

**DOCUMENT 00900**

**ADDENDUM NO. 1.0**

**For Bid Packages 2.10**

**1. Summary**

A. This Addendum forms a part of the Contract Documents and modifies the original Bidding Documents as noted below. In the case of difference with previous addenda, this addendum takes precedence. It is the responsibility of the Contractor to notify all parties from whom he accepts proposal for all changes in the Contract Documents covering this project. All other conditions remain unchanged. Acknowledge receipt of this addendum in the space provided on the Bid Form. Failure to do so may subject the Bidder to disqualification.

B. Addendum Issued by:

Adam Benzuly  
Bovis Lend Lease, Inc.  
71 Stevenson Street,  
San Francisco, CA 94105

Phone: (415) 452-2600

Fax (415) 512-0589

**2. REVISIONS TO THE BID DOCUMENTS:**

A. **Revise for Bid Package 2.10:**

**Project Manual Revisions**

A. **Revise** Section 01010 – B.1, Specific Scope of Work: “Low Voltage Connection to East Campus” as follows:

1. First sentence of the document to read as follows:

a. “Summary: The intent of the Contract Documents is that the scope of Work for Bid Package ~~2.9~~ **2.10** shall include all **Description of Work** for the City College Ocean Avenue Campus as described in the Contract Documents, the Construction Documents and this exhibit.”

2. Paragraph 15. “Safety Auditing, Inspecting, Reporting and Meetings” subparagraphs “I” and “ii” to include:

- i. #2.2 – Logistics – Fencing (**affected Bid Package Contractor area of work only**)
- ii. #2.3 – Logistics – Public Protection (**affected Bid Package Contractor area of work only**)

3. Paragraph 22. “Site Security”, subparagraphs “a” and “b” to read as follows:

- a. ~~Bid Package will provide contractor. All exterior projects to be fencing and associated screening for the project.~~
- b. Bid Package Contractor understands and agrees to provide all **K-rail, fencing, screening, cones, security guards, public protection, flagging**, barricades, directional signage, lighting, and pedestrian control for

your work that occurs outside of the fenced construction site to the satisfaction of Bovis Lend Lease in accordance with our GMR's.

4. Paragraph 24. "Storm Water Pollution Prevention Plan": remove subparagraph "h":

~~h. Include an allowance of \$10,000 for additional SWPPP requirements.~~

5. Paragraph C. "Specific Scope of Work", second sentence to read as follows:

"The scope of this work includes but is not limited to trenching, installation of conduit, wiring, and pull box, backfill, compacting, and replacing all hard and softscape over the trench and patching all existing landscaping and appurtenances around the work."

6. Paragraph C. "Specific Scope of Work", subparagraph revisions as follows:

b. Bid Package Contractor to provide and install a pull box located within Specific Scope Sketch in the Exhibit B.2. The pull box shall ~~comply be full complied~~ with Pull Box detail #8 shown on ET54.1. Bid Package Contractor to provide survey, trenching, and backfill as necessary to install the Pull Box correctly.

c. ~~Bid Package Contractor to replace the coiled fiber optic cables in Campus IT Manhole as shown on Specific Scope Sketch. Bid Package Contractor is responsible for evaluating the quantity and quality fiber in the Campus IT Manhole.~~ Bid Package Contractor is responsible for opening up the existing East Campus IT manhole (as shown on Specific Scope Sketch), and verifying contents (quantities, lengths, condition, etc, of all existing coiled cabling) back to Bovis Lend Lease. Include testing fees and costs of other diagnostic testing to determine the status of existing cables in this manhole. If the existing work is found to be acceptable and is of sufficient capacity, quality and length, etc. to Bovis Lend Lease and CCSF, this cabling will be pulled by this Bid Package Contractor through the new conduits and terminated inside the Joint Use Facility. In that case, the deductive alternate will be exercised at the option of Bovis Lend Lease and CCSF. If the existing cabling is found to be insufficient in any way, this Bid Package Contractor will be responsible for furnishing and installing new cabling from the East Campus IT manhole to the Joint Use Facility.

a. If new wiring is to be installed between the East Campus connection and the Joint Use Facility, it will be fiber optic cable Corning Cable Altos Lite, 48 strand, armoured, outdoor, single mode or the existing cabling in the existing campus IT manhole, which is the 48 strand version of Plus Corning SMF-28 Optical Fiber Cable OFNR (UL) E225130 07/2007 0212SM , in one conduit. If the contractor cannot find the Corning Altos in 48 strand, contractor is to go to the next highest number of strands. If this make/model is no longer available, Bid Package Contractor shall provide current equivalent that meets all current guidelines, codes. Etc. and is to the satisfaction of CCSF and Bovis Lend Lease. CCSF will make ultimate determination of equivalency of new, substituted cabling. Provide sheathing around entire length of cabling per industry standards or to match existing cabling, whichever is more stringent.

b.

~~d. Bid Package Contractor to provide penetration to install 4" conduit into Science Hall Room S20 as shown on Specific Scope Sketch.~~

e. Bid Package contractor to trench and backfill for all conduits and sleeves. Bid package Contractor to backfill with full compaction as required in the civil drawings and specifications.

h. Bid Package Contractor to provide and install all removed curbs, check walls, pedestrian pathways,

accessible ramps, landings, expansion and score lines/joints, curb cuts, stairs, signs and markings, metal rails, and accessible ramps and accessible curb ramps in the area of work to the satisfaction of Bovis Lend Lease and CCSF.

- k. Bid Package Contractor to include a ~~\$20,000~~ **\$30,000** allowance for unforeseen items within the area of work. This allowance shall be used at the sole discretion of Contractor and only when so authorized in writing; it shall not be used for completing unfinished portions of the work, repairing work damaged by Bid Package Contractor, or any other purposes. Bid Package Contractor to acknowledge this sum and any other allowance will be given back to the College if not used at the completion of the work.
- p. This Bid Package Contractor shall provide and install all necessary underground conduit and wiring and make all connections as directed by the College and AT&T to existing vaults and wiring within the vaults. **The type of fiber optic cable to be used is Corning Cable Altos Lite, 48 strand, armoured, outdoor, single mode or the 48 strand version of the existing cabling, Plus Corning SMF-28 Optical Fiber Cable OFNR (UL) E225130 07/2007 0212SM, which ever is mmore stringent, in one conduit.. If the contractor cannot find the Corning Altos in 48 strand, contractor is to go to the next highest number of strands. If this make/model is no longer available, Bid Package Contractor shall provide current equivalent that meets all current guidelines, codes. Etc. and is to the satisfaction of CCSF and Bovis Lend Lease.**
- q. Bid Package Contractor to include an allowance of an additional ~~200ft~~ **50ft** section of complete trench section to include the trench, 3-4" conduit, wiring, compacted backfill, 4" concrete (or asphalt) patched over the top, and connecting the wiring to existing or new vaults.
- u. Bid Package Contractor will include in their bid, ~~the potential for~~ the public and student use of the area of Work. Bid Package Contractor to provide all necessary flagmen, perimeter protection, k-rail, fencing, plating, etc. as directed by Bovis Lend Lease to accommodate and protect students, faculty and the public during the work while the Bid Package Contractor is performing work in affected areas. Bid Package Contractor will take extra precautions to identify, protect and repair (if damaged) existing conduits, concrete, irrigation, other existing parking lot items in these areas while the Bid Package Contractor is performing work in affected areas. Bid Package Contractor to perform this work to the satisfaction of Bovis Lend Lease and the Bovis GMR's (Global Minimum Requirements).
- w. Bid Package contractor to include all wiring, cabling, **fittings, sleeves, grounding, couplers, elbows, etc.** to make a complete connection between the East campus and West campus. Work includes splicing to existing fiber optic connection at east campus vault and terminating wiring at splice block in Joint Use Facility telecommunications rooms in the basement. Bid Package Contractor is responsible for providing and pulling all wiring between these two points. Bid Package Contractor to protect installed work until final work finish. Bid Package Contractor to include continuity testing to ensure fiber optic cables are continuous and undamaged at completion of work.
- x. **All work shall be done during the College Winter Break which occurs from December 21, 2009 - January 4, 2010. This would include all new trenching/backfilling, installation of conduit/wiring and restoration of all surfaces to original condition prior to the end of winter break on January 4, 2010. All work between the East campus vault to the temporary staff parking lot along the west side of Phelan must be complete and restored to original condition prior to the end of winter break on January 4, 2010 - this scope of work must be completed first. Include all costs associated with evening and weekend work to accomplish this scope of work within this timeframe. Bid Package contractor may perform work from the temporary staff parking lot along the west side of Phelan to the West campus point of connection after winter break concludes; however, this scope of work must be done during weekends to limit disruption/impacts to students/pedestrians. The weekend work time shall not extend more than 1-1/2 months in length beginning in December 2009.**
- y. **Bid Package contractor to include all wiring, cabling, etc. to make a complete connection between the East campus and West campus. Work includes splicing to existing fiber optic connection at east**

campus vault and terminating wiring at splice block in Joint Use Facility telecommunications rooms in the basement. Bid Package Contractor is responsible for providing and pulling all wiring between these two points. Bid Package Contractor to include continuity testing to ensure fiber optic cables are continuous and undamaged at completion of work.

- B. **Revise** Section 00415 – Bid Form, “Low Voltage Connection to East Campus” in it’s entirety, 7 pages, dated October 23, 2009. Revised version attached herein. **PLEASE NOTE: The bids are due in a two envelope system, as described in the Bid Form Document.**
- C. **ADD** Section 00530, Bovis’ Subcontract, 27 pages, dated 3/2009.
- D. **Revise** Exhibit “E - Alternates” to read as follows: (these revisions are also reflected in the 00415 Bid Form:

Deduct Alternate #1:

Deduct the portion of the work requiring the bidder to furnish and install the trenching, conduit, pull wire, backfill, all patching and full restoration of site hardscape, landscape and appurtenances for the low voltage lines extending from the existing Point of Connection immediately northeast of the Joint Use Facility (existing AT&T vault “TN4” as shown on the RFI 149R1 response, sketch T-024) to the existing AT&T vault in the sidewalk west of Phelan Ave as described the specific scope of work and shown in the Low Voltage Scope Sketch. The number of conduits is 2@4” conduit, with pull string for future connections. Contractor to verify with AT&T that all installations are per AT&T specifications and requirements and obtain all required AT&T inspections as required.

Add Alternate #2

Add portion of the work requiring the bidder to furnish and install the trenching, conduit, wiring, backfill and patching for the low voltage line extending from the existing Point of Connection immediately northeast of the Joint Use facility (the existing AT&T vault labeled as “TN4” on sketch T024 in response to RFI 149R1, attached herein) to the basement Rm S20 of the Science Building on the East Campus as described in the Specific Scope of Work and in the Low Voltage Scope of Work Sketch.

Deduct Alternate #3:

Deduct the fiberoptic cabling (Corning Cable Altos Lite, 48 strand, armoured, outdoor, single mode or equal )to be pulled in the conduit from the existing Campus IT manhole to the existing AT&T vault northeast of the Joint Use Facility (existing AT&T vault “TN4” as shown on the RFI 149R1 response, sketch T-024) and replace it with the existing fiberoptic cabling coiled in the Campus IT vault, to a maximum length of 50 ft. This alternate would include adding and installing a pull box to connect new and existing cabling . Contractor to repair all landscape, hardscape, curbs, gutter, waterproof penetrations of the Science Building, and verify splice and continuity of the conduit and wiring.

## **Project Document Revisions**

- A. **Revise** Section 01010, Exhibit B.2, Scope of Work Sketch (11x17) dated October 23, 2009, in color, attached herein.
- B. **ADD** the following Requests for Information questions, answers and their associated sketches, listed below and attached herein:
1. RFI 0076, 1 page.
  2. RFI 076A, 1 page.

3. RFI 149 with sketch T024, 2 pages total.

C. **ADD** the following drawing sheets to the Bid Package Scope, which can be found at Elite Reprographics website:

1. T1.01
2. T9.6

**END OF ADDENDUM NO. 1.0**

BID FORM – Phase 2, Package 10 – Low Voltage Connection to East Campus  
ADDENDUM #1

FOR: OCEAN CAMPUS, CCSF Project 105A

DISTRICT: Facilities Planning and Construction  
CITY COLLEGE OF SAN FRANCISCO  
50 Phelan Ave., Bungalow 601  
San Francisco, CA 94112

CONSTRUCTION MANAGER: Bovis Lend Lease, Inc.  
71 Stevenson, Street, Suite 800  
San Francisco, CA 94105

BID FROM:

\_\_\_\_\_  
(Name of Bidder)

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

\_\_\_\_\_, \_\_\_\_\_  
(City) (State) (Zip Code)

\_\_\_\_\_  
(Telephone Number) (Fax)

License Classification # \_\_\_\_\_

Note: All portions of this Bid Form must be completed and the Bid Form must be signed before the Bid is submitted. Failure to do so will result in the Bid being rejected as non-responsive.

**1.0 BIDDER'S REPRESENTATIONS**

Bidder, in executing this Bid Form, represents that a) it, and all Subcontractors, regardless of tier, have the appropriate current and active Contractor's license required by the State of California and the Bidding Documents; b) it has carefully read and examined the Bid Documents for the proposed Work on this Project; c) it has examined the site of the proposed Work and all Information Available to Bidders; d) it has become familiar with all the conditions related to the proposed Work, including the availability of labor, materials, and equipment; e) it agrees to comply with and fulfill all requirements of the Bid Documents including but not limited to those of the Project Labor Agreement, the Labor Compliance Program and the SBE program. Bidder hereby offers to furnish all labor, materials, equipment, tools, transportation, and services necessary to complete the proposed Work on this Project in accordance with the Contract Documents for the sums quoted. Bidder further agrees that it will not withdraw its Bid within 120 days after the Bid Deadline, and that, if it is selected as the apparent responsive and responsible low

Bidder, that it will, within 10 days after receipt of notice of award, sign and deliver to CM/Contractor the Agreement in triplicate and furnish to District all items required by the Bidding Documents. If awarded the Contract, Bidder agrees to complete the proposed Work within the number of days identified in the District's Schedule after the date of commencement specified in the Notice to Proceed.

**2.0 ADDENDA**

Bidder acknowledges that it is Bidder's responsibility to ascertain whether any Addenda have been issued and if so, to obtain copies of such Addenda from District's Facility at the appropriate address stated on Page 1 of this Bid Form. Bidder therefore agrees to be bound by all Addenda that have been issued for this Bid.

