

Turner

Turner Construction Company
1900 S. State College Blvd.,
Suite 200
Anaheim, CA 92806
phone: 714.940.9000
fax: 714.712.4415

December 4, 2014

EVANS ROOFING COMPANY, INC.
2020 South Yale Street
Santa Ana, CA 92704-3931
Attn: Tony Baratto

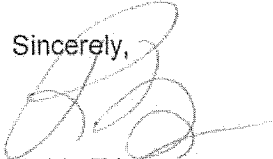
RE: GREAT WOLF LODGE RESORT
Harbor Blvd.
Garden Grove, CA 92840
Turner Contract 4700040244
Subcontract Agreement

Tony,

The Agreement covering your Work on the above-referenced Project has been fully executed.

We are returning one (1) original of the executed Agreement for your records.

Sincerely,



Robin Tristan
Purchasing Administrator

Enclosure

Original: Purchasing
Copy: Accounting/ Jobsite/ Cost

Turner Construction Company Subcontract Data Sheet	
<p>The terms and conditions of the Form 36 CA REV 7-15-13 shall govern this Subcontract with the exception of those modifications listed below:</p> <p>This Agreement, 4700040244, made as of the 04th day of November in the year 2014 by and between Turner Construction Company a NY Corporation, (hereinafter called Contractor) and Evans Roofing Company, Inc. a California Corporation located at 2020 South Yale Street, Santa Ana, CA, 92704-3931 (hereinafter called the Subcontractor).</p>	
Description of Work	<p>Description of Work: Membrane and Standing Seam Roofing (hereinafter called the Work)</p> <p>Project Name: Great Wolf Lodge Resort (hereinafter called the Project)</p> <p>Project Number: 131510</p> <p>Project Location: Harbor Boulevard, Garden Grove, CA, 92840-0000 (hereinafter called the Premises)</p> <p>Architect Name: (hereinafter called the Architect)</p> <p>Owner Name: Great Wolf Resorts, Inc. (hereinafter called the Owner)</p> <p>General Contract Date: 11/09/2013</p> <p>Additional Provisions Page(s): 16A ythrough 16Y. Attachement B - Deign Build Provisions applicable to Standing Seam Metal Seam Roof Only. Annexed hereto and made a part hereof.</p>
Price	<p>Subcontract Amount: TWO MILLION ONE HUNDRED THIRTEEN THOUSAND FOUR HUNDRED FORTY-FIVE Dollars, \$ 2,113,445.00 (hereinafter called the Price)</p> <p>Reserve: 10.00%</p>
Change Orders, Additions and Deductions	<p>Allowance for Overhead on Changes 15%</p> <p>Allowance for Profit on Changes Included in overhead</p>
Liability for Damage and Personal Injury	<p>In addition to Turner Construction Company and the Owner, the Indemnified Parties throughout this Agreement shall include: GWGG, LLC, GGMXDR, Inc, McWhinney Real Estate Service, Inc, David L. Bray, Great Wolf Resorts, Inc, CMB Infrastructure Investment G and any of their respective officers, agents, servants, or employees, and affiliates, parents and subsidiaries.</p> <p>Before commencing the Work, the following insurance coverages from insurance companies satisfactory to Turner Construction Company, shall be in place and maintained until completion and final acceptance of the Work:</p> <ol style="list-style-type: none"> 1. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE in accordance with laws of the State in which the Work is situated. 2. COMMERCIAL GENERAL LIABILITY INSURANCE <p style="margin-left: 40px;">\$4,000,000.00 /Occurrence \$4,000,000.00 /General Aggregate</p> <p>_____ Subcontractor Election A). The above insurance coverages shall be provided by insurance companies selected by the Subcontractor.</p> <p style="text-align: center;">or</p> <p><input checked="" type="checkbox"/> Subcontractor Election B). The above insurance coverages shall be provided through a consolidated insurance program arranged by Turner Construction Company</p>

