATS. 2024, CH.52.)

LABOR CODE - LAB
DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
(PART 7 ENACTED BY STATS. 1937, CH. 90.)

CHAPTER 1. PUBLIC WORKS [1720 - 1861]
(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 2. WAGES [1770 - 1785]
(ARTICLE 2 ENACTED BY STATS. 1937, CH. 90.)

1771.
EXCEPT FOR PUBLIC WORKS PROJECTS OF ONE THOUSAND DOLLARS ($1,000) OR LESS, NOT LESS THAN THE GENERAL PREVAILING RATE OF PER DIEM WAGES FOR WORK OF A SIMILAR CHARACTER IN THE LOCALITY IN WHICH THE PUBLIC WORK IS PERFORMED, AND NOT LESS THAN THE GENERAL PREVAILING RATE OF PER DIEM WAGES FOR HOLIDAY AND OVERTIME WORK FIXED AS PROVIDED IN THIS CHAPTER, SHALL BE PAID TO ALL WORKERS EMPLOYED ON PUBLIC WORKS.
THIS SECTION IS APPLICABLE ONLY TO WORK PERFORMED UNDER CONTRACT, AND IS NOT APPLICABLE TO WORK CARRIED OUT BY A PUBLIC AGENCY WITH ITS OWN FORCES. THIS SECTION IS APPLICABLE TO CONTRACTS LET FOR MAINTENANCE WORK.
(AMENDED BY STATS. 1981, CH. 449, SEC. 1.)
LABOR CODE - LAB
DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
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CHAPTER 1. PUBLIC WORKS [1720 - 1861]
(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 2. WAGES [1770 - 1785]
(ARTICLE 2 ENACTED BY STATS. 1937, CH. 90.)

1771.1.
(A) A CONTRACTOR OR SUBCONTRACTOR SHALL NOT BE QUALIFIED TO BID ON, BE LISTED IN A BID PROPOSAL, SUBJECT TO THE REQUIREMENTS OF SECTION 4104 OF THE PUBLIC CONTRACT CODE, OR ENGAGE IN THE PERFORMANCE OF ANY CONTRACT FOR PUBLIC WORK, AS DEFINED IN THIS CHAPTER, UNLESS CURRENTLY REGISTERED AND QUALIFIED TO PERFORM PUBLIC WORK PURSUANT TO SECTION 1725.5. IT IS NOT A VIOLATION OF THIS SECTION FOR AN UNREGISTERED CONTRACTOR TO SUBMIT A BID THAT IS AUTHORIZED BY SECTION 7029.1 OF THE BUSINESS AND PROFESSIONS CODE OR BY SECTION 10164 OR 20103.5 OF THE PUBLIC CONTRACT CODE, PROVIDED THE CONTRACTOR IS REGISTERED TO PERFORM PUBLIC WORK PURSUANT TO SECTION 1725.5 AT THE TIME THE CONTRACT IS AWARDED.
(B) NOTICE OF THE REQUIREMENT DESCRIBED IN SUBDIVISION (A) SHALL BE INCLUDED IN ALL BID INVITATIONS AND PUBLIC WORKS CONTRACTS, AND A BID SHALL NOT BE ACCEPTED NOR ANY CONTRACT OR SUBCONTRACT ENTERED INTO WITHOUT PROOF OF THE CONTRACTOR OR SUBCONTRACTOR'S CURRENT REGISTRATION TO PERFORM PUBLIC WORK PURSUANT TO SECTION 1725.5.
(C) AN INADVERTENT ERROR IN LISTING A SUBCONTRACTOR WHO IS NOT REGISTERED PURSUANT TO SECTION 1725.5 IN A BID PROPOSAL SHALL NOT BE GROUNDS FOR FILING A BID PROTEST OR GROUNDS FOR CONSIDERING THE BID NONRESPONSIVE, PROVIDED THAT ANY OF THE FOLLOWING APPLY:
(1) THE SUBCONTRACTOR IS REGISTERED PRIOR TO THE BID OPENING.
(2) WITHIN 24 HOURS AFTER THE BID OPENING, THE SUBCONTRACTOR IS REGISTERED AND HAS PAID THE PENALTY REGISTRATION FEE SPECIFIED IN SUBPARAGRAPH (E) OF PARAGRAPH (2) OF SUBDIVISION (A) OF SECTION 1725.5.
(3) THE SUBCONTRACTOR IS REPLACED BY ANOTHER REGISTERED SUBCONTRACTOR PURSUANT TO SECTION 4107 OF THE PUBLIC CONTRACT CODE.
(D) FAILURE BY A SUBCONTRACTOR TO BE REGISTERED TO PERFORM PUBLIC WORK AS REQUIRED BY SUBDIVISION (A) SHALL BE GROUNDS UNDER SECTION 4107 OF THE PUBLIC CONTRACT CODE FOR THE CONTRACTOR, WITH THE CONSENT OF THE AWARDING AUTHORITY, TO SUBSTITUTE A SUBCONTRACTOR WHO IS REGISTERED TO PERFORM PUBLIC WORK PURSUANT TO SECTION 1725.5 IN PLACE OF THE UNREGISTERED SUBCONTRACTOR.
(E) THE DEPARTMENT SHALL MAINTAIN ON ITS INTERNET WEBSITE A LIST OF CONTRACTORS WHO ARE CURRENTLY REGISTERED TO PERFORM PUBLIC WORK PURSUANT TO SECTION 1725.5.
(F) A CONTRACT ENTERED INTO WITH ANY CONTRACTOR OR SUBCONTRACTOR IN VIOLATION OF SUBDIVISION (A) SHALL BE SUBJECT TO CANCELLATION, PROVIDED THAT A CONTRACT FOR PUBLIC WORK SHALL NOT BE UNLAWFUL, VOID, OR VOIDABLE SOLELY DUE TO THE FAILURE OF THE AWARDING BODY, CONTRACTOR, OR ANY SUBCONTRACTOR TO COMPLY WITH THE REQUIREMENTS OF SECTION 1725.5 OR THIS SECTION.
(G) IF THE LABOR COMMISSIONER OR THEIR DESIGNEE DETERMINES THAT A CONTRACTOR OR SUBCONTRACTOR ENGAGED IN THE PERFORMANCE OF ANY PUBLIC WORK CONTRACT WITHOUT HAVING BEEN REGISTERED IN ACCORDANCE WITH THIS SECTION, THE CONTRACTOR OR SUBCONTRACTOR SHALL FORFEIT, AS A CIVIL PENALTY TO THE STATE, ONE HUNDRED DOLLARS ($100) FOR EACH DAY OF WORK PERFORMED IN VIOLATION OF THE REGISTRATION REQUIREMENT, NOT TO EXCEED AN AGGREGATE PENALTY OF EIGHT THOUSAND DOLLARS ($8,000) IN ADDITION TO ANY PENALTY REGISTRATION FEE ASSESSED PURSUANT TO CLAUSE (II) OF SUBPARAGRAPH (E) OF PARAGRAPH (2) OF SUBDIVISION (A) OF SECTION 1725.5.
(H) (1) IN ADDITION TO, OR IN LIEU OF, ANY OTHER PENALTY OR SANCTION AUTHORIZED PURSUANT TO THIS CHAPTER, A HIGHER TIERED PUBLIC WORKS CONTRACTOR OR SUBCONTRACTOR WHO IS FOUND TO HAVE ENTERED INTO A SUBCONTRACT WITH AN UNREGISTERED LOWER TIER SUBCONTRACTOR TO PERFORM ANY PUBLIC WORK IN VIOLATION OF THE REQUIREMENTS OF SECTION 1725.5 OR THIS SECTION SHALL BE SUBJECT TO FORFEITURE, AS A CIVIL PENALTY TO THE STATE, OF ONE HUNDRED DOLLARS ($100) FOR EACH DAY THE UNREGISTERED LOWER TIER SUBCONTRACTOR PERFORMS WORK IN VIOLATION OF THE REGISTRATION REQUIREMENT, NOT TO EXCEED AN AGGREGATE PENALTY OF TEN THOUSAND DOLLARS ($10,000).
(2) THE LABOR COMMISSIONER SHALL USE THE SAME STANDARDS SPECIFIED IN SUBPARAGRAPH (A) OF PARAGRAPH (2) OF SUBDIVISION (A) OF SECTION 1775 WHEN DETERMINING THE SEVERITY OF THE VIOLATION AND WHAT PENALTY TO ASSESS, AND MAY WAIVE THE PENALTY FOR A FIRST TIME VIOLATION THAT WAS UNINTENTIONAL AND DID NOT HINDER THE LABOR COMMISSIONER'S ABILITY TO MONITOR AND ENFORCE COMPLIANCE WITH THE REQUIREMENTS OF THIS CHAPTER.
(3) A HIGHER TIERED PUBLIC WORKS CONTRACTOR OR SUBCONTRACTOR SHALL NOT BE LIABLE FOR PENALTIES ASSESSED PURSUANT TO PARAGRAPH (1) IF THE LOWER TIER SUBCONTRACTOR'S PERFORMANCE IS IN VIOLATION OF THE REQUIREMENTS OF SECTION 1725.5 DUE TO THE REVOCATION OF A PREVIOUSLY APPROVED REGISTRATION.
(4) A SUBCONTRACTOR SHALL NOT BE LIABLE FOR ANY PENALTIES ASSESSED AGAINST A HIGHER TIERED PUBLIC WORKS CONTRACTOR OR SUBCONTRACTOR PURSUANT TO PARAGRAPH (1). A HIGHER TIERED PUBLIC WORKS CONTRACTOR OR SUBCONTRACTOR MAY NOT REQUIRE A LOWER TIERED SUBCONTRACTOR TO INDEMNIFY OR OTHERWISE BE LIABLE FOR ANY PENALTIES PURSUANT TO PARAGRAPH (1).
(I) THE LABOR COMMISSIONER OR THEIR DESIGNEE SHALL ISSUE A CIVIL WAGE AND PENALTY ASSESSMENT, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 1741, UPON DETERMINATION OF PENALTIES PURSUANT TO SUBDIVISION (G) AND PARAGRAPH (1) OF SUBDIVISION (H). REVIEW OF A CIVIL WAGE AND PENALTY ASSESSMENT ISSUED UNDER THIS SUBDIVISION MAY BE REQUESTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 1742. THE REGULATIONS OF THE DIRECTOR OF INDUSTRIAL RELATIONS, WHICH GOVERN PROCEEDINGS FOR REVIEW OF CIVIL WAGE AND PENALTY ASSESSMENTS AND THE