Bidder acknowledges receipt of the following addenda (list numbers and dates):

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_  
 Addendum No. \_\_\_\_\_ Date \_\_\_\_\_  
 Addendum No. \_\_\_\_\_ Date \_\_\_\_\_  
 Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

**3.0 CONTRACT SUM**

The sum of the Bid Items listed shall include all cost related to the scope of work identified in the Bid Documents for this Bid Package.

| ITEM | BID ITEM DESCRIPTION  | Amount in dollars |
|------|---|-------------------|
| A    | Furnish and install all trenching, conduit, wiring, backfill and patching required for low voltage connection between the East and West Campuses as described in the Specific Scope of Work<br><br><p style="text-align: right;"><b>LUMP SUM BID</b></p>  | \$                |
| B    | All other Work in this Scope<br><br><p style="text-align: right;"><b>LUMP SUM BID</b></p>   | \$                |
| C    | Total Cost of Performance and Labor and Material Payment Bond for Work of Items <b>A+B</b>  | \$                |
| D    | <b><u>Deductive Alternate #1: (Changed entirely in this Addendum)</u></b><br>Deduct the portion of the work requiring the bidder to furnish and install the trenching, conduit, pull wire, backfill, all patching and full restoration of site hardscape, landscape and appurtenances for the low voltage lines extending from the existing Point of Connection immediately northeast of the Joint Use Facility (existing AT&T vault "TN4" as shown on the RFI 149R1 response, sketch T-024) to the existing AT&T vault in the sidewalk west of |                   |

|  |  |       |
|--|--|-------|
|  | Phelan Ave as described the specific scope of work and shown in the Low Voltage Scope Sketch. The number of conduits is 2@4" conduit, with pull string for future connections. Contractor to verify with AT&T that all installations are per AT&T specifications and requirements and obtain all required AT&T inspections as required.. |       |
|  | <b>LUMP SUM BID</b>  | (\$ ) |
| <b>E</b>   | Total Cost of Performance and Labor and Material<br>Payment Bond for Work of Item <b>D</b>   | (\$ ) |
| <b>BASIS OF AWARD (if awarded) = SUM OF BID ITEMS<br/>(A+B+C-D-E = TOTAL BID)*</b> |  | \$    |

**\*Please Note:** The basis of award is the entire scope of work minus the Deductive Alternate and minus the pricing of the Deductive Alternate Bond Award = A+B+C-D-E

Name of the Bonding Company is:

---

**3A ALTERNATES**

|    |  |        |       |
|----|--|--------|-------|
| 1. | Add Alternate #2: Furnish and install 2@4" underground conduit with fiber optic wiring per Exhibit B.1 from the existing A&T vault northeast of the Joint Use Building up to the Science Hall RM S20. This includes all trenching, conduit, wiring, backfill, and all connections.<br>Add portion of the work requiring the bidder to furnish and install the trenching, conduit, wiring, backfill and patching for the low voltage line extending from the existing Point of Connection immediately northeast of the Joint Use facility (the existing AT&T vault labeled as "TN4" on sketch T024 in response to RFI 149R1, attached herein) to the basement Rm S20 of the Science Building on the East Campus as described in the Specific Scope of Work and in the Low Voltage Scope of Work Sketch. | Add    | \$    |
| 2. | Deduct Alternate #3:<br>Deduct the fiberoptic cabling (Corning Cable Altos Lite, 48 strand, armoured, outdoor, single mode or equal ) to be pulled in the conduit from the existing  | Deduct | (\$ ) |

|  |   |  |  |
|--|---|--|--|
|  | Campus IT manhole to the existing AT&T vault northeast of the Joint Use Facility (existing AT&T vault "TN4" as shown on the RFI 149R1 response, sketch T-024) and replace it with the existing fiberoptic cabling coiled in the Campus IT vault, to a maximum length of 50 ft. This alternate would include adding and installing a pull box to connect new and existing cabling . Contractor to repair all landscape, hardscape, curbs, gutter, waterproof penetrations of the Science Building, and verify splice and continuity of the conduit and wiring. |  |  |
|--|---|--|--|

**3B UNIT PRICES**

| NO. | UNIT PRICE DESCRIPTION   | UNIT | Amount in dollars |
|-----|--|------|-------------------|
| 1.  | Ten Foot Length of underground trench with 3-4" conduit, 3 sets of 48 strand fiber optic cable, backfill, patching and connections to (E) conduit and (E) wire, both ends. | Item | \$                |

**4.0 BASIS FOR DETERMINATION OF APPARENT LOW BID**

Voluntary Alternate(s), if provided, will not impact the determination of the apparent low bidder. The basis for determination of the apparent low bidder shall be the sum of all Bid Items, as adjusted by SBE Bid Discount if applicable. The District's policy is to give a Bid Discount to firms whose "Yes" answer to one of the following questions is determined to be valid:

For Bid Packages where a **"SBE participation goal" is stated:**

- a. For Bid Packages where a "SBE participation goal" is stated, Bidder hereby attests that he meets the goal stated and is eligible for the Bid Discount.

Yes  No

**OR**

- b. For Bid Packages where "SBE participation goal" reads "**No Goal**", Bidder hereby attests that he is eligible for the Bid Discount because Bidder has achieved 25% participation.

Yes  No

**5.0 LIST OF SUBCONTRACTORS**

Whether or not Bidder will use Subcontractors for the work included in this Bid, Bidder is required to attach a completed List of Subcontractors Form 00435 listing subcontractors whose contract value exceeds ½ of 1% of Initial Contract Sum. If there will be no subcontracts, submit the form and state "NA" on the list.

**6.0 CONFIRMATION OF TERMS (please initial your understanding of each item)**

1. The Bidder is familiar with BLL's Safety Program, including, but not limited to Bovis Lend Lease's Global Minimum Requirements, pre-task planning, drug testing, and site orientation and hereby includes all labor, material, and equipment costs necessary to ensure participation and compliance with the Program.  
\_\_\_\_\_
  
2. The Bidder is familiar with all minimum insurance requirements for this Project.  
\_\_\_\_\_
  
3. If successful, the Bidder agrees to execute Bovis' contract **WITHOUT EXCEPTION.**  
\_\_\_\_\_
  
4. The successful Bidder will be required to develop a "site specific" safety plan for this project.  
\_\_\_\_\_
  
5. The Bidder has included a completed Pre-qualification form and understands, at the discretion of City College of San Francisco and / or Bovis Lend Lease, Inc., that an inability to demonstrate financial stability, previous experience, or Safety performance may be cause for disqualification as non-responsive.  
\_\_\_\_\_
  
6. The Bidder is familiar with the College's "Small Local Business" and "Small Business" Enterprise programs and understands that failure to comply or offer a "good faith effort" may be cause for disqualification as non-responsive.  
\_\_\_\_\_

**7.0 BIDDER INFORMATION**

TYPE OF ORGANIZATION:

\_\_\_\_\_  
(Corporation, Partnership, Individual, Joint Venture, etc.)

If a corporation, corporation is organized under the laws:

STATE OF \_\_\_\_\_.  
(State)

NAME OF PRESIDENT OF THE CORPORATION:

\_\_\_\_\_

(Insert Name)

NAME OF SECRETARY OF THE CORPORATION:

\_\_\_\_\_  
(Insert Name)

If A PARTNERSHIP, NAMES AND TITLES OF PERSONS SIGNING THE BID ON BEHALF OF BIDDER AND ALL GENERAL PARTNERS:

PERSONS SIGNING ON BEHALF OF BIDDER:

\_\_\_\_\_  
(Insert Names and Titles)

ALL GENERAL PARTNERS:

\_\_\_\_\_  
(Insert Names)  
\_\_\_\_\_

CALIFORNIA CONTRACTORS LICENSE(S):

\_\_\_\_\_  
(Classification)                      (License Number)                      (Expiration Date)

**8.0 BID SUBMITTAL FORMAT and BID ATTACHMENTS (please initial your transmittal of the following bid documents)**

**ENVELOPE # 01 (SEALED ENVELOPE)**

- 1. CCSF Prequalification Form – Ref. Section 00460 of the bid package.
- 2. Bovis Prequalification Form – Ref. Section 00465 of the bid package.

**ENVELOPE # 02 (SEPARATE SEALED ENVELOPE)**

- 1. Bid Form 00415
- 2. Bid Bond or other form of bid security per Ca public bidding code.
- 3. List of Subcontractors - Ref. Section 00435
- 4. Notarized Non-Collusion Affidavit - Ref. Section 00450
- 5. SBE Rules, Regulations, and Forms – Ref. Section 01375; Form 1, 2, 3, 4, 5

9.0 REQUIRED COMPLETED ATTACHMENTS

**The documents listed as required as part of Bid in Section 00210 Instructions to Bidders are submitted with and made a part of this Bid. To be considered responsive Contractor shall submit the required additional documents following receipt of Bids.**

**ATTACHMENT CHECKLIST (please confirm the following are included with your bid) For complete list see Bidder's Requirements Section attached to this Bid:**

\_\_\_\_\_ Bid Bond

\_\_\_\_\_ Completed Pre-Qualification Form with Attachments

\_\_\_\_\_ Labor and Equipment Rates

10.0 DECLARATION

I, \_\_\_\_\_, hereby declare that I am the  
(Printed name)

\_\_\_\_\_ of \_\_\_\_\_  
(Title) (Name of Bidder)

submitting this Bid Form; that I am duly authorized to execute this Bid Form on behalf of Bidder; and that all information set forth in this Bid Form and all attachments hereto are, to the best of my knowledge, true, accurate, and complete as of its submission date.

I declare, under penalty of perjury, that the foregoing is true and correct and that this declaration was executed at: \_\_\_\_\_ (Name of City if within City, otherwise Name of County), State of \_\_\_\_\_, on \_\_\_\_\_.  
(State) (Date)

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

**END OF SECTION**



Subcontract

|                                   |
|-----------------------------------|
| Contractor Job Number<br>(Proj #) |
| Subcontract Number                |
| Date                              |

CONTRACTOR: Attention: ("Contractor")  
 SELECT COMPANY NAME FROM LIST  
 (Bovis address)

SUBCONTRACTOR: Attention: ("Subcontractor")  
 (Subcontractor name)  
 (Subcontractor address)

WORK:

PROJECT: (Project name) (general caption only) ("Project")  
 (Project location)

OWNER: (Owner name) ("Owner")  
 (Owner address)

ARCHITECT-ENGINEER: ("Architect")

PRIME CONTRACT: Dated: ("Contract")

SUBCONTRACT PRICE: Dollars ("Price")  
 (\$ )

MONTHLY BILLING DATE: ("Monthly Billing Date")

RETAINED PERCENTAGE: % ("Retained Percentage")

CHANGE ORDER OVERHEAD AND PROFIT: % ("Profit Percentage")

PAYMENT AND PERFORMANCE BONDS: Required  Not Required

(The above terms are incorporated by reference and are more fully explained below.)

Contractor, and Subcontractor, with offices at the addresses shown above, agree for themselves, their successors and assigns as follows:

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## ARTICLE 1, WORK

The term "Work" means: (i) the furnishing and performance of all labor and materials by Subcontractor, at or for the benefit of the Project which is within the general scope of this Subcontract and the Contract Documents (as that term is defined in Exhibit B), or which can be reasonably inferred from the general scope of this Subcontract or the Contract Documents; (ii) unless specifically expressly excepted, the furnishing by Subcontractor of all labor, material, equipment, supplies, plant, tools, scaffolding, hoisting, temporary facilities, transportation, superintendence, inspections and temporary construction of every nature; (iii) that which is to be produced and supplied pursuant to this Subcontract; and (iv) the obligation of Subcontractor to visit the Project site, and to fully acquaint and familiarize itself with the site, surrounding and subsurface conditions and the character of the operations to be carried on at the site, and make such investigations as Subcontractor may deem fit or as may be prudent for Subcontractor to fully understand the facilities, physical conditions and restrictions attending the Work. All Work shall be completed strictly in accordance with the requirements of this Subcontract and the Contract Documents.

The Contract Documents are available for examination by Subcontractor at all reasonable times at the office of Contractor. Subcontractor represents and agrees that it has carefully examined and understands the Contract Documents relevant to the Work; has adequately investigated the nature and conditions of the Project site and locality; has familiarized itself with conditions affecting the difficulty of the Work; and has entered into this Subcontract based on its own examination, investigation and evaluation and not in reliance upon any opinions or representations of Contractor.

The Contract Documents are to be treated by Subcontractor as "scope" documents which indicate the general scope of the Work in terms of the architectural design concept, the overall dimensions, the type of structural, mechanical, electrical, utility, and other systems, and an outline of major architectural elements. As "scope" documents, the Contract Documents do not necessarily indicate or describe all items required for the full performance and proper completion of the Work. It is the intent of this Subcontract that Subcontractor is to furnish for the Price all items required for proper completion of the Work. Subsequently issued documents may more completely detail certain requirements of the Work, at the option of the Architect, for the purpose of further defining the Work, but there is no obligation to issue such additional documents.

As a part of its obligation to provide and perform the Work, Subcontractor recognizes its responsibility to furnish a competent and adequate staff and use its best skill and attention for the proper administration, coordination, supervision and superintendence of the Work; (i) organize the procurement of all materials and equipment so that they will be available at the time they are needed for the Work; (ii) keep an adequate force of skilled workers on the job to complete the Work in strict accordance with all requirements of the Contract Documents; (iii) maintain throughout the duration of the Work a competent superintendent and any necessary assistants, all of whom shall be acceptable to Contractor and shall not be changed without the consent of Contractor; (iv) enforce discipline and order among Subcontractor's employees and not to employ at the Project any unfit person or anyone not skilled in the task assigned; (v) provide supervision by experts in all aspects of the application of the

materials, equipment or system being fabricated and installed; and (vi) submit to Contractor the names, responsibilities and titles of the principal members of Subcontractor's staff.

Subcontractor shall be bound to Contractor by the terms and conditions of the Contract Documents, as the same shall be applicable to the Work and this Subcontract, and hereby assumes toward Contractor all of the duties, obligations and responsibilities that Contractor has by the Contract Documents assumed toward the Owner. Subject only to the terms of Article 27, nothing herein shall be construed to be a binding agreement to arbitrate any dispute arising hereunder, notwithstanding any provision to the contrary contained in the Contract Documents.

Subcontractor hereby irrevocably grants Contractor a license to use all shop drawings, designs, and deliverables provided by Subcontractor on the Project for Contractor's purposes on the Project. Such license extends, without limitation to all shop drawings, CAD drawings, submittals to governmental or quasi-governmental authorities, product approvals, fabrication processes and the like, which are in any way necessary or desirable for the performance of the Work ("Granted Licenses"). This Subcontract shall constitute conclusive evidence of the granting to Contractor of the Granted Licenses by Subcontractor.