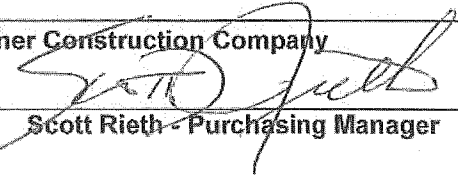
	<p>(CCIP). \$242,799.00 (The "Estimated Unburdened Payroll") is warranted by Subcontractor as accurate for calculation of Insurance Premium for Subcontractor and enrolled Lower Tiers.</p> <p>_____ Subcontractor Election B, Sub-Part B-1. Project utilizes a consolidated insurance program (CCIP) arranged by Turner Construction Company. Subcontractor is an Excluded Prime Tier with Enrolled Lower Tier Subcontractors. \$_____ (The "Estimated Unburdened Payroll") is warranted by Subcontractor as accurate for calculation of Insurance Premium for enrolled Lower Tiers.</p> <p style="text-align: center;">or</p> <p>_____ Subcontractor Election C) The above insurance coverages shall be provided through an Owner Controlled Insurance Program (OCIP).</p> <p>3. COMMERCIAL AUTOMOBILE LIABILITY INSURANCE</p> <p style="text-align: center;">Combined Single Limit \$2,000,000.00 /accident</p>
Bonds	<p>Payment and Performance Bonds included: NO</p> <p>If Payment and Performance Bonds included:</p> <p style="padding-left: 40px;">Provide performance bond in the amount of \$ 0.00</p> <p style="padding-left: 40px;">Provide payment bond in the amount of \$ 0.00</p>
Entire Agreement	<p>Evans Roofing Company, Inc. (SUBCONTRACTOR) ACKNOWLEDGES THAT THE ACCOMPANYING BALANCE OF TERMS AND CONDITIONS PER THE Form 36 CA REV 7-15-13 ARE COMPLEMENTARY AND INTEGRAL TO THIS SUBCONTRACT AGREEMENT.</p> <p>This Agreement constitutes the entire agreement between the parties hereto. No oral representations or other agreements have been made by Turner Construction Company except as stated in the Agreement.</p> <p>This Agreement may not be changed in any way except as herein provided, and no term or provision hereof may be waived by Turner Construction Company except in writing signed by its duly authorized officer or agent. Subcontractor acknowledges and represents that it completed and submitted to Turner Construction Company a prequalification questionnaire, that all statements therein were true, accurate and complete, and remain true, accurate and complete, and that Turner Construction Company has relied on truthfulness, accuracy and completeness of such statements and the contents of the attachments thereto in deciding to enter into this Agreement. The marginal descriptions of any term or provision of this Agreement are for convenience only and shall not be deemed to limit, restrict or alter the content, meaning or effect thereof.</p> <p>The said parties, for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of all of the terms and provisions herein contained.</p> <p style="text-align: center;">In Witness Whereof the parties to these presents have hereunto set their hands as of the day and year first above written.</p>

Evans Roofing Company, Inc.

By: _____

Official title: Tony Baratto/President

Turner Construction Company

By: 

Scott Rieth - Purchasing Manager

Subcontractor's Federal Employers Identification Number (FEIN) **33-0216962**
 Subcontractor's State Unemployment Ins. No.

Subcontractor's License No.

(Insert License No., if any, for State or locality in which the Work is to be performed)

Subcontractor's State Sales Tax Registration No.

(Insert State and Register No. for State in which the Work is to be performed)

ATTACHMENT "B".