WITHHOLDING OF CONTRACT PAYMENTS UNDER ARTICLE 1 (COMMENCING WITH SECTION 1720) AND ARTICLE 2 (COMMENCING WITH SECTION 1770), SHALL APPLY.
(J) (1) WHERE A CONTRACTOR OR SUBCONTRACTOR ENGAGES IN THE PERFORMANCE OF ANY PUBLIC WORK CONTRACT WITHOUT HAVING BEEN REGISTERED IN VIOLATION OF THE REQUIREMENTS OF SECTION 1725.5 OR THIS SECTION, THE LABOR COMMISSIONER SHALL ISSUE AND SERVE A STOP ORDER PROHIBITING THE USE OF THE UNREGISTERED CONTRACTOR OR THE UNREGISTERED SUBCONTRACTOR ON ALL PUBLIC WORKS UNTIL THE UNREGISTERED CONTRACTOR OR UNREGISTERED SUBCONTRACTOR IS REGISTERED. THE STOP ORDER SHALL NOT APPLY TO WORK BY REGISTERED CONTRACTORS OR SUBCONTRACTORS ON THE PUBLIC WORK.
(2) A STOP ORDER MAY BE PERSONALLY SERVED UPON THE CONTRACTOR OR SUBCONTRACTOR BY EITHER OF THE FOLLOWING METHODS:
(A) MANUAL DELIVERY OF THE ORDER TO THE CONTRACTOR OR SUBCONTRACTOR PERSONALLY.
(B) LEAVING SIGNED COPIES OF THE ORDER WITH THE PERSON WHO IS APPARENTLY IN CHARGE AT THE SITE OF THE PUBLIC WORK AND BY THEREAFTER MAILING COPIES OF THE ORDER BY FIRST-CLASS MAIL, POSTAGE PREPAID TO THE CONTRACTOR OR SUBCONTRACTOR AT ONE OF THE FOLLOWING:
(I) THE ADDRESS OF THE CONTRACTOR OR SUBCONTRACTOR ON FILE WITH EITHER THE SECRETARY OF STATE OR THE CONTRACTORS STATE LICENSE BOARD.
(II) IF THE CONTRACTOR OR SUBCONTRACTOR HAS NO ADDRESS ON FILE WITH THE SECRETARY OF STATE OR THE CONTRACTORS STATE LICENSE BOARD, THE ADDRESS OF THE SITE OF THE PUBLIC WORK.
(3) THE STOP ORDER SHALL BE EFFECTIVE IMMEDIATELY UPON SERVICE AND SHALL BE SUBJECT TO APPEAL BY THE PARTY CONTRACTING WITH THE UNREGISTERED CONTRACTOR OR SUBCONTRACTOR, BY THE UNREGISTERED CONTRACTOR OR SUBCONTRACTOR, OR BOTH. THE APPEAL, HEARING, AND ANY FURTHER REVIEW OF THE HEARING DECISION SHALL BE GOVERNED BY THE PROCEDURES, TIME LIMITS, AND OTHER REQUIREMENTS SPECIFIED IN SUBDIVISION (A) OF SECTION 238.1.
(4) ANY EMPLOYEE OF AN UNREGISTERED CONTRACTOR OR SUBCONTRACTOR WHO IS AFFECTED BY A WORK STOPPAGE ORDERED BY THE COMMISSIONER PURSUANT TO THIS SUBDIVISION SHALL BE PAID AT THEIR REGULAR HOURLY PREVAILING WAGE RATE BY THAT EMPLOYER FOR ANY HOURS THE EMPLOYEE WOULD HAVE WORKED BUT FOR THE WORK STOPPAGE, NOT TO EXCEED 10 DAYS.
(K) FAILURE OF A CONTRACTOR OR SUBCONTRACTOR, OWNER, DIRECTOR, OFFICER, OR MANAGING AGENT OF THE CONTRACTOR OR SUBCONTRACTOR TO OBSERVE A STOP ORDER ISSUED AND SERVED UPON THEM PURSUANT TO SUBDIVISION (J) IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT IN COUNTY JAIL NOT EXCEEDING 60 DAYS OR BY A FINE NOT EXCEEDING TEN THOUSAND DOLLARS ($10,000), OR BOTH.
(L) THIS SECTION SHALL APPLY TO ANY BID PROPOSAL SUBMITTED ON OR AFTER MARCH 1, 2015, AND ANY CONTRACT FOR PUBLIC WORK ENTERED INTO ON OR AFTER APRIL 1, 2015. THIS SECTION SHALL ALSO APPLY TO THE PERFORMANCE OF ANY PUBLIC WORK, AS DEFINED IN THIS CHAPTER, ON OR AFTER JANUARY 1, 2018, REGARDLESS OF WHEN THE CONTRACT FOR PUBLIC WORK WAS ENTERED.
(M) PENALTIES RECEIVED PURSUANT TO THIS SECTION SHALL BE DEPOSITED IN THE STATE PUBLIC WORKS ENFORCEMENT FUND ESTABLISHED BY SECTION 1771.3 AND SHALL BE USED ONLY FOR THE PURPOSES SPECIFIED IN THAT SECTION.
(N) THIS SECTION SHALL NOT APPLY TO WORK PERFORMED ON A PUBLIC WORKS PROJECT OF TWENTY-FIVE THOUSAND DOLLARS ($25,000) OR LESS WHEN THE PROJECT IS FOR CONSTRUCTION, ALTERATION, DEMOLITION, INSTALLATION, OR REPAIR WORK OR TO WORK PERFORMED ON A PUBLIC WORKS PROJECT OF FIFTEEN THOUSAND DOLLARS ($15,000) OR LESS WHEN THE PROJECT IS FOR MAINTENANCE WORK.
(O) AWARDING AUTHORITIES SHALL ANNUALLY SUBMIT TO THE DEPARTMENT OF INDUSTRIAL RELATIONS' ELECTRONIC PROJECT REGISTRATION DATABASE A LIST OF CONTRACTORS THAT ARE INELIGIBLE TO BID ON OR BE AWARDED A PUBLIC WORKS CONTRACT, OR TO PERFORM WORK AS A SUBCONTRACTOR ON A PUBLIC WORKS PROJECT, PURSUANT TO LOCAL DEBARMENT OR SUSPENSION PROCESSES. THE ELECTRONIC DATABASE LIST SHALL CONTAIN THE NAME OF THE CONTRACTOR, THE CONTRACTORS STATE LICENSE BOARD LICENSE NUMBER OF THE CONTRACTOR, THE SPECIFIC JURISDICTION WHERE THE DEBARMENT OR SUSPENSION APPLIES, AND THE EFFECTIVE PERIOD OF DEBARMENT OR SUSPENSION OF THE CONTRACTOR. THE ELECTRONIC DATABASE LIST SHALL BE UPDATED AT LEAST ANNUALLY. THE DEPARTMENT SHALL MAKE THE LISTS PROVIDED BY AWARDING AUTHORITIES AVAILABLE TO THE PUBLIC THROUGH ITS PROJECT REGISTRATION DATABASE, BUT SHALL HAVE NO RESPONSIBILITY FOR VERIFYING OR ENSURING THE ACCURACY OF THE INFORMATION PROVIDED BY AWARDING AUTHORITIES, AND SHALL HAVE NO LIABILITY IN ANY RESPECT WITH REGARD TO SUCH LISTS.
(AMENDED BY STATS. 2023, CH. 465, SEC. 1. (AB 1121) EFFECTIVE JANUARY 1, 2024.)
LABOR CODE - LAB
DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
(PART 7 ENACTED BY STATS. 1937, CH. 90.)

CHAPTER 1. PUBLIC WORKS [1720 - 1861]
(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 2. WAGES [1770 - 1785]
(ARTICLE 2 ENACTED BY STATS. 1937, CH. 90.)

1775.