## ARTICLE 2, PRICE

Contractor shall pay to Subcontractor for the satisfactory performance and completion of the Work and performance of all the duties, obligations and responsibilities of Subcontractor under this Subcontract, the sum set forth above as the Price, subject only to additions and deductions as expressly provided in this Subcontract. To the extent that the Work is to be performed on a unit price basis, the Price shall be computed in accordance with the unit prices set forth in Exhibit D, based on actual quantities determined in accordance with the Contract Documents and this Subcontract. The Price and all unit prices shown in Exhibit D shall be deemed to include all costs of Subcontractor's performance of the Work as set forth in the Contract Documents, including, but not limited to, the costs of labor, supervision, services, materials, equipment, tools, scaffolds, hoisting, transportation, storage, insurance, taxes, and all overhead and profit.

## ARTICLE 3, PROGRESS PAYMENTS

Within ten (10) days after the date of transmission of this Subcontract to Subcontractor, Subcontractor shall submit to Contractor for Contractor's approval a detailed schedule showing a proper cost breakdown (with a proper share of associated overhead and profit) of the Price according to the various line items, or parts, of the Work, for use only as a basis for verifying Subcontractor's applications for payment or supporting Contractor's applications for payments under the Contract Documents.

On or before each Monthly Billing Date, Subcontractor shall submit to Contractor, in such form and supported by such data (including bills of sale and applicable insurance) as Contractor may require, a progress payment application showing the value of the Work installed ("Completed Work"), plus the value of the material and equipment for incorporation in the Work suitably stored and insured (to the satisfaction of Contractor and Architect) at the Project site or other approved location ("Stored Work"), as of such date if, and only if, the Contract Documents provide for payments to Contractor on that basis. Subcontractor

shall also furnish to Contractor, with Subcontractor's first Application For Payment, a list of all companies, entities, and individuals supplying labor or materials for the performance of the Work ("Furnisher Information Schedule"). Such Furnisher Information Schedule shall be updated with every Application For Payment. Within seven (7) days after receiving a progress payment from Owner under the Contract Documents, Contractor shall make a progress payment to Subcontractor equal to the value of the Completed Work and Stored Work as of the corresponding Monthly Billing Date, to the extent approved by Contractor and allowed and paid by Owner on account of the Work, and so long as all other conditions of payment are met under Article 5, below, and after deducting (a) all previous payments, (b) current retainage (meaning a reserve equal to the Retained Percentage times the allowed value of Completed Work and Stored Work, plus any additional reserve provided for herein) and (c) all charges or backcharges for services, materials, equipment, or other items furnished or otherwise chargeable to Subcontractor. To the fullest extent permitted by law, Contractor and/or Contractor's surety or sureties shall have no liability or responsibility for any amounts due or claimed to be due Subcontractor for any reason whatsoever except to the extent that Contractor has actually received funds from Owner specifically designated for disbursement to Subcontractor. Receipt of these funds by Contractor shall be an absolute condition precedent to Subcontractor's right to receive payment under the Contract Documents or any payment bond. In the event of any conflict between the Contract Documents, any payment bond and this provision, this provision shall govern. With regard to the foregoing, Subcontractor: (i) agrees that the Price shall be a non-recourse obligation; and (ii) waives Subcontractor's right to assert any claim, demand, right, or cause of action against Contractor and/or Contractor's surety or sureties for any portion of the Price (unless and to the extent that Contractor actually receives funds from the Owner attributable to the Work).

Contractor shall review each Application for Payment together with such supporting documents as required under Article 5 of this Subcontract and as otherwise requested by Owner or Contractor. Contractor shall then approve, modify or reject, in whole or in part, such Application for Payment. Contractor reserves the right to advance the date of any payment (including final payment) due or to become due under this Subcontract if, in its sole judgment, it becomes desirable to do so.

Subcontractor shall not be entitled to any payment until this Subcontract has been properly executed and all documents and information to be furnished by Subcontractor have been supplied to Contractor.

#### **ARTICLE 4, FINAL PAYMENT**

A final payment, consisting of the unpaid balance of the Price, shall be made within thirty (30) days after the last of the following to occur: (a) satisfactory completion of the Work by Subcontractor, (b) unqualified acceptance thereof by the Architect and Owner, (c) full final payment by Owner to Contractor under the Contract Documents on account of the Work, (d) furnishing of evidence satisfactory to Contractor that there are no claims, obligations, or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes, or other items performed, furnished or incurred in connection with the Work, (e) delivery of all guaranties, warranties, bonds, instruction manuals, performance charts, diagrams, as-built drawings and similar items required of Subcontractor or its suppliers or subcontractors

and (f) delivery of a general release, in a form satisfactory to Contractor, executed by Subcontractor running to and in favor of Contractor and Owner, and such other parties as Contractor may require. To the fullest extent permitted by law, Contractor and/or Contractor's surety or sureties shall have no liability or responsibility for any amounts due or claimed to be due Subcontractor for any reason whatsoever except to the extent that Contractor has actually received funds from Owner specifically designated for disbursement to Subcontractor. Receipt of these funds by Contractor shall be an absolute condition precedent to Subcontractor's right to receive payment under the Contract Documents or any payment bond. In the event of any conflict between the Contract Documents, any payment bond and this provision, this provision shall govern. With regard to the foregoing, Subcontractor: (i) agrees that the Price shall be a non-recourse obligation; and (ii) waives Subcontractor's right to assert any claim, demand, right, or cause of action against Contractor and/or Contractor's surety or sureties for any portion of the Price (unless and to the extent that Contractor actually receives funds from the Owner attributable to the Work).

Acceptance by Subcontractor of Final Payment shall constitute a release of Owner and Contractor of and from all liability for all things done or not done or furnished or not furnished in connection with the Work, and for every act, omission, or neglect, if any, relating to or arising out of the Project. As a condition of final payment, Subcontractor shall also execute and deliver a general release to Contractor naming Owner and Contractor, said general release to be in such form as Contractor may provide.

#### **ARTICLE 5, PAYMENT CONDITIONS**

Subcontractor will receive the payments made by Contractor and Subcontractor will hold such payments as a trust fund to be applied first to the payment of laborers, suppliers, subcontractors and others responsible for the Work for which such payments are made, including sufficient funds so that all taxes and insurance applicable thereto are also paid. Subcontractor shall first apply all progress payments as trustee to satisfy all obligations Subcontractor has incurred due to the Work.

Subcontractor shall, as often as requested by Contractor, furnish such information, evidence and substantiation as Contractor may require with respect to the extent and value of current progress and the nature and extent of all obligations incurred by Subcontractor in connection with the Work and all payments made by Subcontractor on account thereof. Subcontractor shall also furnish, as required by Contractor in its sole discretion, such partial or final lien waivers or releases as Contractor deems necessary to ensure that Subcontractor has paid all persons furnishing any labor, material, or services in furtherance of any Work furnished hereunder. If required by Contractor, the furnishing of such lien waivers and releases shall be a condition precedent to any payment hereunder. Moreover, no prior failure of Contractor to require such releases and waivers shall limit Contractor's right to require them subsequently.

Contractor reserves the right to withhold, as an additional reserve and without limiting its other rights and remedies, an amount sufficient: (a) to defend, satisfy and discharge any asserted claim that Subcontractor (or anyone providing any of the Work hereunder) has failed to make payment for labor, services, materials, equipment, taxes, or other items or obligations furnished or incurred in connection with the Work or has caused damage to the Work or to any other work on the

Project; (b) to complete the Work if it appears that funds remaining in the Subcontract, including retainage and exclusive of backcharges, are insufficient to complete the Work; (c) to reimburse Contractor for any backcharges incurred as a result of any act or omission by Subcontractor hereunder; (d) to protect Contractor from the possible consequences of any other breach or default by Subcontractor hereunder; or (e) to secure Contractor with respect to any breach or default by Subcontractor or its affiliates, parent company and subsidiaries under any other agreement.

Payment hereunder shall not be evidence of the proper performance or progress of the Work and no payment shall be construed to be acceptance of defective, faulty or improper work or materials. To the extent that payment is requested for any Work which requires the preparation of construction documents which are maintained on electronic media, no payment shall be due until delivery of the data for such construction documents in a format which is acceptable to Contractor.

Subcontractor shall at all times cooperate, in the course of its performance of the Work and of the Contract Documents, with any lending entity or entities providing financing for the Project and shall agree in writing to all changes and modifications to the Contract Documents which are requested by such entity or entities that do not impose any substantial additional burdens on Subcontractor or materially reduce or limit Subcontractor's rights. Subcontractor shall supply such information and certifications as reasonably may be required from time to time by the aforesaid lending entity or entities in order that Owner can satisfy conditions to lender's obligations to make advances upon Owner's construction loan.

As an additional condition precedent to any payment (including, but not limited to, final payment) under this Subcontract, Subcontractor shall provide to Contractor on electronic media copies of all drawings, shop drawings, CAD documentation and discs, and other documents prepared by Subcontractor, or prepared at Subcontractor's direction, in connection with the performance of the Work, whether or not submitted to Contractor or Owner in connection with the Work.

#### **ARTICLE 6, TIME**

Time is of the essence in the Subcontractor's commencement, prosecution and construction of the Work. Therefore, Subcontractor shall be liable for all direct and consequential damages arising out of Subcontractor's breach of this Subcontract. Subcontractor shall: (a) submit to Contractor within ten (10) days of the date of transmission of this Subcontract to Subcontractor a detailed, proposed schedule for the Work for Contractor's use in preparing an overall progress schedule for the entire Work and its several parts under the Contract Documents; (b) begin the Work promptly upon Contractor's order to do so; (c) coordinate and perform the Work, and its several parts, diligently and promptly and in such order and sequence as Contractor may from time to time direct and as will assure its efficient and timely prosecution and will not delay completion of the entire Work and its several parts under the Contract Documents; and (d) furnish at all times sufficient, qualified and competent forces and supervision, and adequate, conforming and usable materials, equipment, plants, tools and other necessary things, to achieve progress according to Contractor's current progress schedule, including any specific schedule for Subcontractor's Work attached hereto as Schedule 2, and any revisions thereof by Contractor

Without limiting the generality of the foregoing and in recognition of the completion dates contained herein and in the Contract Documents, Subcontractor shall: (a) submit, with its proposed schedule, information showing the time required to prepare and approve shop drawings, to fabricate and deliver materials and equipment, and to install the Work, (b) order (for manufacture or purchase and delivery) all materials required for performance of the Work as soon as possible in order to avoid delays caused by strikes, transportation or unavailability; (c) furnish Contractor within thirty (30) days a list of major materials and equipment required for the Work, showing the name(s), address(es) and telephone number(s) of the supplier(s) and the date(s) on which such material and equipment is expected to be delivered to the Project site; (d) furnish Contractor, upon issuance, a copy of each major purchase order and subcontract (with price information deleted); (e) cause a qualified home office supervisory representative (while Subcontractor has forces at the Project site and for two weeks prior thereto) to attend weekly progress meetings; and (f) notify Contractor immediately by telephone and confirm in writing within seventy-two (72) hours, if Subcontractor finds that any item cannot be delivered as required to maintain Contractor's progress schedule. Subcontractor also agrees to be bound by such modifications to the Project schedule as are discussed at the weekly job progress meetings and are contained in the minutes of those meetings unless written objection is delivered in writing by Subcontractor within forty-eight (48) hours of the occurrence of such meeting.

The Work shall be performed during regular working hours except that, in the event of emergency or when necessary to perform the Work in accordance with the requirements of Article 6 of this Subcontract, Work shall be performed at Subcontractor's cost and expense (including Contractor's standby and other general conditions costs) on night shifts, overtime, Saturdays, Sundays, holidays and at other times, if permission to do so has been obtained in writing from Contractor. Without limiting the requirements of the preceding sentence, if the progress of the Work or of the Project has been delayed by any fault, neglect, act, or failure to act of Subcontractor or any of its subcontractors or suppliers, Subcontractor shall work such overtime, at Subcontractor's cost and expense as aforesaid, as Contractor shall deem necessary or desirable to make up for all time lost and to avoid delay in the completion of the Work or the Project. The failure by Contractor to direct Subcontractor to engage in such overtime work shall not relieve Subcontractor of the consequences of its delay.

Contractor may direct acceleration of the Work in order that it may be performed in advance of the schedules, time requirements and Project requirements described in Article 6 hereof. If so directed, Subcontractor shall increase its staff or work overtime, or both. Subcontractor will not be entitled to additional compensation for work performed outside of regular working hours, except as authorized and accepted in writing by Contractor. Provided that Subcontractor is not in default under the Subcontract, and Contractor has issued the aforesaid authorization, there shall be added to the Price an actual out-of-pocket amount equal to: (i) additional wages actually paid, at rates which have been approved in advance in writing by Contractor; (ii) taxes imposed by law on such additional wages; and (iii) premiums for worker's compensation and liability insurance if required to be paid on such additional wages.

Written authorization for overtime which exceeds \$500.00 in any one week shall be invalid unless confirmed in advance in writing by Contractor's Project Manager, it being understood that Contractor's Superintendent shall not have authority to authorize such overtime which exceeds \$500.00 in any one week.

#### **ARTICLE 7, EXTENSIONS OF TIME**

If Subcontractor claims an extension in the completion time requirements by reason of a change in the Work, Subcontractor shall give Contractor written notice thereof within seventy-two (72) hours after the occurrence of the conditions giving rise to such event. This written notice shall be given by Subcontractor before proceeding with the Work. No such request for an extension of time shall be valid unless written notice is given as required above. After delivering written notice of a perceived cause of delay, Subcontractor shall proceed to execute the Work, even though the time extension has not been agreed upon.

Should Subcontractor be obstructed or delayed in the commencement, prosecution or completion of the Work without fault on its part, and by reason of causes which would entitle the Contractor to an extension of time under the Contract, then Subcontractor shall be entitled to an extension of time only to perform the Work which shall be equal to the extension of time to which the Contractor is entitled and granted by the Owner but no claim for extension of time on account of delay shall be allowed unless a claim in writing therefor is presented to Contractor with reasonable diligence but in any event not later than seventy-two (72) hours after the commencement of such claimed delay. The entitlement to an extension is absolutely conditioned upon Subcontractor's timely submission of the aforesaid written notice. Subcontractor expressly agrees not to make, and hereby waives, any claim for damages, including those resulting from increased labor or material costs, on account of any delay, obstruction or hindrance for any cause whatsoever, whether or not foreseeable and whether or not anticipated including, but not limited to, causes that would entitle the contractor to an extension of time under the Contract, and agrees that the sole right and remedy therefor shall be an extension of time in accordance with the foregoing paragraph.

Moreover, Subcontractor shall not be allowed an extension of time unless Subcontractor has established to Contractor's satisfaction that the delay claimed by Subcontractor is to a portion of the Work on the critical path of the Work schedule and that Subcontractor could not have reasonably anticipated the delay.