**DESIGN-BUILD SUBCONTRACT
PROVISIONS**

The following Additional Provisions set forth in this Attachment "B" are included as part of the Subcontract Agreement made as of the 4th day of November, 2014 by and between TURNER CONSTRUCTION COMPANY ("Turner") and Evans Roofing ("Subcontractor") and shall in all respects be binding upon Subcontractor's surety:

- 1) The Subcontractor shall be responsible for furnishing all design and engineering services and for the performance of all construction necessary to fully complete the Work of Subcontractor as set forth in the Contract Documents.
 - 2) All design and engineering services to be furnished by Subcontractor under the Contract Documents shall be performed by Professional Architects and/or Engineers properly licensed and registered under the Laws of the state or other jurisdiction where the Project is located [hereinafter called "the Subcontract Architect(s)/Engineer(s)"]. The Subcontract Architect(s)/Engineer(s) shall remain duly qualified to practice such profession(s) throughout the life of the Subcontract Agreement and shall be regularly engaged in the practice of architecture or engineering applicable to the Work to be furnished and performed by Subcontractor under the Subcontract Agreement. The amount of the price allocable to the design and engineering services shall be deemed to be the actual amount paid or to be paid for such services by Subcontractor to such professional Architect(s) and/or Engineer(s), plus a mark up for overhead and profit in the percentages stated in Article IX.
 - 3) All drawings, specifications and other design or construction documents prepared by the Subcontract Architect(s)/Engineer(s) including those documents described in Paragraph 4 hereof shall be signed by such professional(s) and stamped with his seal.
 - 4) As part of the design and engineering services to be furnished under the Subcontract Agreement, Subcontractor shall submit the following documents to Turner in accordance with the schedule(s) established by Turner for such submissions:
 - (A) Complete design development documents including drawings and specifications setting forth the general character and location of the Work to be performed and the quantity and quality of all proposed material and equipment to be furnished in connection therewith; and
 - (B) Complete working drawings and specifications and other construction documents prepared from approved design development documents which set forth in detail the requirements for the construction of the Work to be performed and furnished by Subcontractor under the Subcontract Agreement.
- Subcontractor shall submit 6 copies of all design and construction documents which Subcontractor is required to submit under the Subcontract Agreement or the Contract Documents.
- 5) All drawings, specifications and other design and construction documents prepared by the Subcontractor's Architect(s)/Engineer(s) shall be the property of Turner and/or the Owner as Turner may designate. In addition, Turner and the Owner shall have the right without limitation to access and use all computer aided design data and programs (CADD) utilized by the Subcontractor's Architect(s)/Engineer(s) in the performance of design and engineering services furnished in connection with the Subcontract Agreement.
 - 6) Subcontractor shall give all notices and comply in all respects with laws (including licensing laws), building codes, ordinances, regulations and orders of any public or governmental authority applicable to the design or construction for the Work to be furnished and performed by Subcontractor.
 - 7) All construction performed by Subcontractor shall be performed in strict accordance with the Contract Documents and the working drawings and specifications and other construction documents submitted by Subcontractor and released for construction. Subcontractor shall be responsible for coordinating the design and construction of his Work with the Work of all other trades.

- 8) The review, approval or release of any design or construction documents submitted by Subcontractor including those described in Paragraph 4 hereof by the Architects and/or such other person(s) as may be required by the Contract Documents or the taking of other appropriate action upon such submissions shall be only for the limited purpose of checking for general conformance with the design concept of the work and any design or performance criteria or other information provided in the Contract Documents. Such review, approval, release or other action taken with respect to such documents shall not relieve the Subcontractor from any of his obligations under the Subcontract Agreement or from any of the requirements of the Contract Documents.
- 9) Subcontractor shall notify Turner and the Architect in writing of all changes which may be required to any design or construction documents previously submitted by Subcontractor. All such changes shall be subject to the same review, approval, release or other action required for original submissions prior to such change. Any additional costs incurred by Turner or others as a result of Subcontractor's failure to give such notice in a timely manner or by Subcontractor's failure to meet Turner's schedule requirements shall be charged to Subcontractor.
- 10) In addition to Article XXIII and not in limitation thereof, Subcontractor, for an in consideration of the payment of the sum of One Hundred Dollars (\$100.00) which sum is included in the Subcontract Price and shall be paid to Subcontractor as part of the payment provided for in Article IV, and for other good and valuable consideration and intending to be legally bound hereby, agrees to indemnify and hold harmless Turner and Owner and their respective officers, agents, servants, employees from and against any and all liability, claims, loss, cost, expense, damage or injury of any kind or nature, including legal fees and disbursements that Turner and/or Owner may directly or indirectly sustain, suffer or incur as a result of, arising out of or relating to the performance of design and/or engineering services in connection with the Subcontract Agreement or the Work. Subcontractor agrees to and does hereby assume on behalf of Turner and/or Owner the defense of any action at law or in equity which may be brought against Turner and/or Owner upon or by reason of such claims and shall pay on behalf of Turner and/or Owner, upon demand, the amount of any judgment that may be entered against them in any such action.
- 11) Subcontractor will provide PRACTICE (OFFICE) PROFESSIONAL LIABILITY INSURANCE (E&O) for protection from claims arising out of the performance of any design or engineering services performed or furnished in connection with the Work caused by any negligent act error or omission for which Subcontractor and/or the Subcontractor's Architect(s) and/or Engineer(s) may become legally liable. Such professional liability insurance shall provide for coverage as follows:

a. Limit of liability \$ 2,000,000.00

b. Deductible Amount \$ 25,000.00

c. Subcontractor agrees that he will maintain this Professional Liability coverage for 5 years after substantial completion of the Project, will notify Turner of any changes in the policy in subsequent years and will ensure that the policy will not provide less limits or coverage than the current policy."

d. Sixty (60) days prior written notice to Turner of cancellation of such insurance or any material change with respect thereof.

Such professional liability insurance shall be in a form and from a company(s) acceptable to Turner and policy(s) shall be available for review by Turner as requested. Turner will not be an Additional Insured on this policy.

This Agreement, made as of the SDS day of SDS in the year SDS by and between CONTRACTOR and SDS (See Subcontract Data Sheet for this Item and all other Items marked SDS) (hereinafter called the Subcontractor).

Witnesseth, that the Subcontractor and Contractor agree as follows:

Description of Work

ARTICLE I. The Subcontractor shall perform and furnish all the work, labor, services, materials, plant, equipment, tools, scaffolds, appliances and other things necessary for SDS (Hereinafter called the Work) for and at the SDS (Hereinafter called the Project), located on premises at SDS (Hereinafter called the Premises), as shown and described in and in strict accordance with the Plans, Specifications, General Conditions, Special Conditions and Addenda thereto prepared by SDS (Hereinafter called the Architect) and with the terms and provisions of the General Contract (hereinafter called the General Contract) between Contractor and SDS (Hereinafter called the Owner) dated SDS and in strict accordance with the Additional Provisions, page(s) SDS annexed hereto and made a part hereof.

Plans & Specifications

ARTICLE II. The Plans, Specifications, General Conditions, Special Conditions, Addenda and General Contract hereinabove mentioned, are available for examination by the Subcontractor at all reasonable times at the office of Contractor; all of the aforesaid, including this Agreement, being hereinafter sometimes referred to as the Contract Documents. The Subcontractor represents and agrees that it has carefully examined and understands this Agreement and the other Contract Documents, has investigated the nature, locality and site of the Work and the conditions and difficulties under which it is to be performed and that it enters into this Agreement on the basis of its own examination, investigation and evaluation of all such matters and not in reliance upon any opinions or representations of Contractor, or of the Owner, or of any of their respective officers, agents, servants, or employees.

Contract Documents

With respect to the Work to be performed and furnished by the Subcontractor hereunder, the Subcontractor agrees to be bound to Contractor by each and all of the terms and provisions of the General Contract and the other Contract Documents, and to assume toward Contractor all of the duties, obligations and responsibilities that Contractor by those Contract Documents assumes toward the Owner, and the Subcontractor agrees further that Contractor shall have the same rights and remedies as against the Subcontractor as the Owner under the terms and provisions of the General Contract and the other Contract Documents has against Contractor with the same force and effect as though every such duty, obligation, responsibility, right or remedy were set forth herein in full. The terms and provisions of this Agreement with respect to the Work to be performed and furnished by the Subcontractor hereunder are intended to be and shall be in addition to and not in substitution for any of the terms and provisions of the General Contract and the other Contract Documents.