(A) (1) THE CONTRACTOR AND ANY SUBCONTRACTOR UNDER THE CONTRACTOR SHALL, AS A PENALTY TO THE STATE OR POLITICAL SUBDIVISION ON WHOSE BEHALF THE CONTRACT IS MADE OR AWARDED, FORFEIT NOT MORE THAN TWO HUNDRED DOLLARS ($200) FOR EACH CALENDAR DAY, OR PORTION THEREOF, FOR EACH WORKER PAID LESS THAN THE PREVAILING WAGE RATES AS DETERMINED BY THE DIRECTOR FOR THE WORK OR CRAFT IN WHICH THE WORKER IS EMPLOYED FOR ANY PUBLIC WORK DONE UNDER THE CONTRACT BY THE CONTRACTOR OR, EXCEPT AS PROVIDED IN SUBDIVISION (B), BY ANY SUBCONTRACTOR UNDER THE CONTRACTOR.
(2) (A) THE AMOUNT OF THE PENALTY SHALL BE DETERMINED BY THE LABOR COMMISSIONER BASED ON CONSIDERATION OF BOTH OF THE FOLLOWING:
(I) WHETHER THE FAILURE OF THE CONTRACTOR OR SUBCONTRACTOR TO PAY THE CORRECT RATE OF PER DIEM WAGES WAS A GOOD FAITH MISTAKE AND, IF SO, THE ERROR WAS PROMPTLY AND VOLUNTARILY CORRECTED WHEN BROUGHT TO THE ATTENTION OF THE CONTRACTOR OR SUBCONTRACTOR.
(II) WHETHER THE CONTRACTOR OR SUBCONTRACTOR HAS A PRIOR RECORD OF FAILING TO MEET ITS PREVAILING WAGE OBLIGATIONS.
(B) (I) THE PENALTY MAY NOT BE LESS THAN FORTY DOLLARS ($40) FOR EACH CALENDAR DAY, OR PORTION THEREOF, FOR EACH WORKER PAID LESS THAN THE PREVAILING WAGE RATE, UNLESS THE FAILURE OF THE CONTRACTOR OR SUBCONTRACTOR TO PAY THE CORRECT RATE OF PER DIEM WAGES WAS A GOOD FAITH MISTAKE AND, IF SO, THE ERROR WAS PROMPTLY AND VOLUNTARILY CORRECTED WHEN BROUGHT TO THE ATTENTION OF THE CONTRACTOR OR SUBCONTRACTOR.
(II) THE PENALTY MAY NOT BE LESS THAN EIGHTY DOLLARS ($80) FOR EACH CALENDAR DAY, OR PORTION THEREOF, FOR EACH WORKER PAID LESS THAN THE PREVAILING WAGE RATE, IF THE CONTRACTOR OR SUBCONTRACTOR HAS BEEN ASSESSED PENALTIES WITHIN THE PREVIOUS THREE YEARS FOR FAILING TO MEET ITS PREVAILING WAGE OBLIGATIONS ON A SEPARATE CONTRACT, UNLESS THOSE PENALTIES WERE SUBSEQUENTLY WITHDRAWN OR OVERTURNED.
(III) THE PENALTY MAY NOT BE LESS THAN ONE HUNDRED TWENTY DOLLARS ($120) FOR EACH CALENDAR DAY, OR PORTION THEREOF, FOR EACH WORKER PAID LESS THAN THE PREVAILING WAGE RATE, IF THE LABOR COMMISSIONER DETERMINES THAT THE VIOLATION WAS WILLFUL, AS DEFINED IN SUBDIVISION (C) OF SECTION 1777.1.
(C) IF THE AMOUNT DUE UNDER THIS SECTION IS COLLECTED FROM THE CONTRACTOR OR SUBCONTRACTOR, ANY OUTSTANDING WAGE CLAIM UNDER CHAPTER 1 (COMMENCING WITH SECTION 1720) OF PART 7 OF DIVISION 2 AGAINST THAT CONTRACTOR OR SUBCONTRACTOR SHALL BE SATISFIED BEFORE APPLYING THAT AMOUNT TO THE PENALTY IMPOSED ON THAT CONTRACTOR OR SUBCONTRACTOR PURSUANT TO THIS SECTION.
(D) THE DETERMINATION OF THE LABOR COMMISSIONER AS TO THE AMOUNT OF THE PENALTY SHALL BE REVIEWABLE ONLY FOR ABUSE OF DISCRETION.
(E) THE DIFFERENCE BETWEEN THE PREVAILING WAGE RATES AND THE AMOUNT PAID TO EACH WORKER FOR EACH CALENDAR DAY OR PORTION THEREOF FOR WHICH EACH WORKER WAS PAID LESS THAN THE PREVAILING WAGE RATE SHALL BE PAID TO EACH WORKER BY THE CONTRACTOR OR SUBCONTRACTOR, AND THE BODY AWARDING THE CONTRACT SHALL CAUSE TO BE INSERTED IN THE CONTRACT A STIPULATION THAT THIS SECTION WILL BE COMPLIED WITH.
(B) IF A WORKER EMPLOYED BY A SUBCONTRACTOR ON A PUBLIC WORKS PROJECT IS NOT PAID THE GENERAL PREVAILING RATE OF PER DIEM WAGES BY THE SUBCONTRACTOR, THE PRIME CONTRACTOR OF THE PROJECT IS NOT LIABLE FOR ANY PENALTIES UNDER SUBDIVISION (A) UNLESS THE PRIME CONTRACTOR HAD KNOWLEDGE OF THAT FAILURE OF THE SUBCONTRACTOR TO PAY THE SPECIFIED PREVAILING RATE OF WAGES TO THOSE WORKERS OR UNLESS THE PRIME CONTRACTOR FAILS TO COMPLY WITH ALL OF THE FOLLOWING REQUIREMENTS:
(1) THE CONTRACT EXECUTED BETWEEN THE CONTRACTOR AND THE SUBCONTRACTOR FOR THE PERFORMANCE OF WORK ON THE PUBLIC WORKS PROJECT SHALL INCLUDE A COPY OF THE PROVISIONS OF THIS SECTION AND SECTIONS 1771, 1776, 1777.5, 1813, AND 1815.
(2) THE CONTRACTOR SHALL MONITOR THE PAYMENT OF THE SPECIFIED GENERAL PREVAILING RATE OF PER DIEM WAGES BY THE SUBCONTRACTOR TO THE EMPLOYEES, BY PERIODIC REVIEW OF THE CERTIFIED PAYROLL RECORDS OF THE SUBCONTRACTOR.
(3) UPON BECOMING AWARE OF THE FAILURE OF THE SUBCONTRACTOR TO PAY HIS OR HER WORKERS THE SPECIFIED PREVAILING RATE OF WAGES, THE CONTRACTOR SHALL DILIGENTLY TAKE CORRECTIVE ACTION TO HALT OR RECTIFY THE FAILURE, INCLUDING, BUT NOT LIMITED TO, RETAINING SUFFICIENT FUNDS DUE THE SUBCONTRACTOR FOR WORK PERFORMED ON THE PUBLIC WORKS PROJECT.
(4) PRIOR TO MAKING FINAL PAYMENT TO THE SUBCONTRACTOR FOR WORK PERFORMED ON THE PUBLIC WORKS PROJECT, THE CONTRACTOR SHALL OBTAIN AN AFFIDAVIT SIGNED UNDER PENALTY OF PERJURY FROM THE SUBCONTRACTOR THAT THE SUBCONTRACTOR HAS PAID THE SPECIFIED GENERAL PREVAILING RATE OF PER DIEM WAGES TO HIS OR HER EMPLOYEES ON THE PUBLIC WORKS PROJECT AND ANY AMOUNTS DUE PURSUANT TO SECTION 1813.
(C) THE DIVISION OF LABOR STANDARDS ENFORCEMENT SHALL NOTIFY THE CONTRACTOR ON A PUBLIC WORKS PROJECT WITHIN 15 DAYS OF THE RECEIPT BY THE DIVISION OF LABOR STANDARDS ENFORCEMENT OF A COMPLAINT OF THE FAILURE OF A SUBCONTRACTOR ON THAT PUBLIC WORKS PROJECT TO PAY WORKERS THE GENERAL PREVAILING RATE OF PER DIEM WAGES.
(AMENDED BY STATS. 2011, CH. 677, SEC. 1. (AB 551) EFFECTIVE JANUARY 1, 2012.)

LABOR CODE - LAB
DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
(PART 7 ENACTED BY STATS. 1937, CH. 90.)

CHAPTER 1. PUBLIC WORKS [1720 - 1861]
(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 2. WAGES [1770 - 1785]
(ARTICLE 2 ENACTED BY STATS. 1937, CH. 90.)