#### **ARTICLE 8, CHANGE ORDERS**

Owner has reserved the right under the Contract Documents to require Contractor to make changes in the Work, including additions thereto and deletions therefrom. Additionally, Contractor reserves the right under this paragraph to require Subcontractor to make changes in the Work, including additions thereto and deletions therefrom. Without notice to any surety and without invalidating this Subcontract, Contractor may from time to time, by written order ("Change Order") to Subcontractor, make changes in the Work to the same extent and in the same manner as may be required of Contractor by Owner under the Contract Documents. Subcontractor shall thereupon perform the changed Work in accordance with the terms of this Subcontract and the Change Order. In the event that Subcontractor is obligated hereunder to provide a payment or a performance LG02 (R)3/2009 MW2003

bond, or both, under this Subcontract, the penal sum of such bonds shall automatically be deemed to be increased by any increase in the Subcontract Price.

Upon request of Contractor, and in time and manner sufficient to permit Contractor to comply with its obligations under the Contract Documents, Subcontractor shall submit a written proposal for any applicable Price and time adjustment attributable to the changed Work, detailed as Contractor or Owner may require, supported by and conforming to the requirements of the Contract Documents.

Where a Change Order is issued pursuant to a change required by the Owner, the Price shall be adjusted by the net amount of any direct savings and direct cost plus Profit Percentage attributable to the Change Order, and the time for performance of the Work may be adjusted according to the Contract Documents, subject, however, in each case to the following limitations: (a) the Price and time adjustments hereunder shall be limited to the amount and extent of adjustments actually allowed Contractor under the Contract Documents (less, in the case of Price, any overhead, profit or similar markup allowed by Owner for Contractor's account); (b) where the Work affected by Change Order is the subject of unit prices under Exhibit D, the Price adjustment shall be limited to the amounts obtained by applying such unit prices to the actual increase or decrease in the quantity of units due to the change; and (c) the amount allowable for all overhead and profit shall be limited to the product obtained by multiplying the Profit Percentage by the net amount of Subcontractor's direct savings and direct cost.

As used in this Subcontract, Subcontractor's direct savings and direct cost shall mean and be limited to the actual amount of the following: cost of materials, including sales tax and cost of delivery; cost of labor, including social security, old age and unemployment insurance, and fringe benefits required by agreement or custom; worker's compensation insurance; bond premiums if and to the extent actually increased; and actual rent not greater than the rent charged in the locale or reasonable value of Subcontractor-owned equipment and machinery.

If the parties are able to agree upon the amount of the Price adjustment and the extent of any time adjustment, such adjustments shall be set forth in the Change Order, which shall be accepted by Subcontractor. If the parties are unable to agree upon such adjustments, Contractor may elect to issue the Change Order to Subcontractor directing such work to be performed by Subcontractor and any adjustments to Price or time shall be subject to ultimate determination in accordance with this Subcontract; and Subcontractor shall, nonetheless, proceed immediately with the changed Work. Subcontractor shall keep a detailed account of the direct savings and direct cost due to the changed Work separately from its other accounting records and shall make such records available to the Contractor at Contractor's request. Failure to keep adequate and separate cost records of the changed Work, and to furnish same to Contractor upon its request, shall constitute an acceptance on Subcontractor's part of the Contractor's determination of the direct savings and direct cost of such changed Work. In no event shall Subcontractor proceed with changed Work without a Change Order issued pursuant to this Article 8 and Contractor shall not be liable for any additional costs incurred or delays encountered in the performance of such changed Work without such a written Change Order.

## **ARTICLE 9, NOTICES**

All written notices provided for in this Subcontract or in the Contract Documents shall be deemed given if delivered personally to the party, sent by telegram, or by regular mail to the party at its address and to the attention of the representative specified herein. Either party may from time to time, by notice to the other as herein provided, designate a different address and/or representative to which notices to it should be sent.

## **ARTICLE 10, BONDS**

If so indicated on page 1 hereof, Subcontractor, within ten (10) days of date of transmission of this Subcontract to Subcontractor, shall furnish performance, and labor and material payment bonds each for one hundred percent (100%) of the Price, said bonds to be on Contractor's standard bond forms (attached hereto as Exhibit F) and with sureties satisfactory to Contractor. The premiums on such bonds shall be paid by Subcontractor, or paid directly by Contractor to Subcontractor's surety and deducted from amounts due or to become due to Subcontractor, and are included in the Price. Subcontractor agrees to notify its surety or sureties of increases in the Price and to take such action as is required to have the penal amount of the bonds furnished pursuant to this paragraph increased correspondingly. Irrespective of whether Subcontractor is required to provide performance, and labor and material surety bonds under the terms of the Subcontract, Contractor shall have the right from time to time during the course of the Work to require Subcontractor to furnish bonds for one hundred percent (100%) of the Price (with sureties and in form attached hereto as Exhibit F and amount acceptable to Contractor) covering the faithful performance of the Subcontract and the payment of all obligations arising thereunder. Such bonds shall be furnished within ten (10) days after Subcontractor has been given written notice of such requirement by Contractor.

## **ARTICLE 11, INSURANCE**

Before commencing the Work and until completion and final acceptance thereof by Owner, Subcontractor shall obtain and maintain, at its expense, at least the insurance coverage specified in Exhibit C attached hereto, all from companies and in form and substance acceptable to Contractor.

As a condition to any payment for the Work, Subcontractor shall furnish a certificate, satisfactory to Contractor, from each insurance company showing the required insurance to be in force and stating that the insurance will not be canceled or changed except upon at least thirty (30) days' written notice thereof to Contractor or as otherwise required by the Contract Documents. The certificate shall name Contractor, Owner and any other parties required by the Contract Documents as additional insureds under the policies required in Exhibit C. The terms and conditions of insurance to be provided by Subcontractor are described in Exhibit C. Neither Owner nor Contractor nor any other additional insureds, nor their agents, employees or assigns, shall be liable to Subcontractor or its agents, employees or assigns for any loss or damage covered by the insurance policies described in Exhibit C. The failure of Subcontractor to obtain the insurance required therein prior to the commencement of the Work shall not be deemed a waiver of such requirements or of any rights or remedies that Owner or Contractor may have.

Subcontractor hereby acknowledges its obligation for any loss to its Work, including stored materials, paid for or not.

Subcontractor waives all rights against the Owner, Contractor, Architect and any separate contractors for damages caused by fire or other perils to the extent covered by property insurance applicable to the Work or Subcontractor's equipment, except such rights as Subcontractor may have to the proceeds of such insurance. Subcontractor shall require similar waivers from its subcontractors, suppliers, sub-subcontractors, agents and employees of any of them, by appropriate agreements, each in favor of the other parties enumerated herein.

## **ARTICLE 12, INDEMNITY**

To the full extent permitted by law, Subcontractor agrees to defend, indemnify and save harmless Contractor and Owner, as well as any other parties which Contractor is required under the Contract Documents to defend, indemnify and hold harmless, and their agents, servants and employees, from and against any claim, cost, expense, or liability (including attorneys' fees, and including costs and attorneys' fees incurred in enforcing this indemnity), attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of property (including loss of use thereof), caused by, arising out of, resulting from, or occurring in connection with the performance of the Work by Subcontractor, its subcontractors and suppliers, or their agents, servants, or employees, whether or not caused in part by the active or passive negligence or other fault of a party indemnified hereunder; provided, however, Subcontractor's duty hereunder shall not arise if such injury, sickness, disease, death, damage, or destruction is caused by the sole negligence of a party indemnified hereunder. Subcontractor's obligation hereunder shall not be limited by the provisions of any worker's compensation or similar act.

Should Owner or any other person or entity assert a claim or institute a suit, action, or proceeding against Contractor involving the manner or sufficiency of the performance of the Work (including attorneys' fees), Subcontractor shall upon request of Contractor promptly assume the defense of such claim, suit, action or proceeding, at Subcontractor's expense. To the fullest extent permitted by law, Subcontractor shall indemnify and save harmless Contractor as well as anyone to be defended, indemnified and held harmless by Contractor and its or their agents, servants and employees, from and against any liability, loss, damage, or expense (including attorneys' fees, and including costs and attorneys' fees incurred in enforcing this indemnity) arising out of or related to such claim, suit, action or proceeding. Nothing in Article 12 shall be construed to require any indemnification which would make Article 12 void or unenforceable or to eliminate or reduce any indemnification or rights which the Contractor or any other party indemnified hereunder have by law.

## **ARTICLE 13, ASSIGNMENT**

Subcontractor shall not assign this Subcontract, or any monies due or to become due hereunder, or subcontract any substantial part of the Work, without the prior written consent of Contractor. No assignment by Subcontractor of any right hereunder shall be effective and any such attempt shall be null and void. No third party shall have any right to enforce any right of Subcontractor under this Subcontract. If Contractor gives written consent to an assignment of this Subcontract, in whole or in part, Subcontractor shall not be relieved of its duties and obligations hereunder and shall be and remain fully responsible and liable for the acts and omissions of its assignees. Nothing herein shall prevent Subcontractor from engaging subcontractors to

perform a portion of the Work hereunder. However, Subcontractor shall be and remain as fully responsible for all persons directly or indirectly employed by such subcontractors as Subcontractor is for its own acts and omissions and those of its agents, servants and employees. Additionally, nothing herein shall prevent any guarantor or surety of Subcontractor from enforcing any right hereunder after acknowledgment of its obligation as guarantor or surety. Any attempted enforcement of such rights in the absence of an express acknowledgment shall constitute an admission by any guarantor or surety of its obligations under its agreement of guarantee or suretyship.

Before any subcontractor or supplier is employed by Subcontractor, the name of such subcontractor or supplier shall be submitted in writing to Contractor, and no subcontractor or supplier shall be employed unless acceptable to Contractor. Each subcontractor and supplier shall be bound by all Contract Documents to the same extent and with the same effect as if the subcontractor or supplier were the Subcontractor. Subcontractor shall cause its subcontractors and suppliers to comply with the Contract Documents. Subcontractor shall be responsible for all of the acts, work, material and equipment of its subcontractors and suppliers and all persons either directly or indirectly employed by any of them.

Subcontractor (and its successors and assigns) hereby assigns to Contractor all its interest in any subcontracts and purchase orders now existing or hereinafter entered into by Subcontractor for performance of any part of the Work which assignment will be effective upon acceptance by Contractor in writing and only as to those subcontracts and purchase orders which Contractor designates in writing. It is agreed and understood that Contractor may accept said assignment at any time during the course of construction prior to final completion. It is further agreed that all subcontracts and purchase orders shall provide that they are freely assignable by Subcontractor to Contractor and Contractor's assigns. Contractor may assign this Subcontract at any time without the consent of Subcontractor, or Subcontractor's payment and performance sureties or guarantors, if any.

#### **ARTICLE 14, COMPLIANCE**

Subcontractor shall, at its own expense, obtain all necessary licenses and permits pertaining to the Work and comply with all statutes, ordinances, rules, regulations and orders of any governmental or quasi-governmental authority having jurisdiction over the Work or the performance thereof, including, but not limited to, those relating to safety, wages, discrimination and equal employment opportunity and pay any fines or penalties imposed for any violations thereof ("Legal Requirements"). Subcontractor shall promptly correct any violations of such statutes, ordinances, rules, regulations and orders committed by Subcontractor, its agents, servants and employees. Subcontractor shall receive and respond to, and shall defend, indemnify and save harmless Contractor and Owner, as well as anyone to whom Contractor is obligated, and their agents, servants and employees from and against any loss, liability, or expense arising from any such violations and any citations, assessments, fines, or penalties resulting therefrom. Without limiting the foregoing, Subcontractor will appear at hearings, proceedings and/or in court and consent to its substitution as a party defendant in respect of all summonses and claimed violations arising out of or relating to the Work.

By executing this Subcontract, Subcontractor represents and warrants to Contractor that the Work, when completed, will comply fully with all applicable building and safety codes, regulations and construction requirements imposed or enforced by any governmental agencies and in existence on the date of execution of this Subcontract, without regard to any errors, omissions or deficiencies in the drawings and specifications; and Subcontractor shall furnish samples of all materials and component parts to be used as test specimens. Subcontractor shall furnish labor and facilities at the Project site as necessary in connection with testing and inspection services.

Except as otherwise expressly specified in the Contract Documents or elsewhere in this Subcontract, Subcontractor shall pay for all laboratory services, tests, testing laboratories, agencies, professional engineers, engineering inspections and reports required by the Contract Documents, the Architect, or Contractor. Testing laboratories and professional engineers shall be subject to Contractor's prior written approval. Without limiting the provisions herein, the cost of testing laboratories, agencies, and/or engineers for the convenience of Subcontractor in its scheduling and performance of the Work, or related to remedial operations or possible deficiencies, shall be borne by Subcontractor.

The observations of or participation by Owner, Architect, or Contractor in inspections or tests by persons other than Subcontractor shall not relieve Subcontractor from its obligations to perform the Work in accordance with the Contract Documents. Owner, Architect and Contractor, upon request, promptly shall have access to the Work, whether at the Project, in storage or in manufacture or preparation. Subcontractor shall provide proper and safe facilities for such access and for inspection at the Project site, at the place of storage or elsewhere. Subcontractor has given a license to exercise self-help. If the specifications or any legal requirements require any portion of the Work to be tested or reviewed, Subcontractor shall give Contractor timely written notice of such test or review.

Subcontractor shall comply with and cooperate with other subcontractors, Contractor, Architect, and Owner in complying with legal requirements, including but not limited to OSHA requirements. Among other things, Subcontractor shall be responsible for performing corrective work within abatement periods, appealing from decisions or orders, requesting extensions on abatement periods, and furnishing such information or evidentiary material as may be necessary or as may be requested by Contractor to fully protect the rights and interests of Owner, Architect, and Contractor with respect to possible, threatened or pending proceedings or orders.

#### **ARTICLE 15, SAFETY**

Subcontractor agrees that the prevention of accidents to workers engaged upon or in the vicinity of the Work is its responsibility, even if Contractor establishes a safety program for the entire Project. Subcontractor shall establish and implement safety measures, policies and standards conforming to those required or recommended by governmental or quasi-governmental authorities having jurisdiction and by Contractor and Owner, including, but not limited to, any requirements imposed by the Contract Documents. Subcontractor shall comply with the reasonable recommendations of insurance companies having an interest in the Project and shall stop any part of the Work that Contractor deems unsafe until corrective measures satisfactory to Contractor have been taken. Contractor's failure to

stop Subcontractor's unsafe practices shall not relieve Subcontractor of its responsibility therefor.

Subcontractor shall continuously protect the Work, other work, and the property of Contractor, Owner and others from damage, injury or loss arising in connection with the Subcontractor's performance of the Work. Neither Owner nor Contractor shall be responsible for any loss or damage to the Work or the property of Subcontractor, however caused, until after final acceptance thereof by Owner and final payment therefor. Likewise, neither Owner nor Contractor shall be responsible for loss of or damage (however caused) to materials, tools, equipment, appliances and other personal property of Subcontractor used in the performance of the Work. Subcontractor shall remove all snow and ice as may be required or requested for the proper protection and prosecution of the Work. Subcontractor shall provide and maintain adequate protection against weather so as to protect the Work from injury or damage.