This Subcontract Agreement, the provisions of the General Contract and the other Contract Documents are intended to supplement and complement each other and shall, where possible, be thus interpreted. If, however, any provision of this Subcontract Agreement irreconcilably conflicts with a provision of the General Contract and the other Contract Documents, the provision imposing the greater duty or obligation on the Subcontractor shall govern.

Contractor hereby advises, and the Subcontractor hereby acknowledges, that Contractor in administering this subcontract will be utilizing an information systems infrastructure to process, deliver, and share and/or, at times, to apply electronic signatures to execute certain project documentation through electronic means. As part of the implementation of this infrastructure, the Subcontractor will be given individual, secure log on codes to access the Contractor systems presenting this electronic information. The Subcontractor hereby agrees that such electronic access and the ability of the subcontractor to print out such electronic documents will be in lieu of requiring the delivery of the contents of such electronic documents on printed or paper based media directly to Subcontractor by Contractor or through means of outside third-party services. Delivery of such electronic documents to Subcontractor will be deemed to have occurred when access to the document is made available to Subcontractor in the infrastructure.

At times, Contractor may, through this electronic infrastructure system, initiate Subcontract Change Order documents that will require that the Subcontractor review and approve or reject each such document applying its electronic signature to the approved document on the Contractor software and thereafter, Contractor will apply the electronic signature of its authorized personnel to execute the approved document and electronically deliver the fully executed document to the Subcontractor. The Subcontractor agrees and acknowledges that granting its on-line approval and electronically executing a Subcontract Change Order also affixes the Subcontractor's electronic signature to such document and in so doing it is agreeing that each such document, when electronically countersigned by Contractor, are valid and authentic and enforceable obligations of both parties and to honor and be bound by such documents as if they had been prepared on hard copy and contained the manually applied autograph signatures of the Subcontractor's and Contractor's authorized personnel. Subcontractor hereby agrees to establish, continuously use and maintain a robust and effective Security System/ID and Passwords to protect its identity when addressing and/or signing any electronic contract related documentation issued or exchanged pursuant to this Article.

Optionally, Contractor may use paper documents, where the Subcontractor reviews the proposed paper document and, if it approves, it manually affixes its autograph signature to the paper document and physically returns the signed paper document to Contractor who completes the execution by applying either its autograph or electronic signature to the Subcontract Change Order and a copy of the executed Subcontract Change Order showing the presence of both signatures is physically delivered to the Subcontractor and such Subcontract Change Order shall likewise be deemed by both parties to be valid and authentic and enforceable obligations of both parties.

Contractor may from time to time issue policies or directives applicable to electronic communications, electronic infrastructure and electronic data and Subcontractor shall comply with such policies and directives whether issued as part of this Subcontract or hereafter, and the cost and expense of such compliance shall be borne by the Subcontractor.

Planning & Scheduling

ARTICLE III. The Subcontractor shall commence the Work when notified to do so by Contractor and shall diligently and continuously prosecute and complete the Work and coordinate the Work with the other work being performed on the Project, in accordance with those project schedules as may be issued from time to time during the performance of the Work and any other scheduling requirements listed in this Agreement, so as not to delay, impede, obstruct, hinder or interfere with the commencement, progress or completion of the whole or any part of the Work or other work on the Project, and in such a manner as necessary or requested by Contractor from time to time to ensure that Contractor satisfies its obligations in a timely manner under the General Contract.