1776.
(A) EACH CONTRACTOR AND SUBCONTRACTOR SHALL KEEP ACCURATE PAYROLL RECORDS, SHOWING THE NAME, ADDRESS, SOCIAL SECURITY NUMBER, WORK CLASSIFICATION, STRAIGHT TIME AND OVERTIME HOURS WORKED EACH DAY AND WEEK, AND THE ACTUAL PER DIEM WAGES PAID TO EACH JOURNEYMAN, APPRENTICE, WORKER, OR OTHER EMPLOYEE EMPLOYED BY THE CONTRACTOR OR SUBCONTRACTOR IN CONNECTION WITH THE PUBLIC WORK. EACH PAYROLL RECORD SHALL CONTAIN OR BE VERIFIED BY A WRITTEN DECLARATION THAT IT IS MADE UNDER PENALTY OF PERJURY, STATING BOTH OF THE FOLLOWING:
(1) THE INFORMATION CONTAINED IN THE PAYROLL RECORD IS TRUE AND CORRECT.
(2) THE EMPLOYER HAS COMPLIED WITH THE REQUIREMENTS OF SECTIONS 1771, 1811, AND 1815 FOR ANY WORK PERFORMED BY THAT PERSON'S EMPLOYEES ON THE PUBLIC WORKS PROJECT.
(B) THE PAYROLL RECORDS ENUMERATED UNDER SUBDIVISION (A) SHALL BE CERTIFIED AND SHALL BE AVAILABLE FOR INSPECTION AT ALL REASONABLE HOURS AT THE PRINCIPAL OFFICE OF THE CONTRACTOR ON THE FOLLOWING BASIS:
(1) A CERTIFIED COPY OF AN EMPLOYEE'S PAYROLL RECORD SHALL BE MADE AVAILABLE FOR INSPECTION OR FURNISHED TO THE EMPLOYEE OR THE EMPLOYEE'S AUTHORIZED REPRESENTATIVE ON REQUEST.
(2) A CERTIFIED COPY OF ALL PAYROLL RECORDS ENUMERATED IN SUBDIVISION (A) SHALL BE MADE AVAILABLE FOR INSPECTION OR FURNISHED UPON REQUEST TO A REPRESENTATIVE OF THE BODY AWARDING THE CONTRACT AND THE DIVISION OF LABOR STANDARDS ENFORCEMENT OF THE DEPARTMENT OF INDUSTRIAL RELATIONS.
(3) A CERTIFIED COPY OF ALL PAYROLL RECORDS ENUMERATED IN SUBDIVISION (A) SHALL BE MADE AVAILABLE UPON REQUEST BY THE PUBLIC FOR INSPECTION OR FOR COPIES THEREOF. HOWEVER, A REQUEST BY THE PUBLIC SHALL BE MADE THROUGH EITHER THE BODY AWARDING THE CONTRACT OR THE DIVISION OF LABOR STANDARDS ENFORCEMENT. IF THE REQUESTED PAYROLL RECORDS HAVE NOT BEEN PROVIDED PURSUANT TO PARAGRAPH (2), THE REQUESTING PARTY SHALL, PRIOR TO BEING PROVIDED THE RECORDS, REIMBURSE THE COSTS OF PREPARATION BY THE CONTRACTOR, SUBCONTRACTORS, AND THE ENTITY THROUGH WHICH THE REQUEST WAS MADE. THE PUBLIC MAY NOT BE GIVEN ACCESS TO THE RECORDS AT THE PRINCIPAL OFFICE OF THE CONTRACTOR.
(C) UNLESS REQUIRED TO BE FURNISHED DIRECTLY TO THE LABOR COMMISSIONER IN ACCORDANCE WITH PARAGRAPH (3) OF SUBDIVISION (A) OF SECTION 1771.4, THE CERTIFIED PAYROLL RECORDS SHALL BE ON FORMS PROVIDED BY THE DIVISION OF LABOR STANDARDS ENFORCEMENT OR SHALL CONTAIN THE SAME INFORMATION AS THE FORMS PROVIDED BY THE DIVISION. THE PAYROLL RECORDS MAY CONSIST OF PRINTOUTS OF PAYROLL DATA THAT ARE MAINTAINED AS COMPUTER RECORDS, IF THE PRINTOUTS CONTAIN THE SAME INFORMATION AS THE FORMS PROVIDED BY THE DIVISION AND THE PRINTOUTS ARE VERIFIED IN THE MANNER SPECIFIED IN SUBDIVISION (A).
(D) A CONTRACTOR OR SUBCONTRACTOR SHALL FILE A CERTIFIED COPY OF THE RECORDS ENUMERATED IN SUBDIVISION (A) WITH THE ENTITY THAT REQUESTED THE RECORDS WITHIN 10 DAYS AFTER RECEIPT OF A WRITTEN REQUEST.
(E) (1) EXCEPT AS PROVIDED IN SUBDIVISION (F), ANY COPY OF RECORDS MADE AVAILABLE FOR INSPECTION AS COPIES AND FURNISHED UPON REQUEST TO THE PUBLIC OR ANY PUBLIC AGENCY BY THE AWARDING BODY OR THE DIVISION OF LABOR STANDARDS ENFORCEMENT SHALL BE MARKED OR OBLITERATED TO PREVENT DISCLOSURE OF AN INDIVIDUAL'S NAME, ADDRESS, AND SOCIAL SECURITY NUMBER. THE NAME AND ADDRESS OF THE CONTRACTOR AWARDED THE CONTRACT OR THE SUBCONTRACTOR PERFORMING THE CONTRACT SHALL NOT BE MARKED OR OBLITERATED. ANY COPY OF RECORDS MADE AVAILABLE FOR INSPECTION BY, OR FURNISHED TO, A MULTIEMPLOYER TAFT-HARTLEY TRUST FUND (29 U.S.C. SEC. 186(C)(5)) THAT REQUESTS THE RECORDS FOR THE PURPOSES OF ALLOCATING CONTRIBUTIONS TO PARTICIPANTS SHALL BE MARKED OR OBLITERATED ONLY TO PREVENT DISCLOSURE OF AN INDIVIDUAL'S FULL SOCIAL SECURITY NUMBER, BUT SHALL PROVIDE THE LAST FOUR DIGITS OF THE SOCIAL SECURITY NUMBER. ANY COPY OF RECORDS MADE AVAILABLE FOR INSPECTION BY, OR FURNISHED TO, A JOINT LABOR-MANAGEMENT COMMITTEE ESTABLISHED PURSUANT TO THE FEDERAL LABOR MANAGEMENT COOPERATION ACT OF 1978 (29 U.S.C. SEC. 175A) SHALL BE MARKED OR OBLITERATED ONLY TO PREVENT DISCLOSURE OF AN INDIVIDUAL'S SOCIAL SECURITY NUMBER.
(2) COPIES OF ELECTRONIC CERTIFIED PAYROLL RECORDS SHALL NOT SATISFY PAYROLL RECORDS REQUESTS MADE BY TAFT-HARTLEY TRUST FUNDS AND JOINT LABOR-MANAGEMENT COMMITTEES. ANY COPY OF RECORDS REQUESTED BY, AND MADE AVAILABLE FOR INSPECTION BY OR FURNISHED TO, A TAFT-HARTLEY TRUST FUND OR JOINT LABOR-MANAGEMENT COMMITTEE SHALL BE ON FORMS PROVIDED BY THE DIVISION OF LABOR STANDARDS ENFORCEMENT OR SHALL CONTAIN THE SAME INFORMATION AS THE FORMS PROVIDED BY THE DIVISION.
(F) (1) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, AGENCIES THAT ARE INCLUDED IN THE JOINT ENFORCEMENT STRIKE FORCE ON THE UNDERGROUND ECONOMY ESTABLISHED PURSUANT TO SECTION 329 OF THE UNEMPLOYMENT INSURANCE CODE AND OTHER LAW ENFORCEMENT AGENCIES INVESTIGATING VIOLATIONS OF LAW SHALL, UPON REQUEST, BE PROVIDED NONREDACTED COPIES OF CERTIFIED PAYROLL RECORDS. ANY COPIES OF RECORDS OR CERTIFIED PAYROLL MADE AVAILABLE FOR INSPECTION AND FURNISHED UPON REQUEST TO THE PUBLIC BY AN AGENCY INCLUDED IN THE JOINT ENFORCEMENT STRIKE FORCE ON THE UNDERGROUND ECONOMY OR TO A LAW ENFORCEMENT AGENCY INVESTIGATING A VIOLATION OF LAW SHALL BE MARKED OR REDACTED TO PREVENT DISCLOSURE OF AN INDIVIDUAL'S NAME, ADDRESS, AND SOCIAL SECURITY NUMBER.
(2) AN EMPLOYER SHALL NOT BE LIABLE FOR DAMAGES IN A CIVIL ACTION FOR ANY REASONABLE ACT OR OMISSION TAKEN IN GOOD FAITH IN COMPLIANCE WITH THIS SUBDIVISION.
(G) THE CONTRACTOR SHALL INFORM THE BODY AWARDING THE CONTRACT OF THE LOCATION OF THE RECORDS ENUMERATED UNDER SUBDIVISION (A), INCLUDING THE STREET ADDRESS, CITY, AND COUNTY, AND SHALL, WITHIN FIVE WORKING DAYS, PROVIDE A NOTICE OF A CHANGE OF LOCATION AND ADDRESS.

(H) THE CONTRACTOR OR SUBCONTRACTOR HAS 10 DAYS IN WHICH TO COMPLY SUBSEQUENT TO RECEIPT OF A WRITTEN NOTICE REQUESTING THE RECORDS ENUMERATED IN SUBDIVISION (A). IN THE EVENT THAT THE CONTRACTOR OR SUBCONTRACTOR FAILS TO COMPLY WITHIN THE 10-DAY PERIOD, THE CONTRACTOR OR SUBCONTRACTOR SHALL, AS A PENALTY TO THE STATE OR POLITICAL SUBDIVISION ON WHOSE BEHALF THE CONTRACT IS MADE OR AWARDED, FORFEIT ONE HUNDRED DOLLARS ($100) FOR EACH CALENDAR DAY, OR PORTION THEREOF, FOR EACH WORKER, UNTIL STRICT COMPLIANCE IS EFFECTUATED. UPON THE REQUEST OF THE DIVISION OF LABOR STANDARDS ENFORCEMENT, THESE PENALTIES SHALL BE WITHHELD FROM PROGRESS PAYMENTS THEN DUE. A CONTRACTOR IS NOT SUBJECT TO A PENALTY ASSESSMENT PURSUANT TO THIS SECTION DUE TO THE FAILURE OF A SUBCONTRACTOR TO COMPLY WITH THIS SECTION.
(I) THE BODY AWARDING THE CONTRACT SHALL CAUSE TO BE INSERTED IN THE CONTRACT STIPULATIONS TO EFFECTUATE THIS SECTION.
(J) THE DIRECTOR SHALL ADOPT RULES CONSISTENT WITH THE CALIFORNIA PUBLIC RECORDS ACT (DIVISION 10 (COMMENCING WITH SECTION 7920.000) OF TITLE 1 OF THE GOVERNMENT CODE) AND THE INFORMATION PRACTICES ACT OF 1977 (TITLE 1.8 (COMMENCING WITH SECTION 1798) OF PART 4 OF DIVISION 3 OF THE CIVIL CODE) GOVERNING THE RELEASE OF THESE RECORDS, INCLUDING THE ESTABLISHMENT OF REASONABLE FEES TO BE CHARGED FOR REPRODUCING COPIES OF RECORDS REQUIRED BY THIS SECTION.
(AMENDED BY STATS. 2023, CH. 806, SEC. 1. (AB 587) EFFECTIVE JANUARY 1, 2024.)

LABOR CODE - LAB
DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
(PART 7 ENACTED BY STATS. 1937, CH. 90.)

CHAPTER 1. PUBLIC WORKS [1720 - 1861]
(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 2. WAGES [1770 - 1785]
(ARTICLE 2 ENACTED BY STATS. 1937, CH. 90.)