Subcontractor shall enforce Contractor's instructions regarding signs, advertisements, fires, smoking, alcoholic beverages, and the possession of firearms by any person at the Project site. Subcontractor, as necessary for the Work, shall provide flagmen, erect proper barricades and other safeguards, and post danger signs and other warnings as warranted by hazardous and existing conditions.

Subcontractor shall promptly report in writing to Contractor and Subcontractor's insurance carriers all accidents arising out of, or in connection with, the performance of the Work, whether on or off the Project site, which caused death, bodily injury or property damage, giving full details and statements of witnesses. In addition, if death or serious injuries or serious damages occur, the incident shall be reported to Contractor immediately by telephone or in person.

Subcontractor shall provide to Contractor a written site specific Safety and Health Program prior to the commencement of any Work on the Project. The Safety and Health Program shall address tasks to be performed on the Project with attendant risk analysis and have appropriate controls and safeguards to prevent injury and illness. Contractor will review the Safety and Health Program prior to the start of the work. Any questions, comments or inquiries by Contractor as to the adequacy of this program must be completely addressed by Subcontractor before Work is started.

Subcontractor must have a Safety Orientation Program for all of its new Project workers. Documentation of this orientation is required for the Project. Weekly safety meeting with the workers of Subcontractor and its subcontractors of any tier are also required with evidence of the meeting results being supplied to Contractor.

Hard hats are required on the Project. Subcontractor must have a Safety Disciplinary Program and Contractor will use a safety disciplinary system with the Subcontractor.

Guardrails are to be provided by Subcontractor at all working places and other locations where persons or materials could fall more than six (6) feet. Where this cannot be physically achieved, suitable and sufficient fall protection devices that do not rely on individuals must be provided and used by Subcontractor to establish a safe place of work. Harnesses and personal protective equipment must be used by Subcontractor as a last resort. The decisions made and options implemented must be clearly detailed by Subcontractor in its written site specific Safety and Health Program.

Free-standing scaffold towers used externally by Subcontractor must not be higher to the top platform level than three (3) times the minimum base dimension unless secured to a permanent structure. For internal use only, the height to platform may rise to 3.5 times the minimum base dimension. Wheels must be locked when towers are in use. No person is permitted to remain on a tower platform while a tower is being moved.

Powered cranes, hoists, aerial platforms and scissor lifts provided by Subcontractor must have a competent driver that is certified by a qualified third party. Additionally, the above items must be certified by a qualified third party as safe to use.

Subcontractor must comply in full with all applicable environment, health and safety ("EH&S") local and national legislation, including all OSHA regulations. In circumstances where there is a conflict between local or national legislation and this Article 15, the higher (more protective) requirement shall prevail.

All persons working for or under Subcontractor on suspended scaffolds/cradles/gondolas must wear and use appropriate fall prevention equipment so as to protect them effectively, at all times when they are at risk from any failure of any part of the scaffold/cradle/gondola, including its suspension system.

Holes, shafts and edges from or through which persons could fall a distance of more than 6 feet must be clearly marked by Subcontractor with signage or other means and must be adequately protected by covers or barriers provided by Subcontractor so as to prevent falls of persons and materials.

All temporary electrical circuits provided and used by Subcontractor must include a Residual Current Device, Earth Leakage Circuit Breaker or Ground Fault Circuit Interrupter at source.

Adequate lighting must be provided by Subcontractor to enable safe access to and egress from every place on a site where persons are liable to work. This is in addition to task lighting.

To the fullest extent permitted by law and/or by collective bargaining agreements, if applicable, Subcontractor shall comply with Contractor's Drug Policy that includes reasonable-suspicion testing and post-accident testing. If any employee of Subcontractor should test positive under those conditions, they will be sent, at Subcontractor's sole expense, to a drug rehabilitation program and be subject to testing during rehabilitation and upon their return to Work. By executing this Subcontract, Subcontractor hereby certifies that its employees have successfully completed a drug test within one month prior to beginning Work on the Project site. Prior to commencing the Work, Subcontractor must submit to the Contractor a copy of Subcontractor's group testing policy.

The Project has a zero tolerance, no smoking policy. Any employee of Subcontractor found smoking at the Project shall be removed from the Project immediately and shall be barred from any other Contractor projects. If any employee of Subcontractor is found smoking, Subcontractor shall be fined \$5,000.00 for the first offense and \$10,000.00 for each subsequent incident. All workers employed by Subcontractor at the Project must sign an acknowledgement that they are fully aware of the Project's zero tolerance, no smoking policy.

#### **ARTICLE 16, CLEAN UP**

Subcontractor shall, at its own expense: (a) keep the premises at all times free from waste materials, packaging and other debris accumulated in connection with the Work by collecting and removing such debris from the job site on a daily or other basis requested by Contractor; (b) at the completion of the Work in each area, sweep and otherwise make the Work and its immediate vicinity "broom-clean;" (c) remove all of its tools, equipment, scaffolds, temporary structures and surplus materials as directed by Contractor at the completion of the Work; and (d) at final inspection clean and prepare the Work for acceptance by Owner. Subcontractor agrees to provide all cleaning and cleanup required under the Contract Documents pertaining to the Work to the extent such requirements are in excess of those contained in this paragraph.

#### **ARTICLE 17, TEMPORARY FACILITIES**

Temporary facilities and services shall be provided in accordance with Schedule 3 attached hereto.

#### **ARTICLE 18, QUALITY**

Subcontractor shall at all times provide first-quality, new materials (unless otherwise specified in the Contract Documents) and workmanship conforming to the Contract Documents requirements and be in accordance with the best standards of the construction industry where the Project is located. Subcontractor shall at all times provide proper facilities and an opportunity for the inspection of the Work by Contractor, Architect and Owner and their representatives. Subcontractor shall, within twenty-four (24) hours after receiving written notice from Contractor or Architect, proceed to take down and remove all portions of the Work which Contractor or Architect shall have condemned as unsound, improper, or in any way failing to conform to the Contract Documents or this Subcontract and shall replace the same with proper and satisfactory Work and make good all work damaged or destroyed thereby. Contractor's failure to discover or notify Subcontractor of defective or nonconforming Work at the time the Work, or any portion thereof, is performed or completed shall not relieve Subcontractor of full responsibility for replacement of the defective or nonconforming Work and all damages resulting therefrom. If the Owner elects to accept defective or nonconforming Work, Contractor may require an appropriate adjustment in the Price to the extent required of Contractor.

Subcontractor shall use all necessary means to discover and to notify Contractor in writing of any defect in any part of the Project upon which the satisfactory performance of the Work may depend, and to allow a reasonable amount of time for remedying such defects. If Subcontractor should proceed with the Work, Subcontractor shall be considered to have accepted and be responsible for such condition unless Subcontractor shall have been directed by Contractor to proceed over Subcontractor's written objection to Contractor.

#### **ARTICLE 19, GUARANTEES AND WARRANTIES**

Subcontractor warrants and guarantees the Work to the full extent provided for in and required by the Contract Documents. Without limiting the foregoing or any other liability or obligation with respect to the Work, Subcontractor shall, at its expense, make good any faulty, defective, or improper parts of the Work discovered within one (1) year from the date of acceptance of the Project by Architect and Owner or within such longer period as may be provided in the Contract Documents or Legal Requirements. Subcontractor warrants that all materials fur-

nished hereunder meet the requirements of the Contract Documents and warrants that they are both merchantable and fit for the purposes for which they are to be used under the Contract Documents. No Guarantee Period shall be construed to limit any warranty given by Subcontractor hereunder.

Performance of the aforementioned guarantee obligations shall be deemed to be a material component of Subcontractor's contractual obligation to perform the Work. This Subcontract shall not be considered completely performed until all guarantee obligations hereunder are fully satisfied. Performance bonds required of Subcontractor shall include the performance of guarantee obligations and warranty obligations and shall not contain clauses limiting the time to sue upon said bonds for breach of the guarantee or warranty.

#### **ARTICLE 20, SUBMITTALS**

Subcontractor shall immediately prepare or obtain and promptly submit to Contractor shop and erection drawings, samples, product data, catalogue cuts, laboratory and inspection reports and engineering calculations, all as may be required by the Contract Documents or as may be necessary or appropriate to describe the details of the Work. Approval of drawings or other submittals by Contractor or Architect shall not relieve Subcontractor of its obligation to perform the Work in strict accordance with the Contract Documents or of its responsibility for the proper matching of the Work to contiguous work.

Subcontractor shall promptly submit all shop drawings and samples as to cause no delay in the Work or the progress of the Project. Subcontractor shall submit all shop drawings and samples through the Contractor to the Owner for the Architect's review. By submitting shop drawings and samples, Subcontractor represents and warrants that it has determined and verified all materials, field measurements, and field construction criteria pertaining thereto, has checked and coordinated this information with the Work and the Contract Documents, and that the Subcontractor shall fully guarantee and warrant the Work in accordance with this Subcontract and the Contract Documents. Any submission that, in Contractor's opinion, is incomplete, contains errors or has not been fully and properly checked, may be returned unreviewed by Contractor for revision and resubmission.

In reviewing shop drawings, Architect/Engineer need not verify dimensions and field conditions. Architect/Engineer will review shop drawings and samples only for conformance with the design concept of the Work and for general detailing. Architect and Contractor's review shall not be construed as a complete check nor shall it relieve Subcontractor from its responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract Documents. Architect's or Contractor's review shall not relieve Subcontractor from responsibility for errors in shop drawings; responsibility for proper fitting of the Work, the necessity of furnishing any Work required by the Contract Documents which may not be indicated on shop drawings when reviewed; or the necessity of providing sufficient quantities of items.

#### **ARTICLE 21, PERFORMANCE**

The Work shall be performed and furnished under the direction and to the satisfaction of Architect and Contractor, but Subcontractor shall not thereby be relieved of its obligation to supervise the Work, using its best skill and attention, or its obligation to perform the Work as provided for herein. Subcontractor shall be bound by the interpretations and decisions of

Architect and Owner to the same extent as Contractor may be bound thereby under the Contract Documents. No certificate issued or payment made to Subcontractor nor any partial or entire use or occupancy of the Project site shall be an acceptance of any Work not in accordance with this Subcontract or the Contract Documents or be deemed evidence of proper performance of the Work, either in whole or in part, or be construed as an acceptance of defective workmanship or improper materials.

Subcontractor shall notify and obtain the approval of Contractor before the arrival of forces or delivery of materials and equipment to the Project site, before any substantial change in its forces, and before leaving the Project site for any reason.

Subcontractor shall promptly and carefully check all Contract Documents and notify Contractor of any discrepancies or conflicts before performing any Work, and Subcontractor shall be responsible for any extra costs resulting from its failure to do so. Subcontractor shall cooperate with Contractor and other subcontractors in the preparation of coordination drawings where required by Contractor. Subcontractor shall take field measurements and verify field conditions and compare such field measurements and field conditions with the Contract Documents before activities are commenced. Errors, inconsistencies or omissions discovered are to be reported to Contractor at once. Any work done by Subcontractor with respect to any portion of the Work affected by such error, discrepancy, conflict, misunderstanding, or variance will be at Subcontractor's own risk and Subcontractor shall bear all costs and loss arising therefrom.

Neither Architect nor Contractor nor Owner shall be responsible for: construction means, methods, techniques, sequences or procedures of Subcontractor; safety precautions and programs of Subcontractor; the acts or omissions of Subcontractor; or the failure of Subcontractor to carry out the work in accordance with the Contract Documents.

The Subcontractor shall confine operations at the Project site to areas permitted by law, ordinances, permits and the Contract Documents and shall not unreasonably encumber the Project site with materials and equipment. Subcontractor shall not perform any portion of the Work outside the areas of the Project site owned or controlled by Owner or designated as part of the Project site in the Contract Documents unless Subcontractor gives thirty (30) days advance written notice to Contractor, and Owner is able to obtain permission from the appropriate parties to proceed with the Work or to permit access pursuant to Owner's agreements with the owners and/or tenants of said areas. Any work permitted outside of the Project site owned by Owner shall be scheduled in a manner as to cause or occasion a minimum of inconvenience or disturbance to or interference with the normal operations of the Owner, abutters and the public. Subcontractor shall prosecute such operations expeditiously and restore the affected area and other areas needed for access to their original conditions immediately upon completion of such operations unless otherwise specified.

#### **ARTICLE 22, LIENS**

To the extent not expressly prohibited by law, Subcontractor shall not suffer or permit any lien or other encumbrance to be filed or to remain of record as a claim against the building or the Project site or against any monies due or to become due for any Work performed or materials furnished by, to or on behalf of Subcontractor, or any of its subcontractors or suppliers; nor shall Subcontractor suffer or permit any such lien or

encumbrance to be so filed because of any claim or demand against, or any action or non-action of, Subcontractor or any of its subcontractors or suppliers. Subcontractor shall defend, indemnify and save harmless Contractor, Contractor's sureties and Owner from any lien or claim of lien filed or maintained by any laborer, materialman, subcontractor, or other person or entity directly or indirectly acting for, through, or under Subcontractor, against the Project or any part thereof or any interest therein or against any monies due or to become due from Owner to Contractor or from Contractor to Subcontractor. Without limiting the foregoing, Subcontractor shall cause any such lien or claim of lien to be satisfied, removed, or discharged by bond, payment, or otherwise within such time as provided under the Contract Documents or ten (10) days from the date of receipt by Subcontractor of written notice from Contractor or Owner to remove the lien, whichever period is shorter.

#### **ARTICLE 23, PATENTS**

Subcontractor shall pay all royalties and license fees applicable to the Work. Subcontractor shall defend, indemnify and hold Owner, Architect and Contractor harmless of, from and against any and all suits, demands and claims for infringement of any patent rights except to the extent that Owner may have assumed responsibility therefor under the Contract Documents. The foregoing exception shall be inapplicable if Subcontractor had or should have had reason to believe the design, process, or product infringed upon a patent and failed to give written notification to Contractor of same.

#### **ARTICLE 24, LABOR**

Subcontractor shall employ labor that is compatible with the labor of other subcontractors; shall take all steps necessary to avoid labor disputes; and shall be responsible for any delays and damages to Owner caused by such disputes. Subcontractor agrees that where the Work is stopped, delayed, or interfered with by strikes, slow-downs, or similar interruptions or disturbances (including cases where Subcontractor's employees are engaged in a work-stoppage solely as a result of a labor dispute involving Contractor or others and not in any manner involving Subcontractor), Contractor shall have the rights and remedies provided for in Article 26. Subcontractor shall maintain and exercise control over all employees engaged in the performance of the Work, and Subcontractor shall, to the extent permitted by law, remove or cause to be removed from the Project any employee whose presence is detrimental to the orderly prosecution of the Work. Subcontractor shall not permit anyone under the age of 18 to perform the Work or to have access to the Project site. Subcontractor shall comply with all instructions by Contractor relating to the ingress and egress of its employees, materialmen and suppliers to the Project and shall take all necessary steps to restrain and enjoin any illegal picketing, demonstrating, violence, or similar activity against Subcontractor at the Project. Subcontractor agrees that if any provision of the Contract Documents conflicts with any agreement among members of a trade association, or with a union or labor council which regulates the work to be performed by a particular trade, Subcontractor shall reconcile such conflict without delay or damage to Owner or Contractor. Nothing herein shall be deemed to limit Contractor's rights under Article 26 hereof.