The Subcontractor shall participate and cooperate in the development of schedules and other efforts to achieve timely completion of the Work providing information for the scheduling of the times and sequence of operations required for its Work to meet Contractor's overall schedule requirements, shall continuously monitor the project schedule so as to be fully familiar with the timing, phasing and sequence of operations of the Work and of other work on the Project, and shall execute the Work in accordance with the requirements of the project schedule including any revisions thereto. Subcontractor shall abide by all requirements of the General Contract relating to the submission of schedule and other information related to the performance of Subcontractor's Work not less than 14 days prior to the time when Contractor is required to provide such materials to Owner under the General Contract, except where Contractor directs otherwise. Subcontractor shall, at no additional cost, provide updates, additional or further detailed schedules and other information as frequently and in whatever form Contractor may request, including but not limited to (1) manpower and cost loaded schedules; (2) information related to its operations as a whole, including but not limited to identifying lower tier subcontractors and suppliers and the status of payments to such subcontractors and suppliers; (3) unions and related benefit funds associated with labor used in the performance of the Work; (4) credit sources and banks providing financing or loans in connection with the performance of the Work or Subcontractor's operations as a whole and any covenants and requirements imposed upon Subcontractor in connection therewith and the status of Subcontractor's compliance with such covenants and requirements; and (5) the status of orders, fabrication and delivery of materials and arrangements for the provision of labor. The foregoing information shall include names and contact information, and Subcontractor acknowledges and agrees that Contractor may contact any persons or entities as it deems necessary to verify or obtain such information.

Subcontractor shall establish and maintain a reasonable accounting system by which records are kept that enable Contractor to readily identify all of Subcontractor's expenses, costs, payments (including to its workers, subcontractors and suppliers, unions, and benefit funds), obligations, budgets, and other financial information related to the Work or this Subcontract. Such records shall include, but not be limited to, all accounting records, written policies and procedures, subcontract files for all tiers, payment vouchers, ledgers, cancelled checks, contract amendments, change order information, insurance documents, and other similar information. Contractor shall have the right to audit, examine, and make copies of all such records (whether written, electronic or another format) as Contractor may determine, and Subcontractor shall facilitate and cooperate with Contractor's efforts in this regard. Subcontractor shall impose similar obligations on its subcontractors and vendors to ensure that comparable records kept and Contractor has the right to audit, examine and copy those records.

**Delays by
Subcontractor**

Should the progress of the Work or of the Project be delayed, disrupted, hindered, obstructed, or interfered with by any fault or neglect or act or failure to act of the Subcontractor or any of its officers, agents, servants, employees, subcontractors or suppliers so as to cause any additional cost, expense, liability or damage to Contractor including legal fees and disbursements (incurred by Contractor in defending claims of the Owner or third parties arising therefrom) or to the Owner or any damages or additional costs or expenses for which Contractor or the Owner may or shall become liable, the Subcontractor and its surety shall and does hereby agree to compensate Contractor and the Owner for and indemnify them against all such costs, expenses, damages and liability.

Overtime

If the progress of the Work or of the Project be delayed by any fault or neglect or act or failure to act of the Subcontractor or any of its officers, agents, servants, employees, subcontractors or suppliers, then the Subcontractor shall, in addition to all of the other obligations imposed by this Agreement upon the Subcontractor in such case, and at its own cost and expense, work such overtime as may be necessary to make up for all time lost in the completion of the Work and of the Project due to such delay. Should the Subcontractor fail to make up for the time lost by reason of such delay, Contractor shall have the right to cause other Subcontractors to work overtime and to take whatever other action it deems necessary to avoid delay in the completion of the Work and of the Project, and the cost and expense of such overtime and/or such other action shall be borne by the Subcontractor.