1777.5.
(A) (1) THIS CHAPTER DOES NOT PREVENT THE EMPLOYMENT UPON PUBLIC WORKS OF PROPERLY REGISTERED APPRENTICES WHO ARE ACTIVE PARTICIPANTS IN AN APPROVED APPRENTICESHIP PROGRAM.
(2) FOR PURPOSES OF THIS CHAPTER, “APPRENTICESHIP PROGRAM” MEANS A PROGRAM UNDER THE JURISDICTION OF THE CALIFORNIA APPRENTICESHIP COUNCIL ESTABLISHED PURSUANT TO SECTION 3070.
(B) (1) EVERY APPRENTICE EMPLOYED UPON PUBLIC WORKS SHALL BE PAID THE PREVAILING RATE OF PER DIEM WAGES FOR APPRENTICES IN THE TRADE TO WHICH HE OR SHE IS REGISTERED AND SHALL BE EMPLOYED ONLY AT THE WORK OF THE CRAFT OR TRADE TO WHICH HE OR SHE IS REGISTERED.
(2) UNLESS OTHERWISE PROVIDED BY A COLLECTIVE BARGAINING AGREEMENT, WHEN A CONTRACTOR REQUESTS THE DISPATCH OF AN APPRENTICE PURSUANT TO THIS SECTION TO PERFORM WORK ON A PUBLIC WORKS PROJECT AND REQUIRES THE APPRENTICE TO FILL OUT AN APPLICATION OR UNDERGO TESTING, TRAINING, AN EXAMINATION, OR OTHER PREEMPLOYMENT PROCESS AS A CONDITION OF EMPLOYMENT, THE APPRENTICE SHALL BE PAID FOR THE TIME SPENT ON THE REQUIRED PREEMPLOYMENT ACTIVITY, INCLUDING TRAVEL TIME TO AND FROM THE REQUIRED ACTIVITY, IF ANY, AT THE PREVAILING RATE OF PER DIEM WAGES FOR APPRENTICES IN THE TRADE TO WHICH HE OR SHE IS REGISTERED. UNLESS OTHERWISE PROVIDED BY A COLLECTIVE BARGAINING AGREEMENT, A CONTRACTOR IS NOT REQUIRED TO COMPENSATE AN APPRENTICE FOR THE TIME SPENT ON PREEMPLOYMENT ACTIVITIES IF THE APPRENTICE IS REQUIRED TO TAKE A PREEMPLOYMENT DRUG OR ALCOHOL TEST AND HE OR SHE FAILS TO PASS THAT TEST.
(C) ONLY APPRENTICES, AS DEFINED IN SECTION 3077, WHO ARE IN TRAINING UNDER APPRENTICESHIP STANDARDS THAT HAVE BEEN APPROVED BY THE CHIEF OF THE DIVISION OF APPRENTICESHIP STANDARDS AND WHO ARE PARTIES TO WRITTEN APPRENTICE AGREEMENTS UNDER CHAPTER 4 (COMMENCING WITH SECTION 3070) OF DIVISION 3 ARE ELIGIBLE TO BE EMPLOYED AT THE APPRENTICE WAGE RATE ON PUBLIC WORKS. THE EMPLOYMENT AND TRAINING OF EACH APPRENTICE SHALL BE IN ACCORDANCE WITH EITHER OF THE FOLLOWING:
(1) THE APPRENTICESHIP STANDARDS AND APPRENTICE AGREEMENTS UNDER WHICH HE OR SHE IS TRAINING.
(2) THE RULES AND REGULATIONS OF THE CALIFORNIA APPRENTICESHIP COUNCIL.
(D) IF THE CONTRACTOR TO WHOM THE CONTRACT IS AWARDED BY THE STATE OR ANY POLITICAL SUBDIVISION, IN PERFORMING ANY OF THE WORK UNDER THE CONTRACT, EMPLOYS WORKERS IN ANY APPRENTICEABLE CRAFT OR TRADE, THE CONTRACTOR SHALL EMPLOY APPRENTICES IN AT LEAST THE RATIO SET FORTH IN THIS SECTION AND MAY APPLY TO ANY APPRENTICESHIP PROGRAM IN THE CRAFT OR TRADE THAT CAN PROVIDE APPRENTICES TO THE SITE OF THE PUBLIC WORK FOR A CERTIFICATE APPROVING THE CONTRACTOR UNDER THE APPRENTICESHIP STANDARDS FOR THE EMPLOYMENT AND TRAINING OF APPRENTICES IN THE AREA OR INDUSTRY AFFECTED. HOWEVER, THE DECISION OF THE APPRENTICESHIP PROGRAM TO APPROVE OR DENY A CERTIFICATE SHALL BE SUBJECT TO REVIEW BY THE ADMINISTRATOR OF APPRENTICESHIP. THE APPRENTICESHIP PROGRAM OR PROGRAMS, UPON APPROVING THE CONTRACTOR, SHALL ARRANGE FOR THE DISPATCH OF APPRENTICES TO THE CONTRACTOR. A CONTRACTOR COVERED BY AN APPRENTICESHIP PROGRAM’S STANDARDS SHALL NOT BE REQUIRED TO SUBMIT ANY ADDITIONAL APPLICATION IN ORDER TO INCLUDE ADDITIONAL PUBLIC WORKS CONTRACTS UNDER THAT PROGRAM. “APPRENTICEABLE CRAFT OR TRADE,” AS USED IN THIS SECTION, MEANS A CRAFT

OR TRADE DETERMINED AS AN APPRENTICEABLE OCCUPATION IN ACCORDANCE WITH RULES AND REGULATIONS PRESCRIBED BY THE CALIFORNIA APPRENTICESHIP COUNCIL. AS USED IN THIS SECTION, "CONTRACTOR" INCLUDES ANY SUBCONTRACTOR UNDER A CONTRACTOR WHO PERFORMS ANY PUBLIC WORKS NOT EXCLUDED BY SUBDIVISION (O).

(E) BEFORE COMMENCING WORK ON A CONTRACT FOR PUBLIC WORKS, EVERY CONTRACTOR SHALL SUBMIT CONTRACT AWARD INFORMATION TO AN APPLICABLE APPRENTICESHIP PROGRAM THAT CAN SUPPLY APPRENTICES TO THE SITE OF THE PUBLIC WORK. THE INFORMATION SUBMITTED SHALL INCLUDE AN ESTIMATE OF JOURNEYMAN HOURS TO BE PERFORMED UNDER THE CONTRACT, THE NUMBER OF APPRENTICES PROPOSED TO BE EMPLOYED, AND THE APPROXIMATE DATES THE APPRENTICES WOULD BE EMPLOYED. A COPY OF THIS INFORMATION SHALL ALSO BE SUBMITTED TO THE AWARDING BODY, IF REQUESTED BY THE AWARDING BODY. WITHIN 60 DAYS AFTER CONCLUDING WORK ON THE CONTRACT, EACH CONTRACTOR AND SUBCONTRACTOR SHALL SUBMIT TO THE AWARDING BODY, IF REQUESTED, AND TO THE APPRENTICESHIP PROGRAM A VERIFIED STATEMENT OF THE JOURNEYMAN AND APPRENTICE HOURS PERFORMED ON THE CONTRACT. THE INFORMATION UNDER THIS SUBDIVISION SHALL BE PUBLIC. THE APPRENTICESHIP PROGRAMS SHALL RETAIN THIS INFORMATION FOR 12 MONTHS.

(F) THE APPRENTICESHIP PROGRAM SUPPLYING APPRENTICES TO THE AREA OF THE SITE OF THE PUBLIC WORK SHALL ENSURE EQUAL EMPLOYMENT AND AFFIRMATIVE ACTION IN APPRENTICESHIP FOR WOMEN AND MINORITIES.

(G) THE RATIO OF WORK PERFORMED BY APPRENTICES TO JOURNEYMEN EMPLOYED IN A PARTICULAR CRAFT OR TRADE ON THE PUBLIC WORK MAY BE NO HIGHER THAN THE RATIO STIPULATED IN THE APPRENTICESHIP STANDARDS UNDER WHICH THE APPRENTICESHIP PROGRAM OPERATES IF THE CONTRACTOR AGREES TO BE BOUND BY THOSE STANDARDS. HOWEVER, EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN NO CASE SHALL THE RATIO BE LESS THAN ONE HOUR OF APPRENTICE WORK FOR EVERY FIVE HOURS OF JOURNEYMAN WORK.

(H) THIS RATIO OF APPRENTICE WORK TO JOURNEYMAN WORK SHALL APPLY DURING ANY DAY OR PORTION OF A DAY WHEN ANY JOURNEYMAN IS EMPLOYED AT THE JOBSITE AND SHALL BE COMPUTED ON THE BASIS OF THE HOURS WORKED DURING THE DAY BY JOURNEYMEN SO EMPLOYED. ANY WORK PERFORMED BY A JOURNEYMAN IN EXCESS OF EIGHT HOURS PER DAY OR 40 HOURS PER WEEK SHALL NOT BE USED TO CALCULATE THE RATIO. THE CONTRACTOR SHALL EMPLOY APPRENTICES FOR THE NUMBER OF HOURS COMPUTED AS ABOVE BEFORE THE END OF THE CONTRACT OR, IN THE CASE OF A SUBCONTRACTOR, BEFORE THE END OF THE SUBCONTRACT. HOWEVER, THE CONTRACTOR SHALL ENDEAVOR, TO THE GREATEST EXTENT POSSIBLE, TO EMPLOY APPRENTICES DURING THE SAME TIME PERIOD THAT THE JOURNEYMEN IN THE SAME CRAFT OR TRADE ARE EMPLOYED AT THE JOBSITE. WHEN AN HOURLY APPRENTICESHIP RATIO IS NOT FEASIBLE FOR A PARTICULAR CRAFT OR TRADE, THE ADMINISTRATOR OF APPRENTICESHIP, UPON APPLICATION OF AN APPRENTICESHIP PROGRAM, MAY ORDER A MINIMUM RATIO OF NOT LESS THAN ONE APPRENTICE FOR EACH FIVE JOURNEYMEN IN A CRAFT OR TRADE CLASSIFICATION.

(I) A CONTRACTOR COVERED BY THIS SECTION WHO HAS AGREED TO BE COVERED BY AN APPRENTICESHIP PROGRAM'S STANDARDS UPON THE ISSUANCE OF THE APPROVAL CERTIFICATE, OR WHO HAS BEEN PREVIOUSLY APPROVED FOR AN APPRENTICESHIP PROGRAM IN THE CRAFT OR TRADE, SHALL EMPLOY THE NUMBER OF APPRENTICES OR THE RATIO OF APPRENTICES TO JOURNEYMEN STIPULATED IN THE APPLICABLE APPRENTICESHIP STANDARDS, BUT IN NO EVENT LESS THAN THE 1-TO-5 RATIO REQUIRED BY SUBDIVISION (G).

(J) UPON PROPER SHOWING BY A CONTRACTOR THAT HE OR SHE EMPLOYS APPRENTICES IN A PARTICULAR CRAFT OR TRADE IN THE STATE ON ALL OF HIS OR HER CONTRACTS ON AN ANNUAL AVERAGE OF NOT LESS THAN ONE HOUR OF APPRENTICE WORK FOR EVERY FIVE HOURS OF LABOR PERFORMED BY JOURNEYMEN, THE ADMINISTRATOR OF APPRENTICESHIP MAY GRANT A CERTIFICATE EXEMPTING THE CONTRACTOR FROM THE 1-TO-5 HOURLY RATIO, AS SET FORTH IN THIS SECTION FOR THAT CRAFT OR TRADE.

(K) AN APPRENTICESHIP PROGRAM HAS THE DISCRETION TO GRANT TO A PARTICIPATING CONTRACTOR OR CONTRACTOR ASSOCIATION A CERTIFICATE, WHICH SHALL BE SUBJECT TO THE APPROVAL OF THE ADMINISTRATOR OF APPRENTICESHIP, EXEMPTING THE CONTRACTOR FROM THE 1-TO-5 RATIO SET FORTH IN THIS SECTION WHEN IT FINDS THAT ANY ONE OF THE FOLLOWING CONDITIONS IS MET:

(1) UNEMPLOYMENT FOR THE PREVIOUS THREE-MONTH PERIOD IN THE AREA EXCEEDS AN AVERAGE OF 15 PERCENT.

(2) THE NUMBER OF APPRENTICES IN TRAINING IN THE AREA EXCEEDS A RATIO OF 1 TO 5.

(3) THERE IS A SHOWING THAT THE APPRENTICEABLE CRAFT OR TRADE IS REPLACING AT LEAST ONE-THIRTIETH OF ITS JOURNEYMEN ANNUALLY THROUGH APPRENTICESHIP TRAINING, EITHER ON A STATEWIDE BASIS OR ON A LOCAL BASIS.