#### **ARTICLE 25, DAMAGE**

Contractor shall not be liable or responsible for loss or damage to the equipment, tools, facilities, or other per-

sonal property owned, rented, or used by Subcontractor, or anyone employed by or through Subcontractor, in the performance of the Work; and Subcontractor shall maintain such insurance and take such protective action as Subcontractor deems desirable with respect to such property. Contractor shall not be liable or responsible for any loss or damage to the Work, and Subcontractor shall be responsible for the correction or restoration of any such loss or damage to the Work, or to the work of Contractor or any other subcontractor, resulting from the operations of Subcontractor, or its subcontractors, agents, servants, or employees hereunder. Subcontractor shall take all reasonable precautions to protect the Work from loss or damage prior to acceptance by Owner.

#### ARTICLE 26, DEFAULT

Should Subcontractor at any time:

(a) fail to supply the labor, materials, equipment, supervision and other things required of it in sufficient quantities and of required quality to perform the Work with the skill, conformity, promptness and diligence required hereunder;

(b) cause interference, stoppage, or delay to the Project or any activity necessary to complete the Project;

(c) become insolvent;

(d) fails to properly and promptly make payment for all materials and services provided in the performance of the Work; or

(e) fail in the Contractor's opinion in the performance or observance of any of the covenants, conditions, or other terms of this Subcontract (including, but not limited to, those contained in Article 15 [Safety] hereof), then in any such event, each of which shall constitute a default hereunder by Subcontractor, Contractor shall, after giving Subcontractor written notice of default and forty-eight (48) hours within which to cure said default, have the right to exercise any one or more of the following remedies:

(i) require that Subcontractor utilize, at its own expense, overtime labor (including Saturday and Sunday Work) and additional shifts as necessary to overcome the consequences of any delay attributable to Subcontractor's default;

(ii) attempt to remedy the default by whatever means Contractor may deem necessary or appropriate, including, but not limited to, correcting, furnishing, performing, or otherwise completing the Work, or any part thereof, by itself or through others (utilizing where appropriate any materials and equipment previously purchased for that purpose by Subcontractor) and deducting the cost thereof (plus an allowance for administrative burden equal to fifteen percent (15%) of such costs) from any monies due or to become due to Subcontractor hereunder;

(iii) after giving Subcontractor an additional forty-eight (48) hours written notice (at any time following the expiration of the initial forty-eight (48) hours notice and curative period), terminate this Subcontract, without thereby waiving or releasing any rights or remedies against Subcontractor or its sureties, and by itself or through others take possession of the Work, and all materials, equipment, facilities, plants, tools, scaffolds and appliances of Subcontractor relating to the Work, for the purposes of completing the Work and securing to Contractor the payment of its costs (plus an allowance for administrative burden equal to fifteen percent (15%) of such costs) and other damages under the Subcontract and for the breach thereof, it being intended that Contractor shall, for the stated purposes, be

the assignee of and have a security interest in the property described above to the extent located on the Project site (and Contractor may at any time file this Subcontract as a financing statement under applicable law); or

(iv) recover from Subcontractor all losses, damages, penalties and fines, whether actual or liquidated, direct or consequential (including without limitation any increase in Contractor's cost of insurance resulting from Subcontractor's failure to maintain insurance coverages required hereunder), and all reasonable attorneys' fees suffered or incurred by Contractor by reason of or as a result of Subcontractor's default.

After completion of the Work by the exercise of any one or more of the above remedies and acceptance of the Work by Architect and full payment therefor by Owner, Contractor shall promptly pay Subcontractor the undisbursed balance of the Price, if any. If the cost of completion of the Work, plus the allowance for administrative burden, together with any other damages or losses sustained or incurred by Contractor, shall exceed the undisbursed balance of the Price, Subcontractor and its guarantors, surety, or sureties shall pay the difference within fifteen (15) days of written demand from Contractor.

The foregoing remedies shall be considered separate and cumulative and shall be in addition to every other remedy given hereunder or under the Contract Documents, or now or hereafter existing at law or in equity. Subcontractor's guarantors, surety, or sureties agree to be bound to Contractor with respect to such remedies notwithstanding any provision of the bonds provided pursuant to Article 10 hereof.

Except as limited by this Subcontract, Subcontractor shall have the rights and remedies available at law or in equity for a breach of this Subcontract by Contractor. Any default by Contractor shall be deemed waived unless Subcontractor shall have given Contractor written notice thereof within five (5) days after the occurrence of such default. Subcontractor shall be entitled to stop the Work or terminate this Subcontract **only** (a) on account of Contractor's failure to pay an amount to Subcontractor which is paid by Owner to Contractor under Subcontractor's Application for Payment that is approved in accordance with the Contract Documents and (b) where a good faith reason does not exist as to the withholding of such payments claimed by Subcontractor ("Contractor's Default"). Subcontractor shall not be entitled to stop the Work on account of a Contractor's Default unless such Contractor's Default shall have continued for more than ten (10) days after Contractor's receipt of written notice of such Contractor's Default from Subcontractor, specifying in detail the nature of the default and the steps necessary to cure the claimed default.

Subcontractor shall not be entitled to terminate this Subcontract except for a Contractor's Default which shall have continued for at least an additional thirty (30) days after (a) Subcontractor shall have stopped Work in accordance with this paragraph and (b) Contractor shall have received thirty (30) days written notice of Subcontractor's intention to terminate this Subcontract. Article 26 represents the Subcontractor's sole right to stop the Work or terminate this Subcontract.

Should any termination for default under Article 26 (iii) be determined to be invalid, improper or wrongful, such termination shall be deemed to have been a termination for convenience as provided in Article 28 below.

Subcontractor shall not be entitled to receive any further payment until the Work shall be wholly completed to

the satisfaction of Contractor and shall have been accepted by Contractor and Owner, at which time, if the unpaid balance, if any, of the Price at the time of Subcontractor's default shall exceed the costs and expenses incurred in completing the Work and curing Subcontractor's default, such excess shall be paid to Subcontractor; but if such costs and expenses shall exceed such unpaid balance, then Subcontractor shall pay the difference to Contractor. Such costs and expenses shall include not only the cost of completing the Work to the satisfaction of Contractor and Owner and of performing and furnishing all labor, services, materials, equipment and other items required therefor, but also all losses, damages, costs and expenses, whether direct or consequential, including, without limitation, attorney's and legal fees and disbursements, sustained, incurred or suffered or to be sustained, incurred or suffered by Owner or Contractor by reason of or resulting from any default of Subcontractor.

#### **ARTICLE 27, DISPUTES**

In the event of any dispute between Subcontractor and Contractor arising out of or relating to this Subcontract, or the breach thereof, which involves the correlative rights and duties of Owner, the dispute shall be decided in accordance with the Contract Documents, and Subcontractor, its suppliers, subcontractors and its guarantors, surety, or sureties, shall be bound to Contractor to the same extent that Contractor is bound to Owner by the terms of the Contract Documents and by any decisions or determination made under the Contract Documents by an authorized person, board, court, arbitration, or other tribunal. Subcontractor shall be afforded a reasonable opportunity to present information and testimony involving its rights. Subcontractor shall be solely responsible for the preparation of any information or testimony hereunder unless Contractor notifies Subcontractor in writing of its intention to provide attorneys and provide for the presentation of any case governed by this paragraph, in which case Subcontractor shall have the duty to cooperate with Contractor.

If a dispute should arise between Contractor and Subcontractor under or relating to the Subcontract, or the breach thereof, which does not involve the correlative rights and duties of Owner and is not, therefore, controlled by the foregoing provision, then either party may seek redress of its grievances as to such disputes at law or in equity in a court of competent jurisdiction located in the State in which the Project is located.

In the event of any dispute as to whether any item or portion of the Project Work is within the scope of the Work to be performed by Subcontractor or any dispute as to whether Subcontractor is entitled to an extra payment, Subcontractor shall continue to proceed diligently with the performance of the Work, this Subcontract, and any disputed Work, pending any resolution. The existence of a dispute shall not be grounds for any failure to perform by Subcontractor nor limit the right of Contractor to proceed to remedy any default by Subcontractor.

#### **ARTICLE 28, EARLY TERMINATION**

If Owner terminates the Contract or stops the Work for a reason other than the sole default of Contractor, Contractor may terminate this Subcontract or stop the Work for the same reason, and Subcontractor's rights and remedies, including the basis for payment of any unpaid portion of the Price, shall be limited to the corresponding rights and remedies available to Contractor under the Contract Documents, and controlled by Article 26 above. Should this Subcontract be terminated for default, Subcontractor shall assign all purchase orders and subcon-

tracts to Contractor if Contractor, in its sole and absolute discretion, requests such assignments. Subcontractor agrees to incorporate such provisions in its agreements with suppliers and subcontractors to effectuate this Article 28. Nothing herein shall create any duty on the part of Contractor to accept the assignment of any purchase order or subcontract hereunder.

Further, in its sole discretion and without notice to any guarantors, surety, or sureties, Contractor may, at any time prior to final payment, terminate this Subcontract for its convenience upon the giving of written notice to Subcontractor. In no event shall Subcontractor be entitled to consequential damages or loss of profits on portions of the Work not yet performed. If terminated for convenience, Subcontractor shall be entitled to be paid all costs of all Work provided hereunder including reasonable and necessary costs of termination, as determined in accordance with the method set forth in Article 8 above, together with the Profit Percentage attributable to the costs so determined. Payment shall be made in accordance with and subject to the requirements of Article 4.

Without limitation, the following obligations, among others, of Subcontractor shall survive the termination of the Subcontract whether pursuant to this Subcontract: warranties and guarantees of Work performed; indemnity; payment of taxes, damages, losses and expenses; certifications; delivery of manuals, data on electronic media and as-built drawings; correction of Work performed; removal of liens; and cooperation with the construction lender.

#### **ARTICLE 29, SETOFF**

If Subcontractor is, or hereafter begins, performing any work for Contractor other than the Work under the Subcontract and the unpaid balance of the Price becomes insufficient to complete such Work or compensate Contractor for any damages or deficiencies by the Subcontractor in the performance of the other work, Subcontractor hereby consents and agrees to allow Contractor, in its sole discretion and judgment, to setoff any of Contractor's claims against any funds due, or which may become due, Subcontractor under any other agreement with Contractor, or any subcontract on any other project. No refusal or failure of Contractor to exercise its rights hereunder shall constitute the basis of any right or claim against Contractor.

#### **ARTICLE 30, MISCELLANEOUS**

(a) All matters relating to the validity, performance, or interpretation of this Subcontract shall be governed by the law of the State in which the Project is located, applicable to the validity, performance, or interpretation, as the case may be, of the Contract Documents. In the event that any term, provision, or part of the Subcontract is held to be illegal, invalid or unenforceable, such term, provision, or part shall be deemed severed from the Subcontract and the remaining terms, provisions and parts shall remain unaffected thereby. Where the context requires, neuter terms used herein shall include the masculine and feminine, and singular terms shall include the plural, and vice versa.

(b) This Subcontract, including the documents incorporated herein by reference, embodies the entire agreement of the parties and supersedes all prior negotiations, agreements and understandings relating to the subject matter hereof. Subcontractor agrees that any claims against Contractor, irrespective of an alleged breach by Contractor of the Contract Documents, shall be based, nonetheless, upon this Subcontract

and the Price, and shall in no event be based upon an asserted fair and reasonable value of the Work performed.

(c) This Subcontract may not be changed in any way except as herein provided or by a writing signed by a duly authorized officer or agent of each party. No requirement of this Subcontract may be waived except in writing signed by a duly authorized officer of the waiving party. This provision may not be waived orally by Contractor.

(d) The provisions of this Subcontract and the Contract Documents are intended to supplement and complement each other. If, however, any provision of this Subcontract irreconcilably conflicts with a provision of the Contract Documents, the provision imposing the greater duty on the Subcontractor shall govern.

(e) As to any claim which arises out of Subcontractor's performance which is also caused by the acts or omissions of any third party, Subcontractor's liability hereunder shall be joint and several.

(f) The failure of Owner or Contractor to insist upon performance or strict performance of any of the terms, covenants or conditions of this Subcontract or the Contract Documents shall not be deemed a waiver of any rights or remedies that Owner or Contractor may have; shall not be deemed to constitute an amendment of this Subcontract; and shall not be deemed a waiver of any subsequent breach or default by Contractor of any of the terms, covenants, or conditions of this Subcontract.

**IN WITNESS WHEREOF**, the parties have duly executed this Subcontract as of the date first above written.

\_\_\_\_\_  
(Subcontractor name)

SELECT COMPANY NAME FROM LIST

**Subcontractor**

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

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

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

Attest: \_\_\_\_\_

Attest: \_\_\_\_\_

Subcontractor Check ONE:  Corporation  Partnership/Joint Venture  Individual

If your company qualifies as one or more of the business enterprise types listed below, please check the appropriate box(s) and list certifying agency(s) below:

- DBE (Disadvantaged Business Enterprise)
- SDVE (Small Disabled Veteran Enterprise)
- MBE (Minority Business Enterprise)
- WBE (Women Business Enterprise)
- SBE (Small Business Enterprise)
- N/A (Does not apply to your firm)

Certifying Agency(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If your company is a Minority Business Enterprise (MBE), please check the appropriate box:

- African American
- Hispanic
- Aleutian Indian
- Native American
- Asian

LICENSING: By executing this Subcontract, Subcontractor affirms that it holds the following contractor license(s) applicable to the Work as required by the state in which the Project is located.

State of \_\_\_\_\_ License No(s). \_\_\_\_\_ (If none required, enter "N/A")

License Classification(s): \_\_\_\_\_

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

**Payments will not be processed without complete licensing information.**

\*Subcontractor's Federal Employer Identification No.: \_\_\_\_\_  
(If no E.I. Number, enter business owner's Social Security No.) \*Per IRS 3402(s), 31% of each payment is required to be withheld and remitted to the IRS if E.I. Number or Social Security Number is not provided. This withholding amount will be in addition to Subcontract retainage.