(4) ASSIGNMENT OF AN APPRENTICE TO ANY WORK PERFORMED UNDER A PUBLIC WORKS CONTRACT WOULD CREATE A CONDITION THAT WOULD JEOPARDIZE HIS OR HER LIFE OR THE LIFE, SAFETY, OR PROPERTY OF FELLOW EMPLOYEES OR THE PUBLIC AT LARGE, OR THE SPECIFIC TASK TO WHICH THE APPRENTICE IS TO BE ASSIGNED IS OF A NATURE THAT TRAINING CANNOT BE PROVIDED BY A JOURNEYMAN.

(L) IF AN EXEMPTION IS GRANTED PURSUANT TO SUBDIVISION (K) TO AN ORGANIZATION THAT REPRESENTS CONTRACTORS IN A SPECIFIC TRADE FROM THE 1-TO-5 RATIO ON A LOCAL OR STATEWIDE BASIS, THE MEMBER CONTRACTORS SHALL NOT BE REQUIRED TO SUBMIT INDIVIDUAL APPLICATIONS FOR APPROVAL TO LOCAL JOINT APPRENTICESHIP COMMITTEES, IF THEY ARE ALREADY COVERED BY THE LOCAL APPRENTICESHIP STANDARDS.

(M) (1) A CONTRACTOR TO WHOM A CONTRACT IS AWARDED, WHO, IN PERFORMING ANY OF THE WORK UNDER THE CONTRACT, EMPLOYS JOURNEYMEN OR APPRENTICES IN ANY APPRENTICEABLE CRAFT OR TRADE SHALL CONTRIBUTE TO THE CALIFORNIA APPRENTICESHIP COUNCIL THE SAME AMOUNT THAT THE DIRECTOR DETERMINES IS THE PREVAILING AMOUNT OF APPRENTICESHIP TRAINING CONTRIBUTIONS IN THE AREA OF THE PUBLIC WORKS SITE. A CONTRACTOR MAY TAKE AS A CREDIT FOR PAYMENTS TO THE COUNCIL ANY AMOUNTS PAID BY THE CONTRACTOR TO AN APPROVED APPRENTICESHIP PROGRAM THAT CAN SUPPLY APPRENTICES TO THE SITE OF THE PUBLIC WORKS PROJECT. THE CONTRACTOR MAY ADD THE AMOUNT OF THE CONTRIBUTIONS IN COMPUTING HIS OR HER BID FOR THE CONTRACT.

(2) (A) AT THE CONCLUSION OF THE 2002–03 FISCAL YEAR AND EACH FISCAL YEAR THEREAFTER, THE CALIFORNIA APPRENTICESHIP COUNCIL SHALL DISTRIBUTE TRAINING CONTRIBUTIONS RECEIVED BY THE COUNCIL UNDER THIS SUBDIVISION, LESS THE EXPENSES OF THE DEPARTMENT OF INDUSTRIAL RELATIONS FOR ADMINISTERING THIS SUBDIVISION,

BY MAKING GRANTS TO APPROVED APPRENTICESHIP PROGRAMS FOR THE PURPOSE OF TRAINING APPRENTICES. THE GRANT FUNDS SHALL BE DISTRIBUTED AS FOLLOWS:
(I) IF THERE IS AN APPROVED MULTIEMPLOYER APPRENTICESHIP PROGRAM SERVING THE SAME CRAFT OR TRADE AND GEOGRAPHIC AREA FOR WHICH THE TRAINING CONTRIBUTIONS WERE MADE TO THE COUNCIL, A GRANT TO THAT PROGRAM SHALL BE MADE.
(II) IF THERE ARE TWO OR MORE APPROVED MULTIEMPLOYER APPRENTICESHIP PROGRAMS SERVING THE SAME CRAFT OR TRADE AND COUNTY FOR WHICH THE TRAINING CONTRIBUTIONS WERE MADE TO THE COUNCIL, THE GRANT SHALL BE DIVIDED AMONG THOSE PROGRAMS BASED ON THE NUMBER OF APPRENTICES FROM THAT COUNTY REGISTERED IN EACH PROGRAM.
(III) ALL TRAINING CONTRIBUTIONS NOT DISTRIBUTED UNDER CLAUSES (I) AND (II) SHALL BE USED TO DEFRAY THE FUTURE EXPENSES OF THE DEPARTMENT OF INDUSTRIAL RELATIONS FOR THE ADMINISTRATION AND ENFORCEMENT OF APPRENTICESHIP AND PREAPPRENTICESHIP STANDARDS AND REQUIREMENTS UNDER THIS CODE.
(B) AN APPRENTICESHIP PROGRAM SHALL ONLY BE ELIGIBLE TO RECEIVE GRANT FUNDS PURSUANT TO THIS SUBDIVISION IF THE APPRENTICESHIP PROGRAM AGREES, PRIOR TO THE RECEIPT OF ANY GRANT FUNDS, TO KEEP ADEQUATE RECORDS THAT DOCUMENT THE EXPENDITURE OF GRANT FUNDS AND TO MAKE ALL RECORDS AVAILABLE TO THE DEPARTMENT OF INDUSTRIAL RELATIONS SO THAT THE DEPARTMENT OF INDUSTRIAL RELATIONS IS ABLE TO VERIFY THAT GRANT FUNDS WERE USED SOLELY FOR TRAINING APPRENTICES. FOR PURPOSES OF THIS SUBPARAGRAPH, ADEQUATE RECORDS INCLUDE, BUT ARE NOT LIMITED TO, INVOICES, RECEIPTS, AND CANCELED CHECKS THAT ACCOUNT FOR THE EXPENDITURE OF GRANT FUNDS. THIS SUBPARAGRAPH SHALL NOT BE DEEMED TO REQUIRE AN APPRENTICESHIP PROGRAM TO PROVIDE THE DEPARTMENT OF INDUSTRIAL RELATIONS WITH MORE DOCUMENTATION THAN IS NECESSARY TO VERIFY THE APPROPRIATE EXPENDITURE OF GRANT FUNDS MADE PURSUANT TO THIS SUBDIVISION.
(C) THE DEPARTMENT OF INDUSTRIAL RELATIONS SHALL VERIFY THAT GRANTS MADE PURSUANT TO THIS SUBDIVISION ARE USED SOLELY TO FUND TRAINING APPRENTICES. IF AN APPRENTICESHIP PROGRAM IS UNABLE TO DEMONSTRATE HOW GRANT FUNDS ARE EXPENDED OR IF AN APPRENTICESHIP PROGRAM IS FOUND TO BE USING GRANT FUNDS FOR PURPOSES OTHER THAN TRAINING APPRENTICES, THEN THE APPRENTICESHIP PROGRAM SHALL NOT BE ELIGIBLE TO RECEIVE ANY FUTURE GRANT PURSUANT TO THIS SUBDIVISION AND THE DEPARTMENT OF INDUSTRIAL RELATIONS MAY INITIATE THE PROCESS TO RESCIND THE REGISTRATION OF THE APPRENTICESHIP PROGRAM.
(3) ALL TRAINING CONTRIBUTIONS RECEIVED PURSUANT TO THIS SUBDIVISION SHALL BE DEPOSITED IN THE APPRENTICESHIP TRAINING CONTRIBUTION FUND, WHICH IS HEREBY CREATED IN THE STATE TREASURY. UPON APPROPRIATION BY THE LEGISLATURE, ALL MONEYS IN THE APPRENTICESHIP TRAINING CONTRIBUTION FUND SHALL BE USED FOR THE PURPOSE OF CARRYING OUT THIS SUBDIVISION AND TO PAY THE EXPENSES OF THE DEPARTMENT OF INDUSTRIAL RELATIONS.
(N) THE BODY AWARDING THE CONTRACT SHALL CAUSE TO BE INSERTED IN THE CONTRACT STIPULATIONS TO EFFECTUATE THIS SECTION. THE STIPULATIONS SHALL FIX THE RESPONSIBILITY OF COMPLIANCE WITH THIS SECTION FOR ALL APPRENTICEABLE OCCUPATIONS WITH THE PRIME CONTRACTOR.
(O) THIS SECTION DOES NOT APPLY TO CONTRACTS OF GENERAL CONTRACTORS OR TO CONTRACTS OF SPECIALTY CONTRACTORS NOT BIDDING FOR WORK THROUGH A GENERAL OR PRIME CONTRACTOR WHEN THE CONTRACTS OF GENERAL CONTRACTORS OR THOSE SPECIALTY CONTRACTORS INVOLVE LESS THAN THIRTY THOUSAND DOLLARS ($30,000).
(P) AN AWARDING BODY THAT IMPLEMENTS AN APPROVED LABOR COMPLIANCE PROGRAM IN ACCORDANCE WITH SUBDIVISION (B) OF SECTION 1771.5 MAY, WITH THE APPROVAL OF THE DIRECTOR, ASSIST IN THE ENFORCEMENT OF THIS SECTION UNDER THE TERMS AND CONDITIONS PRESCRIBED BY THE DIRECTOR.
(AMENDED BY STATS. 2018, CH. 704, SEC. 17. (AB 235) EFFECTIVE SEPTEMBER 22, 2018.)

LABOR CODE - LAB
DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
(PART 7 ENACTED BY STATS. 1937, CH. 90.)

CHAPTER 1. PUBLIC WORKS [1720 - 1861]
(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 2. WAGES [1770 - 1785]
(ARTICLE 2 ENACTED BY STATS. 1937, CH. 90.)

1777.7.
(A) (1) IF THE LABOR COMMISSIONER OR HIS OR HER DESIGNEE DETERMINES AFTER AN INVESTIGATION THAT A CONTRACTOR OR SUBCONTRACTOR KNOWINGLY VIOLATED SECTION 1777.5, THE CONTRACTOR AND ANY SUBCONTRACTOR RESPONSIBLE FOR THE VIOLATION SHALL FORFEIT, AS A CIVIL PENALTY TO THE STATE OR POLITICAL SUBDIVISION ON WHOSE BEHALF THE CONTRACT IS MADE OR AWARDED, NOT MORE THAN ONE HUNDRED DOLLARS ($100) FOR EACH FULL CALENDAR DAY OF NONCOMPLIANCE. THE AMOUNT OF THIS PENALTY MAY BE REDUCED BY THE LABOR COMMISSIONER IF THE AMOUNT OF THE PENALTY WOULD BE DISPROPORTIONATE TO THE SEVERITY OF THE VIOLATION. A CONTRACTOR OR SUBCONTRACTOR THAT KNOWINGLY COMMITS A SECOND OR SUBSEQUENT VIOLATION WITHIN A THREE-YEAR PERIOD, IF THE NONCOMPLIANCE RESULTS IN APPRENTICESHIP TRAINING NOT BEING PROVIDED AS REQUIRED BY THIS CHAPTER, SHALL FORFEIT AS A CIVIL PENALTY THE SUM OF NOT MORE THAN THREE HUNDRED DOLLARS ($300) FOR EACH FULL CALENDAR DAY OF NONCOMPLIANCE.

(2) IN LIEU OF THE PENALTY PROVIDED FOR IN THIS SUBDIVISION, THE LABOR COMMISSIONER MAY, FOR A FIRST-TIME VIOLATION AND WITH THE CONCURRENCE OF AN APPRENTICESHIP PROGRAM DESCRIBED IN SUBDIVISION (D) OF SECTION 1777.5, ORDER THE CONTRACTOR OR SUBCONTRACTOR TO PROVIDE APPRENTICE EMPLOYMENT EQUIVALENT TO THE WORK HOURS THAT WOULD HAVE BEEN PROVIDED FOR APPRENTICES DURING THE PERIOD OF NONCOMPLIANCE.
(B) THE LABOR COMMISSIONER SHALL CONSIDER, IN SETTING THE AMOUNT OF A MONETARY PENALTY, ALL OF THE FOLLOWING CIRCUMSTANCES:
(1) WHETHER THE VIOLATION WAS INTENTIONAL.
(2) WHETHER THE PARTY HAS COMMITTED OTHER VIOLATIONS OF SECTION 1777.5.
(3) WHETHER, UPON NOTICE OF THE VIOLATION, THE PARTY TOOK STEPS TO VOLUNTARILY REMEDY THE VIOLATION.
(4) WHETHER, AND TO WHAT EXTENT, THE VIOLATION RESULTED IN LOST TRAINING OPPORTUNITIES FOR APPRENTICES.
(5) WHETHER, AND TO WHAT EXTENT, THE VIOLATION OTHERWISE HARMED APPRENTICES OR APPRENTICESHIP PROGRAMS.
(C) (1) THE LABOR COMMISSIONER OR HIS OR HER DESIGNEE SHALL ISSUE A CIVIL WAGE AND PENALTY ASSESSMENT, IN ACCORDANCE WITH THE PROVISIONS OF SECTION 1741, UPON DETERMINATION OF PENALTIES ASSESSED UNDER SUBDIVISIONS (A) AND (B). REVIEW OF A CIVIL WAGE AND PENALTY ASSESSMENT ISSUED UNDER THIS SUBDIVISION MAY BE REQUESTED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 1742. THE REGULATIONS OF THE DIRECTOR OF INDUSTRIAL RELATIONS, WHICH GOVERN PROCEEDINGS FOR REVIEW OF CIVIL WAGE AND PENALTY ASSESSMENTS AND THE WITHHOLDING OF CONTRACT PAYMENTS UNDER ARTICLE 1 (COMMENCING WITH SECTION 1720) AND ARTICLE 2 (COMMENCING WITH SECTION 1770), SHALL APPLY.
(2) FOR PURPOSES OF THIS SECTION, A DETERMINATION ISSUED PURSUANT TO SUBDIVISION (A) OR (B) INCLUDES A DETERMINATION THAT HAS BEEN APPROVED BY THE LABOR COMMISSIONER AND ISSUED BY AN AWARDING BODY THAT HAS BEEN AUTHORIZED TO ASSIST THE DIRECTOR IN THE ENFORCEMENT OF SECTION 1777.5 PURSUANT TO SUBDIVISION (P) OF THAT SECTION. THE LABOR COMMISSIONER MAY INTERVENE IN ANY PROCEEDING FOR REVIEW OF A DETERMINATION ISSUED BY AN AWARDING BODY. IF THE INVOLVEMENT OF THE LABOR COMMISSIONER IN A LABOR COMPLIANCE PROGRAM ENFORCEMENT ACTION IS LIMITED TO A REVIEW OF THE DETERMINATION AND THE MATTER IS RESOLVED WITHOUT LITIGATION BY OR AGAINST THE LABOR COMMISSIONER OR THE DEPARTMENT, THE AWARDING BODY SHALL ENFORCE ANY APPLICABLE PENALTIES, AS SPECIFIED IN THIS SECTION, AND SHALL DEPOSIT ANY PENALTIES AND FORFEITURES COLLECTED IN THE GENERAL FUND.
(D) THE DETERMINATION OF THE LABOR COMMISSIONER AS TO THE AMOUNT OF THE PENALTY IMPOSED UNDER SUBDIVISIONS (A) AND (B) SHALL BE REVIEWABLE ONLY FOR AN ABUSE OF DISCRETION.
(E) IF A SUBCONTRACTOR IS FOUND TO HAVE VIOLATED SECTION 1777.5, THE PRIME CONTRACTOR OF THE PROJECT IS NOT LIABLE FOR ANY PENALTIES UNDER SUBDIVISION (A) UNLESS THE PRIME CONTRACTOR HAD KNOWLEDGE OF THE SUBCONTRACTOR'S FAILURE TO COMPLY WITH THE PROVISIONS OF SECTION 1777.5 OR UNLESS THE PRIME CONTRACTOR FAILS TO COMPLY WITH ANY OF THE FOLLOWING REQUIREMENTS:
(1) THE CONTRACT EXECUTED BETWEEN THE CONTRACTOR AND THE SUBCONTRACTOR FOR THE PERFORMANCE OF WORK ON THE PUBLIC WORKS PROJECT SHALL INCLUDE A COPY OF THE PROVISIONS OF SECTIONS 1771, 1775, 1776, 1777.5, 1813, AND 1815.
(2) THE CONTRACTOR SHALL CONTINUALLY MONITOR A SUBCONTRACTOR'S USE OF APPRENTICES REQUIRED TO BE EMPLOYED ON THE PUBLIC WORKS PROJECT PURSUANT TO SUBDIVISION (D) OF SECTION 1777.5, INCLUDING, BUT NOT LIMITED TO, PERIODIC REVIEW OF THE CERTIFIED PAYROLL OF THE SUBCONTRACTOR.
(3) UPON BECOMING AWARE OF A FAILURE OF THE SUBCONTRACTOR TO EMPLOY THE REQUIRED NUMBER OF APPRENTICES, THE CONTRACTOR SHALL TAKE CORRECTIVE ACTION, INCLUDING, BUT NOT LIMITED TO, RETAINING FUNDS DUE TO THE SUBCONTRACTOR FOR WORK PERFORMED ON THE PUBLIC WORKS PROJECT UNTIL THE FAILURE IS CORRECTED.
(4) PRIOR TO MAKING THE FINAL PAYMENT TO THE SUBCONTRACTOR FOR WORK PERFORMED ON THE PUBLIC WORKS PROJECT, THE CONTRACTOR SHALL OBTAIN A DECLARATION SIGNED UNDER PENALTY OF PERJURY FROM THE SUBCONTRACTOR THAT THE SUBCONTRACTOR HAS EMPLOYED THE REQUIRED NUMBER OF APPRENTICES ON THE PUBLIC WORKS PROJECT.
(F) THE DIVISION OF LABOR STANDARDS ENFORCEMENT SHALL NOTIFY THE CONTRACTOR ON A PUBLIC WORKS PROJECT WITHIN 15 DAYS OF THE RECEIPT BY THE DIVISION OF A COMPLAINT THAT A SUBCONTRACTOR ON THAT PUBLIC WORKS PROJECT KNOWINGLY VIOLATED SECTION 1777.5.
(G) THE INTERPRETATION OF SECTION 1777.5 AND THE SUBSTANTIVE REQUIREMENTS OF THIS SECTION APPLICABLE TO CONTRACTORS OR SUBCONTRACTORS SHALL BE IN ACCORDANCE WITH THE REGULATIONS OF THE CALIFORNIA APPRENTICESHIP COUNCIL.
(H) THE DIRECTOR OF INDUSTRIAL RELATIONS MAY ADOPT REGULATIONS TO ESTABLISH GUIDELINES FOR THE IMPOSITION OF MONETARY PENALTIES.
(REPEALED AND ADDED BY STATS. 2014, CH. 297, SEC. 3. (AB 2744) EFFECTIVE JANUARY 1, 2015.)

LABOR CODE - LAB
DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
(PART 7 ENACTED BY STATS. 1937, CH. 90.)

CHAPTER 1. PUBLIC WORKS [1720 - 1861]
(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 3. WORKING HOURS [1810 - 1815]
(ARTICLE 3 ENACTED BY STATS. 1937, CH. 90.)

1813.
THE CONTRACTOR OR SUBCONTRACTOR SHALL, AS A PENALTY TO THE STATE OR POLITICAL SUBDIVISION ON WHOSE BEHALF THE CONTRACT IS MADE OR AWARDED, FORFEIT TWENTY-FIVE DOLLARS ($25) FOR EACH WORKER EMPLOYED IN THE EXECUTION OF THE CONTRACT BY THE RESPECTIVE CONTRACTOR OR SUBCONTRACTOR FOR EACH CALENDAR DAY DURING WHICH THE WORKER IS REQUIRED OR PERMITTED TO WORK MORE THAN 8 HOURS IN ANY ONE CALENDAR DAY AND 40 HOURS IN ANY ONE CALENDAR WEEK IN VIOLATION OF THE PROVISIONS OF THIS ARTICLE. IN AWARDING ANY CONTRACT FOR PUBLIC WORK, THE AWARDING BODY SHALL CAUSE TO BE INSERTED IN THE CONTRACT A STIPULATION TO THIS EFFECT. THE AWARDING BODY SHALL TAKE COGNIZANCE OF ALL VIOLATIONS OF THIS ARTICLE COMMITTED IN THE COURSE OF THE EXECUTION OF THE CONTRACT, AND SHALL REPORT THEM TO THE DIVISION OF LABOR STANDARDS ENFORCEMENT.
(AMENDED (AS ADDED BY STATS. 1997, CH. 757, SEC. 6) BY STATS. 2002, CH. 28, SEC. 3. EFFECTIVE JANUARY 1, 2003.)

LABOR CODE - LAB
DIVISION 2. EMPLOYMENT REGULATION AND SUPERVISION [200 - 2699.8]
(DIVISION 2 ENACTED BY STATS. 1937, CH. 90.)

PART 7. PUBLIC WORKS AND PUBLIC AGENCIES [1720 - 1964]
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(CHAPTER 1 ENACTED BY STATS. 1937, CH. 90.)