For SELECT COMPANY NAME FROM LIST Use:

License Verified  Not Required By: \_\_\_\_\_ Date: \_\_\_\_\_

**SCHEDULE 1 — CONTRACT DOCUMENTS**

The Contract Documents referred to in Article 1 and elsewhere in this Subcontract consists of the Subcontract and the following:

The Contract Documents, sometimes referred to collectively as the "Subcontract," are listed below and shall constitute the Subcontract.

- This Subcontract with Schedules 1, 2 and 3
- The Contract
- Exhibit A (Drawings/Specifications) consisting of \_\_\_\_\_ pages, dated \_\_\_\_\_
- Exhibit B (General Scope of Subcontractor's Work) consisting of \_\_\_\_\_ pages, dated \_\_\_\_\_
- Exhibit C (Insurance Requirements) consisting of \_\_\_\_\_ pages
- Exhibit D (Unit Prices) consisting of \_\_\_\_\_ pages, dated \_\_\_\_\_  
(Note: The setting forth of unit prices shall not be construed to require Contractor to engage Subcontractor to perform the work for which unit prices are listed.)
- Exhibit E (Alternates) consisting of \_\_\_\_\_ pages, dated \_\_\_\_\_
- Exhibit F (Bonding Requirements and Required Bond Forms) consisting of \_\_\_\_\_ pages
- State Addendum consisting of \_\_\_ pages CHECK BVLEGAL FOR ADDENDUM; DELETE THIS LINE AND THIS TEXT IF NOT NEEDED.
- Additional Exhibits:

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The Subcontractor is bound by the terms of all Contract Documents.

**SCHEDULE 2 — PERFORMANCE SCHEDULE**

Pursuant to Article 6 of this Subcontract and without limiting the provisions thereof, Subcontractor shall perform the Work and its several parts according to the following specific schedule, and as the same may be revised from time to time by Contractor:

### SCHEDULE 3 — TEMPORARY FACILITIES

All temporary Project site facilities and storage, sheds, shanties, material storage rooms, field offices, power, hoists, scaffolding, cold weather protection, etc. ("Temporary Facilities") required in performing the Work shall be furnished by Subcontractor except as provided herein. Subcontractor agrees to furnish, at Subcontractor's expense, sufficient Temporary Facilities for the efficient performance of the Work. Subcontractor agrees to place its Temporary Facilities in locations designated by Contractor. When it becomes necessary, in the opinion of the Contractor, for Subcontractor to provide Temporary Facilities, Subcontractor will do so in an expeditious manner and at no additional cost. Temporary Facilities shall be equipped with fire extinguishers and shall be of fireproof material only, such as concrete, gypsum block, rated drywall, or sheet metal. The sole exceptions to Subcontractor's obligations to provide Temporary Facilities are:

The Temporary Facilities furnished by Contractor shall be without charge to Subcontractor except as otherwise indicated above.

In connection with their furnishing of the Temporary Facilities indicated above, Contractor shall not be liable for conditions beyond the reasonable control of Contractor which may interrupt, delay or otherwise interfere with the availability of such Temporary Facilities to Subcontractor. Unless otherwise expressly indicated, the Temporary Facilities furnished by Contractor shall not be for the exclusive use of Subcontractor, but shall be shared by others performing work on the Project. Contractor, therefore, reserves the exclusive right to schedule the use of any Temporary Facilities in accordance with its determinations as to the needs of the Project and shall incur no liability as a result thereof. If either party from time to time furnishes the other a crane, hoisting equipment, or other machinery or equipment, with or without an operator, for such party's exclusive use, then the using party shall at all times furnish adequate and competent supervision and direction therefor and shall be fully liable and responsible for safe and proper care, use and custody of such machinery or equipment.

(Project name)  
(Proj #)  
**Exhibit C — Insurance Requirements**

In this Exhibit C, the phrase "Contractor" refers to the Contractor named on page 1 of the Subcontract.

Subcontractor shall provide insurance as follows:

1. Workers Compensation and Employers Liability
  - a. Statutory Workers Compensation (including occupational disease) in accordance with the laws of the state in which the work is performed, including the Other States Endorsement.
  - b. Employers Liability Insurance with \$500,000 in limits for each of the following exposures: bodily injury by accident (each accident); bodily injury by disease (policy limit), bodily injury by disease (each employee).
  - c. Waiver of Subrogation in favor of all parties referenced in 2f below.
2. Commercial General Liability ("CGL") with a combined single limit for Bodily Injury, Personal Injury and Property Damage of at least \$5,000,000 per occurrence and aggregate. The general aggregate limit shall apply on a per project basis. The limit may be provided through a combination of primary and umbrella/excess liability policies.

The terms and conditions of coverage shall be provided through the use of ISO Coverage Form CG-00-01-1001 or its equivalent, and shall encompass at least the following.

  - a. X, C and U hazards, where applicable;
  - b. Independent Contractors;
  - c. Blanket Written Contractual Liability covering all Indemnity Agreements, including Subcontract, Article 12 "Indemnity";
  - d. Products Liability and Completed Operations, with the provision that coverage shall extend for a period of at least twelve (12) months from Project completion or for any longer period if required elsewhere in the Contract Documents (such longer period shall take precedence);
  - e. CGL coverage written on an occurrence form;
  - f. Endorsement naming (Owner name), (LIST OTHER ADDL INSUREDS, IF ANY, HERE AND/OR DELETE THIS TEXT) SELECT COMPANY NAME FROM LIST and SELECT COMPANY NAME FROM LIST's parent and affiliates (to the extent applicable), and any other entity as required in the Owner/Contractor Agreement as Additional Insureds. ISO Form CG 2010 1185 or its equivalent shall be used to provide this coverage. The use of both ISO forms 2033 1001 and 2037 1001 together will be considered as an equivalent.
  - g. Waiver of Subrogation in favor of all Additional Insureds.
  - h. Policy to be primary as respects the coverage afforded the Additional Insureds.
3. Commercial Automobile Liability (including all owned, leased, hired and non-owned automobiles) with a combined single limit for Bodily Injury and Property Damage of at least \$1,000,000 per occurrence. The limit may be provided through a combination of primary and umbrella/excess liability policies. Parties referenced in 2f above shall be covered as Additional Insureds.
4. Umbrella and/or excess liability policies may be used to comply with CGL, Auto Liability and Employers Liability limits shown above.
5. A Certificate of Insurance indicating coverages applicable to the Project and providing for thirty (30) days written notice prior to cancellation, non-renewal or material modification in any policy must be submitted, approved, and available to SELECT COMPANY NAME FROM LIST prior to commencement of work. Submit certificate to:

SELECT COMPANY NAME FROM LIST  
(Address line 1)  
(Address line 2)  
(Address line 3)

Attn: (Contact name)

A Certificate of Insurance, when submitted to the Contractor, constitutes a warranty by Subcontractor that:

- a. The general aggregate limit applies on a per project basis.
- b. Blanket Contractual Liability under the Commercial General Liability Policy has been endorsed to cover the Indemnitees specified in Article 12 of the Subcontract between the Contractor and the Subcontractor.
- c. The Commercial General Liability Policy names as Additional Insureds (Owner name), (LIST OTHER ADDL INSUREDS, IF ANY, HERE AND/OR DELETE THIS TEXT) SELECT COMPANY NAME FROM LIST and SELECT COMPANY NAME FROM LIST's parent and affiliates (to the extent applicable) and any other entity as required in the Owner/Contractor Agreement. ISO Form CG 2010 1185 or its equivalent shall be used to provide this coverage. The use of both ISO forms 2033 1001 and 2037 1001 together will be considered as an equivalent.
- d. With respect to the Excess Liability Insurance, the following policies are scheduled as primary:
  - Commercial General Liability
  - Automobile Liability
  - Employers Liability
- e. The insurance policies for all Subcontractor's insurance shall include a waiver of subrogation as follows:

"It is agreed that in no event shall these insurance companies have any right of recovery against (Owner name), and (LIST OTHER ADDL INSUREDS, IF ANY, HERE AND/OR DELETE THIS TEXT) SELECT COMPANY NAME FROM LIST, or any other additional insured as required in the Owner/Contractor Agreement."
- f. The insurance policies shown are endorsed to be primary as respects any other insurance available to any Additional Insured.

**The reverse side of the certificate must list each of the above Items "a" through "f", and the following statement must precede the listing: "This certificate warrants that:"**

6. All insurance carriers must: (i) be licensed in the State where the Project is located; and (ii) be rated at least A in Best's.
7. The Subcontractor shall secure, pay for, and maintain Property Insurance necessary for protection against loss of owned, borrowed, or rented capital equipment and tools, including any tools owned by employees, and any tools, equipment, staging, towers, and forms owned, borrowed or rented by the Subcontractor. The requirement to secure and maintain such insurance is solely for the benefit of the Subcontractor. Failure of the Subcontractor to secure such insurance or to maintain adequate levels of coverage shall not obligate (Owner name), (LIST OTHER ADDL INSUREDS, IF ANY, HERE AND/OR DELETE THIS TEXT) SELECT COMPANY NAME FROM LIST or their agents and employees or any other additional insured as required in Owner/Contractor Agreement for any losses, and (Owner name), (LIST OTHER ADDL INSUREDS, IF ANY, HERE AND/OR DELETE THIS TEXT) SELECT COMPANY NAME FROM LIST and their agents and employees and any other additional insured as required in Owner/Contractor Agreement shall have no such liability. The property insurance shall include a Waiver of Subrogation in favor of all parties required to be named as additional insureds under the Contract Documents.
8. Should the Subcontractor engage a sub contractor, the same conditions applicable to the Subcontractor under these Insurance Requirements shall apply to each subcontractor.

**COVER SHEET TO Exhibit "F"**  
**Pre-qualification and Bonding Requirements**  
SELECT COMPANY NAME FROM LIST  
(Project name)  
(Project location)  
(Proj #)

Subcontractor shall be required to provide payment and performance Bonds as set forth in this Exhibit F (BONDING REQUIREMENTS).

Subcontractor will provide the following:

1. A completed Subcontractor Pre-Qualification Questionnaire submitted through the Bovis Lend Lease SPEC's database.
2. An acceptable surety letter includes:
  - a. Name of surety handling the bonding requirements
  - b. Date the Subcontractor first bonded through the surety
  - c. Existing single and aggregate bond capacity
  - d. Available capacity as of the date of the letter
  - e. General comments as to character, business qualifications, etc.
  - f. Name of agent and contact number
  - g. Author's name, title, and company
  - h. Written on the broker's letterhead
3. CPA prepared Financial Statements for Subcontractor, if requested, includes:
  - a. An Accountant's Opinion
  - b. A Balance Sheet
  - c. An Income Statement
  - d. A Statement of Cash Flows
  - e. Footnotes
  - f. If the Financial Statements are older than six months, an internal un-audited Balance Sheet and Income Statement must ALSO be provided.

Whether or not Subcontractor qualifies shall be within the sole discretion of Contractor. If payment and performance bonds are required, then Subcontractor shall furnish such bonds as set forth in Article 10 of the Subcontract.

**Exhibit F — Bonding Requirements**  
SELECT COMPANY NAME FROM LIST  
(Project name)  
(Proj #)  
**Bid Bond Requirements**

**All bonds are to be prepared in DUPLICATE.**

**All Bidders** shall provide the following:

- Bid Bond for Ten Percent (10%) of the amount Bid, submitted on the attached Bid Bond form
- All SIGNATURES and SEALS must be in place

**Bid Bonds** must be accompanied by the following:

- Valid Power of Attorney with sufficient limits for the full contract amount
- Corporate and Surety Acknowledgment completed and notarized
- Current Financial Statement of the issuing Surety company

**—IMPORTANT—**

Bid Bonds will be obtained from Surety companies with a Best's rating of "A" (Excellent) or better. In addition, the Surety shall have a Best's Financial Size Category equivalent to at least Class VIII. However, if the proposed bid exceeds \$1,000,000, then a higher Financial Size Category may be required.

Bid Bonds must be provided in a separate envelope marked as follows:

"Bid Bond for (Subcontractor name) provided in conjunction with bid for project number (Proj #)."

Any bid not accompanied by an acceptable Bid Bond may be rejected.

**Bid Bond**

KNOW ALL MEN BY THESE PRESENTS:

That \_\_\_\_\_ as Principal  
and \_\_\_\_\_ as Surety

are held firmly bound unto SELECT COMPANY NAME FROM LIST  
as Oblige in the sum of TEN PERCENT OF THE AMOUNT BID U.S. DOLLARS (10% of the amount Bid) for the payment of which sum,  
well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly  
and severally firmly by these presents.

WHEREAS, the Principal has submitted a bid for:

- (Proj #)
- (Project name)
- (Project location)

NOW THEREFORE, if the Oblige shall accept the bid of the Principal and the Principal shall enter into a Contract with the Oblige in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Oblige the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Oblige may in good faith contract with another party to perform the Work covered by said bid, then this obligation shall be null and void; otherwise, to remain in full force and effect.

Signed, sealed and dated \_\_\_\_\_

\_\_\_\_\_  
*(Witness)*

By:

\_\_\_\_\_  
*(Principal)*

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

SEAL

\_\_\_\_\_  
*(Surety)*

\*

\_\_\_\_\_  
*(Witness)*

\_\_\_\_\_  
*(Attorney-in-Fact)*

SEAL

**\*Attach Power-Of-Attorney**

**Exhibit F — Bonding Requirements**  
SELECT COMPANY NAME FROM LIST  
(Project name)  
(Proj #)  
**Performance and Payment Bond Requirements**

**All bonds are to be prepared in DUPLICATE.**

**Subcontractor** shall provide the following:

- Performance Bond and a Labor and Material Payment Bond, written in the full contract amount
- All SIGNATURES and SEALS must be in place

**Bonds** must be accompanied by the following:

- Valid Power of Attorney with sufficient limits for the full Contract Amount
- Corporate and Surety Acknowledgment completed and notarized
- Current Financial Statement of the issuing Surety company

**—IMPORTANT—**

Attached are the required Bond formats.

Surety Bonds will be obtained from Surety companies with a Best's rating of "A" (Excellent) or better. In addition, the Surety shall have a Best's Financial Size Category equivalent to at least Class VIII. If the Performance Bond is issued in an amount exceeding \$1,000,000, then a higher Financial Size Category may be required.

If the Subcontractor fails to obtain the Surety Bonds in accordance with the above, the Contractor reserves the right to grant an exception to these requirements or to reject the Surety Bonds based on inadequate financial protection.

When completed, please forward all bonds to:

SELECT COMPANY NAME FROM LIST  
(Address Line 1)  
(Address Line 2)  
(Address Line 3)

Attn: (Contact name)

Performance Bond

Bond No. \_\_\_\_\_ Premium Amount \$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS,

That we, \_\_\_\_\_  
(Full Name and Address of Subcontractor)

(hereinafter called the Principal), as Principal, and \_\_\_\_\_  
(Full Name and Address of Surety)

a corporation duly organized under the laws of the state of \_\_\_\_\_  
(hereinafter called the Surety), as Surety, are held and firmly bound unto:

Bovis' Name: SELECT COMPANY NAME FROM LIST

Bovis' Address:  
(Bovis address)

(hereinafter called the Obligee)

in the sum of \_\_\_\_\_ U.S. Dollars  
(\$ \_\_\_\_\_), for the payment of which we, the said Principal and the said Surety, bind  
ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal entered into a certain Contract dated \_\_\_\_\_,  
(Month, Day) (Year)

with SELECT COMPANY NAME FROM LIST for:

- (Proj #)
- (Project name)
- (Project location)

which is hereby referred to and made a part hereof as if fully set forth herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall promptly and faithfully perform said Contract, within the time provided therein and any extension thereof that may be granted by the Obligee, and during the life of any guaranty required under said Contract, and shall also promptly and faithfully perform any and all authorized modifications of said Contract that may hereafter be made, then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

The Surety agrees that no change, extension of time, alteration, addition, omission or other modification of the Contract Documents, as specified in the Contract, shall in any way affect its obligations under this Bond, and the Surety hereby waives notice of any such changes, extensions of time, alterations, additions, omissions or other modifications.

Whenever Principal shall be, and declared by Obligee, to be in default, in breach, and/or to have failed to perform in any manner under the Contract, the Obligee having performed its obligations thereunder, the Surety shall promptly remedy the default by one of the following:

1. Complete the Contract in accordance with its terms and conditions.
2. Obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or if the Obligee elects, upon determination by the Obligee and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Obligee, and make available as Work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, and pursuant to the Contract, the amount set forth in the first paragraph hereof. The term "balance of the Contract price," as used in this paragraph, shall mean the total amount payable by Obligee to the Principal under the Contract and any amendments thereto, less the amount properly paid by Obligee to the Principal.

3. Pay to Obligee the full amount of the penal sum above stated.

For projects located in the State of Connecticut, Surety is liable for and is obliged to pay any interest, costs, penalties or attorneys' fees imposed upon the Principal under any provisions of Connecticut Public Act 99-153, entitled "An Act Concerning Fairness in Financing in the Construction Industry."

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

Principal and Surety shall not be liable to the Obligee unless the Obligee has performed its obligations to the Principal in accordance with the terms of said Contract.

Sealed with our seals and dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(Day) (Month) (Year)

\_\_\_\_\_  
(Attested by)

\_\_\_\_\_  
(Principal)  
By: \_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Attested by)

SEAL  
\_\_\_\_\_  
(Surety)  
\_\_\_\_\_  
(Attorney-in-Fact) \*

**\*Attach Power-Of-Attorney**

**Labor and Material Payment Bond**

Bond No. \_\_\_\_\_ Premium Amount \$ \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS,

That we, \_\_\_\_\_  
*(Full Name and Address of Subcontractor)*

(hereinafter called the Principal), as Principal, and \_\_\_\_\_  
*(Full Name and Address of Surety)*

a corporation duly organized under the laws of the state of \_\_\_\_\_  
(hereinafter called the Surety), as Surety, are held and firmly bound unto:

Bovis' Name: SELECT COMPANY NAME FROM LIST

Bovis' Address:  
(Bovis address)

(hereinafter called the Obligee)

in the sum of \_\_\_\_\_ U.S. Dollars  
(\$ \_\_\_\_\_), for the payment of which we, the said Principal and the said Surety, bind ourselves, our heirs,  
executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal entered into a certain Contract dated \_\_\_\_\_,  
*(Month, Day)* *(Year)*

with SELECT COMPANY NAME FROM LIST for:

(Proj #)  
(Project name)  
(Project location)

which is hereby referred to and made a part hereof as if fully set forth herein.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the Principal shall promptly make payment to all claimants as hereafter defined, for all (1) labor and material used or reasonably required for use in the performance of the Contract, (2) pension, welfare, vacation and any other supplemental employee benefit contributions payable under collective bargaining agreements with respect to persons employed upon said work, and (3) federal, state and local taxes and contributions required to be withheld or paid with respect to the employment of persons upon said work that may hereafter be made, then this obligation shall be void; otherwise, it shall remain in full force and effect, subject, however, to the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or a subcontractor of the Principal, for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.
2. The above-named Principal and Surety hereby jointly and severally agree with the Obligee that every claimant as herein defined, who has not been paid in full, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The Obligee shall not be liable for the payment of any cost or expenses of any suit.
3. No suit or action shall be commenced hereunder by any claimant:
  - a. After the expiration of the minimum period of limitation permitted by any law controlling the construction hereof.
  - b. 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, and not elsewhere.

The Surety agrees that no change, extension of time, alteration, addition, omission or other modification of the Contract Documents, as specified in the Contract, shall in any way affect its obligations under this Bond, and the Surety hereby waives notice of any such changes, extensions of time, alterations, additions, omissions or other modifications.

For projects located in the State of Connecticut, Surety is liable for and is obliged to pay any interest, costs, penalties or attorneys' fees imposed upon the Principal under any provisions of Connecticut Public Act 99-153, entitled "An Act Concerning Fairness in Financing in the Construction Industry."

Principal and Surety shall not be liable to the Obligee unless the Obligee has performed its obligations to the Principal in accordance with the terms of said Contract.

Sealed with our seals and dated this \_\_\_\_\_ day of \_\_\_\_\_,  
*(Day)* *(Month)* *(Year)*

\_\_\_\_\_  
*(Principal)*

By: \_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Attested by)*

SEAL

\_\_\_\_\_  
*(Surety)*

\_\_\_\_\_  
*(Attorney-in-Fact)* \*

\_\_\_\_\_  
*(Attested by)*

SEAL

**\*Attach Power-Of-Attorney**



Request for Information 0076

Detailed, RFIs Grouped by RFI Number

CCSF Joint Use Facility Project # 62981100 Bovis Lend Lease, Inc.
50 Phelan Avenue, L202 Tel: 415-452-4300 Fax: 415-452-4311
San Francisco, CA 94112

RFI #: 0076 Date Created: 12/3/2008

Table with 4 columns: Answered Company, Answered By, Author Company, Answered By. Row 1: VBN Architects, Fred King, Bovis Lend Lease, Inc., Bryse Gaboury.

Correspondent: Author RFI Number: BLL

Subject: Electrical- Tele/Data Underground Conduit Discipline: Electrical Category: Confirmation

Table with 4 columns: Cc, Company Name, Contact Name, Copies. Row 1: Bovis Lend Lease, Inc., FILE, 1

Question Date Required: 12/10/2008

Ref: T1.01, 1/T9.6

- 1. Please confirm if we are to install 6 or 8 underground conduits for Tele/Data. The details on the Joint Use Facility show 6 conduits and the Site Plan details show 8 conduits.
2. Please confirm the elevation of the underground tele/data conduits. The JUF drawings show the conduits installed below the mat slab and the Site Plan drawings show the conduits enter into the JUF through the basement wall and run in basement ceiling. BLL would prefer to install the conduits in the basement wall and run the conduits in the ceiling.

Thank you

Suggestion

Answer Date Answered: 12/17/2008

Six conduits are required. Eight conduits are preferred for future expansion,
Conduits are to run under the mat slab. Conduits above the ceiling would conflict with data trays and sprinkler pipes.



Request for Information 0076A

Detailed, RFIs Grouped by RFI Number

CCSF Joint Use Facility
50 Phelan Avenue, L202
San Francisco, CA 94112

Project # 62981100
Tel: 415-452-4300 Fax: 415-452-4311

Bovis Lend Lease, Inc.

RFI #: 0076A Date Created: 12/8/2008

Table with 4 columns: Answer Company, Answered By, Author Company, Authorized By. Contains details for VBN Architects and Bovis Lend Lease, Inc.

Co Respondent Author RFI Number

Table with 3 columns: Subject, Discipline, Category. Subject: Electrical- Tele/Data Conduit Point of Entrance, Discipline: Electrical, Category: Confirmation

Table with 4 columns: Co. Company Name, Contact Name, Copies, Notes. Contains Bovis Lend Lease, Inc., FILE, 1.

Question Date Required: 12/15/2008

Ref: T1.01, 1/T9.6

Please confirm if it is acceptable for the underground tele/data conduits enter into the JUF through the North basement wall and run in basement ceiling.

Thank you

Suggestion

Answer Date Answered: 12/15/2008

Routing of conduits through the north basement wall at Media Resource Center Room #002 near grid line 4, along ceiling tight to beams and thru concrete shear wall to ADF Room #003 is acceptable with the following conditions.

- 1. Conduits are to be rigid galvanized steel.
2. Exterior wall penetrations shall be sealed watertight per sheet water proofing system standard details.
3. Conduits shall be braced and anchored per approved structural and electrical drawings.
4. Penetrations at concrete walls shall be per approved structural drawings.
5. Contractor shall coordinate all conduit and cable routing with other trades and submit for approval in shop drawings.



Request for Information 0149

Detailed, RFIs Grouped by RFI Number

CCSF Joint Use Facility
50 Phelan Avenue, L202
San Francisco, CA 94112

Project # 62981100
Tel: 415-452-4300 Fax: 415-452-4311

Bovis Lend Lease, Inc.

RFI #: 0149 Date Created: 2/23/2009

Table with 4 columns: Answer Company, Answered By, Author Company, Author By. Row 1: VBN Architects, Fred King, Bovis Lend Lease, Inc., Nick Rossi.

Co-Respondent: Amber Welsh
Author RFI Number

Subject: Low Voltage - Number of Basement Penetrations
Discipline: Structural
Category: Confirmation

Co- Company Name, Contact Name, Copies, Notes

Question Date Required: 3/4/2009

To Fred King - VBN and and Timmons Design Engineers

To confirm, the number of penetrations through the north basement wall, needed for low voltage, is 10 -6" sleeves for 4" conduit. There will be 5 conduit in and 5 out of the basement. The 5 in will be fed through the maintenance hole on sheet T1.01. The conduit are for Joint Use and the rest of the site.

Drawing Reference: Sitework ET1.01 and Joint Use T1.01.


Suggestion

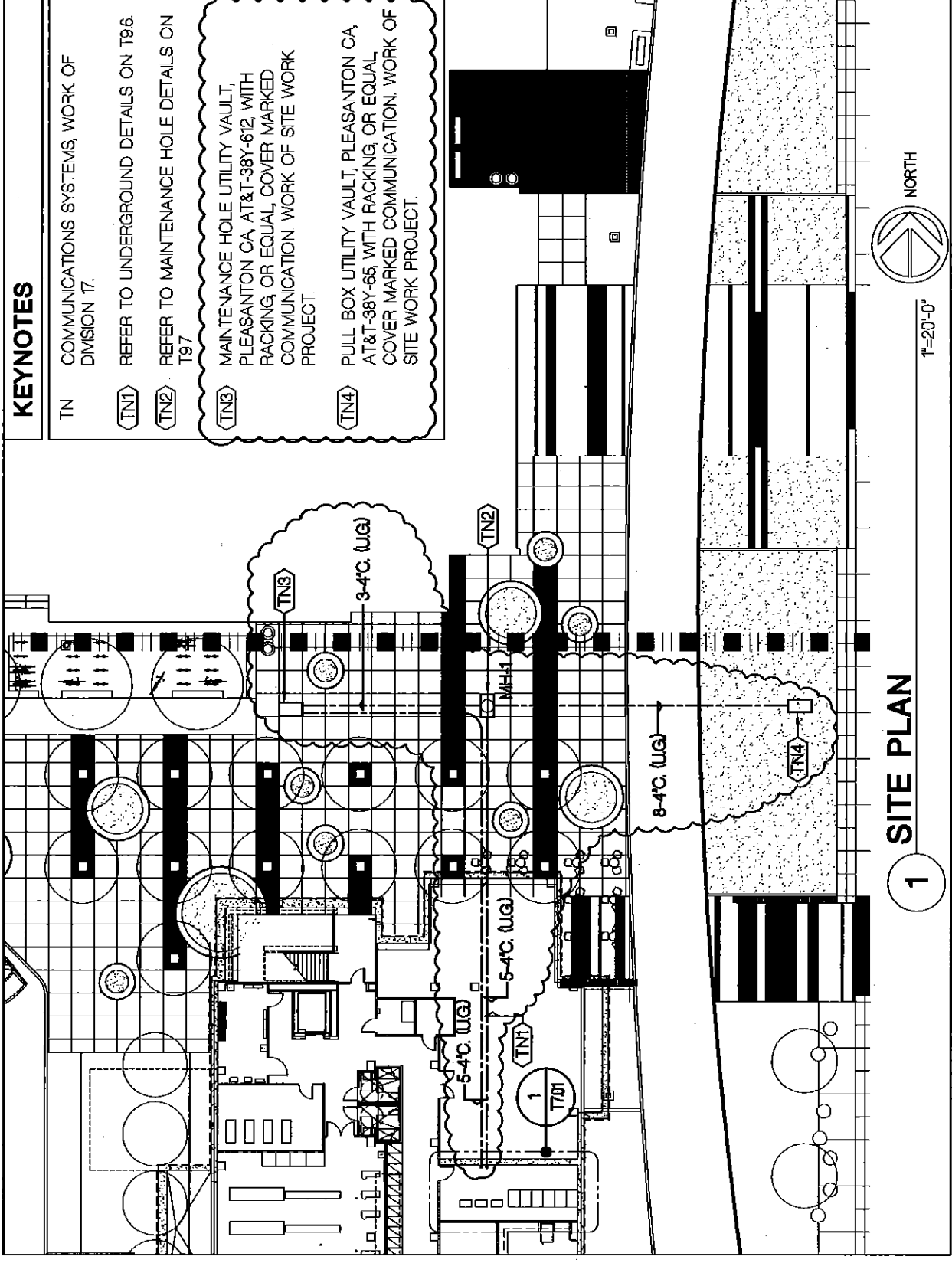
Answer Date Answered: 2/25/2009

2/24/09 - there will be ten - Amber Welsh

2/25/09 - Confirmed 10 -4" conduits at the North basement wall. See attached sketch to drawing SK-T024.

Coordinate with sitework contract.

|   |  |
|---|--|
| DSA FILE NO. 38-C1<br>DSA APPL NO. 01-108279<br> | PROJECT:<br>CITY COLLEGE OF SAN FRANCISCO<br>JOINT USE FACILITY<br>50 PULLEN AVE, S-142, SAN FRANCISCO, CA<br>BELDON RESERVE DEVELOPMENT SAN FRANCISCO, CA |
| REFERENCE DOCUMENT:<br>171.01   | DATE:<br>02-24-09  |
| TITLE:<br>SITE PLAN   | SCALE:<br>1"=20'-0"  |
| DRAWN BY:<br>IK   | JOB NO.:<br>06024  |
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