ARTICLE 3. WORKING HOURS [1810 - 1815]
(ARTICLE 3 ENACTED BY STATS. 1937, CH. 90.)

1815.
NOTWITHSTANDING THE PROVISIONS OF SECTIONS 1810 TO 1814, INCLUSIVE, OF THIS CODE, AND NOTWITHSTANDING ANY STIPULATION INSERTED IN ANY CONTRACT PURSUANT TO THE REQUIREMENTS OF SAID SECTIONS, WORK PERFORMED BY EMPLOYEES OF CONTRACTORS IN EXCESS OF 8 HOURS PER DAY, AND 40 HOURS DURING ANY ONE WEEK, SHALL BE PERMITTED UPON PUBLIC WORK UPON COMPENSATION FOR ALL HOURS WORKED IN EXCESS OF 8 HOURS PER DAY AT NOT LESS THAN 1½ TIMES THE BASIC RATE OF PAY.
(AMENDED BY STATS. 1963, CH. 964.)

END EXHIBIT “D”

EXHIBIT "F"
PERFORMANCE AND PAYMENT BOND FORMS

SUBCONTRACTOR PERFORMANCE BOND

BOND NO._____

KNOW ALL PERSONS BY THESE PRESENTS; that

[insert name of subcontractor]

as Principal, and

[insert name of surety (or sureties)]

as Surety, are held and firmly bound unto _____, as Obligee, in the penal sum of **XXXXXX Dollars ($XXXX)**, for the payment whereof Principal and Surety bind themselves for the performance of the Subcontract (as defined herein below), their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The penal sum of this bond shall automatically increase in the amount of any change order(s) to the Subcontract hereafter entered into by Obligee and Principal, with or without notice to Surety.

WHEREAS, Principal, as "Subcontractor", entered into a subcontract agreement dated **XX/XX/XXXX** with Obligee (the "Subcontract") for the Principal to perform **[TYPE OF WORK]** on the **[PROJECT NAME]** (the "Project") for **[OWNER NAME]** (the "Owner"), which Subcontract is by reference made a part hereof as if fully set forth herein.

NOW, THEREFORE, the parties agree as follows:

1. EFFECT OF OBLIGATION. If the Principal shall fully, timely and faithfully perform all of its obligations under the Subcontract, each and every, all and singular, then this obligation shall be null and void; otherwise it shall remain in full force and effect.

2. ALTERATION NOTICE WAIVER. The Surety hereby waives notice of any change, alteration or extension of the Subcontract, including but not limited to an increase of the Subcontract amount and/or time, made by the Obligee.

3. PRINCIPAL DEFAULT. Whenever the Principal shall be, and is declared in writing by the Obligee to be in default under the Subcontract, and such default is not the result of a breach by the Obligee of its obligations under the Subcontract, the Surety after receipt of written notice of the default from the Obligee shall promptly, but in no event later than seven (7) days after receipt of the Obligee's notice of default, remedy the default or notify the Obligee in writing of its election that the Surety shall immediately proceed so as not to delay the timely completion of the Project in one of the following methods to remedy the default:

3.1 COMPLETE SUBCONTRACT. Complete the Subcontract in accordance with its terms and conditions. If the Surety elects to timely and without delay to the Project complete the Subcontract, the Surety shall arrange for completion of the Subcontract by a qualified and competent entity acceptable to the Obligee, in its sole discretion, that satisfies all the requirements of the Subcontract. If the Surety elects to complete the Subcontract, it shall be responsible for all costs to complete, and the Obligee shall make payments of the balance of the Subcontract price, as defined in paragraph 3.3 below, to the Surety as and to the extent the

Surety incurs such costs to complete the Subcontract. In no event shall the Surety's liability for the cost to complete the Subcontract exceed the penal sum of this bond; or

3.2 PAY OBLIGEE. Pay the Obligee the cost incurred and to be incurred for completion of the Subcontract. If the Surety elects to pay the Obligee for completion of the Subcontract, the Surety shall pay the Obligee the cost incurred and to be incurred for completion of the Subcontract within ten (10) days after the Obligee presents an invoice to the Surety covering the cost of completion, to the extent such cost incurred exceeds the balance of the Subcontract price, as defined in paragraph 4 below. The cost incurred and to be incurred for completion of the Subcontract includes the responsibilities of the Principal for the entire cost as defined in the Subcontract including, but not limited to, costs relating to the correction of defective work, the Obligee's administrative, legal and design professional costs resulting directly from the Principal's default and liquidated and actual damages resulting from the Principal's default. In no event shall the Surety's liability for the cost incurred and to be incurred for the completion of the Subcontract exceed the penal sum of this bond.

4. BALANCE OF THE SUBCONTRACT PRICE. The term "balance of the Subcontract price" as used in this bond shall mean the total amount payable by the Obligee to the Principal under the Subcontract and any amendments to it, to the extent Obligee has received payment of such amount from the Owner, less the amount properly paid by the Obligee to the Principal under the Subcontract and less all damages and other amounts owed by the Principal to the Obligee under the Subcontract.

5. NOTICE. All notices hereunder shall refer to the bond number set forth on the face of this bond and shall be sent via certified mail, return receipt requested, or overnight delivery service with proof of delivery, to the following addresses:

Principal: _____
_____
_____
_____

Surety: _____
_____
_____
_____

Obligee: _____
_____
_____
_____

6. RIGHT OF ACTION. No right of action shall accrue on this bond to or for the use of any person or entity other than the Obligee named herein, its heirs, executors, administrators, assigns or successors.

7. ATTORNEY'S FEES AND COSTS. Notwithstanding Paragraph 1 above, in the event Obligee brings legal action to enforce Surety's obligations under this bond, the prevailing party in such action shall be entitled to recover its attorney's fees together with the costs of suit.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto caused this bond to be duly signed and sealed this _____ day of _____. 20____.

[PRINCIPAL]

_____

[NAME/TITLE]:

[SURETY]

_____

[NAME], Attorney-in-Fact

SUBCONTRACTOR LABOR AND MATERIAL PAYMENT BOND

BOND NO._____

KNOW ALL PERSONS BY THESE PRESENTS; that

[insert name of subcontractor]

as Principal, and

[insert name of surety (or sureties)]

as Surety, are held and firmly bound unto, _____, as Obligee (hereinafter "Obligee"), in the penal sum **XXXXXX Dollars ($XXXX)**, for the payment whereof Principal and Surety bind themselves for the performance of the Subcontract (as defined herein below), their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents. The penal sum of this Bond shall automatically increase in the amount of additive change order(s) to the Subcontract up to an aggregate of twenty percent change in the Subcontract amount.

WHEREAS, Principal as "Subcontractor" has by written agreement dated **XX/XX/XXXX** entered into a subcontract agreement with Obligee for **TYPE OF WORK**, which agreement is by reference made a part hereof as if fully set forth herein, and is hereinafter referred to as the "Subcontract."

NOW, THEREFORE, the parties agree that if the Principal shall promptly make payment to all Claimants as defined in this bond, for all labor, material and equipment used or reasonably required to be used in the performance of the Subcontract, then this bond shall be null and void; otherwise it shall remain in full force and effect, subject, however, to the following conditions:

1. TIME FOR CLAIM. The Principal and Surety hereby jointly and severally agree with the Obligee that every Claimant who has not been paid in full before the expiration of a valid claim in accordance with the contract between the project owner ("Owner") and Obligee and/or law governing the location of the project, may have a right of action on this bond. The Obligee shall not be liable for the payment of any costs or expenses including attorneys' fees in connection with any such right of action.

2. RIGHT OF ACTION. No suit or action shall be commenced on this bond by any Claimant:

2.1 After the expiration of any valid claim per the contract between the Owner and Obligee and/or law governing the location of the project.

2.2 Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the project, or any part thereof, is situated, or in the United States District Court for the district in which the project, or any part thereof, is situated, and not elsewhere.

3. CLAIMANT. A Claimant is defined as an individual or entity that furnishes labor, materials or equipment for use in the performance of the Subcontract or any individual or entity having valid lien rights which may be asserted in the jurisdiction where the project is located. The intent of this bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service, internet service and rental equipment used in the Subcontract, architectural and engineering services required for performance of the work of the Principal, and all other items for which a lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

4. NOTICE. All notices hereunder shall refer to the bond number set forth on the face of this bond and shall be sent via certified mail, return receipt requested, or overnight delivery service with proof of delivery to the following addresses:

Principal: _____
_____
_____
_____

Surety: _____
_____
_____
_____

Obligee: _____
_____
_____
_____

5. ALTERATION NOTICE WAIVER. The Surety hereby waives notice of any change, alteration or extension of the Subcontract, including but not limited to an increase of the Subcontract amount and / or time, made by the Obligee.

IN WINTESS WHEREOF, the Subcontractor and the Surety have hereunto caused this bond to be duly signed and sealed this _____ day of _____, 20___.

[PRINCIPAL]

_____

[NAME/TITLE]:

[SURETY]

_____

[NAME], Attorney-in-Fact

DUAL OBLIGEE RIDER

To be attached to and form a part of the contract bond number _____

issued by the _____ (Surety's Name)

on behalf of **SUBCONTRACTOR**

in the amount of **XXXXXXX Dollars ($XXXXXX)**

and dated _____ in favor of

_____ in consideration of the sum of One Dollar ($1.00), and other good and valuable consideration receipt of which is hereby acknowledged, the Undersigned hereby agree as follows:

1. The owner (**OWNER)** is hereby added to said bond as an additional Obligee.

2. The Surety shall not be liable under this bond to the Obligee, or either of them unless the said Obligees, or either of them, shall make payments to the Principal strictly in accordance with the terms of the said contract as to payments, and shall perform all other obligations to be performed under said contract at the time and in the manner therein set forth.

3. Aggregate liability of Surety hereunder to Obligees is limited to the penal sum above stated and Surety, upon making payment hereunder, shall be subrogated to, and shall be entitled to an assignment of all rights of the payee with respect to the particular obligation discharged by the payment, either against Principal or against any other party liable to the payee on the discharged obligation.

Signed, Sealed and Dated this _____ day of _____, 20___.

By _____
FILANC

By _____
SUBCONTRACTOR

By _____
OWNER

By _____
(Attorney-in-Fact)

Surety Phone Number _____

By _____
(Attorney-in-Fact)

Surety Phone Number _____

EXHIBIT “X”
SPECIAL PROVISIONS

END EXHIBIT “X”