Contractor, if it deems necessary, may direct the Subcontractor to work overtime and, if so directed, the Subcontractor shall work said overtime and, provided that the Subcontractor is not in default under any of the terms or provisions of this Agreement or of any of the other Contract Documents and the direction to work overtime was not due in whole or in part to any fault or failure of Subcontractor, Contractor will pay the Subcontractor only for such actual additional wages paid, if any, at rates which have been approved by Contractor plus taxes imposed by law on such additional wages, plus workers' compensation insurance, liability insurance and levies on such additional wages if required to be paid by the Subcontractor to comply with Subcontractor's obligations under this Agreement. Subcontractor acknowledges that in the event that it may intend to pursue a claim of inefficiency, loss of productivity or other similar or related request for additional compensation, Subcontractor may rely only on evidence indicating the actual inefficiency, loss of productivity or other similar consequence as it occurred on the Project and agrees that no reports, analyses, data, industry or academic studies or any other evidence that do not exclusively rely on and pertain to the Work performed at the Project shall be used or in any way considered, in whole or in part, in connection with the resolution of such a claim, whether by Contractor or any forum for dispute resolution.

Price

ARTICLE IV. The sum to be paid by Contractor, out of funds received from the owner, to the Subcontractor for the satisfactory performance and completion of the Work and of all of the duties, obligations and responsibilities of the Subcontractor under this Agreement and the other Contract Documents shall be SDS (Hereinafter called the Price) subject to additions and deductions as herein provided.

The Price includes all Federal, State, County, Municipal and other taxes imposed by law and based upon labor, services, materials, equipment or other items acquired, performed, furnished or used for and in connection with the Work, including but not limited to sales, use and personal property taxes payable by or levied or assessed against the Owner, Contractor or the Subcontractor. Where the law requires any such taxes to be stated and charged separately, the total price of all items included in the Work plus the amount of such taxes shall not exceed the Price.

Progress Payments

On or before the last day of each month the Subcontractor shall submit to Contractor, in the form required by Contractor, a written requisition for payment showing the proportionate value of the Work installed to that date, from which shall be deducted: a reserve of SDS [not to exceed 5% on California public projects]; all previous payments; all amounts and claims against Subcontractor, by Contractor or any third party, for which Subcontractor is responsible hereunder; and all charges for services, materials, equipment and other items furnished by Contractor to or chargeable to the Subcontractor; and the balance of the amount of such requisition, as approved by Contractor and the Architect and for which payment has been received by Contractor from the Owner, shall be due and paid to the Subcontractor on or about the fifteenth (15th) day of the succeeding month or in accordance with the Contract Documents. Contractor shall have the right, at its sole discretion, to issue payments to Subcontractor by way of joint checks to Subcontractor and suppliers and/or vendors of Subcontractor, and Subcontractor agrees to cooperate fully in facilitating the making of such joint payments.

Payments in General

Provided all requirements under the Contract Documents for payment (the "Payment Requirements") have been met, then actual payment, whether a progress or final payment, or for extras or change orders or delays to the Work, will not be due until the first to occur of (a) ten (10) work days after receipt from the Owner or (b) ninety (90) calendar days after the Payment Requirements have been satisfied. This provision is not intended to result in a waiver or forfeiture of the right to receive payment and is intended only to defer the making of payment to Subcontractor for a reasonable time under the circumstances so that Contractor may pursue payment by the Owner in the event that Owner does not make payment timely. If Contractor has provided payment or performance bonds or a combination payment and performance bond, the obligation of Contractor and its Surety under any of those bonds to make any payment (whether a progress payment or final payment) to a claimant on that bond is similarly subject to the condition of payment set forth hereinabove.

The Subcontractor shall submit with its first requisition for payment a detailed schedule showing the breakdown of the Price into its various parts for use only as a basis of checking the Subcontractor's monthly requisitions.

Contractor reserves the right to advance the date of any payment (including the final payment) under this Agreement if, in its sole judgment, it becomes desirable to do so.

The Subcontractor agrees that, if and when requested to do so by Contractor, it shall furnish such information, evidence and substantiation as Contractor may require with respect to the nature and extent of all obligations incurred by the Subcontractor for or in connection with the Work, all payments made by the Subcontractor thereon, and the amounts remaining unpaid, to whom and the reasons therefor.

Final Payment

Final payment to the Subcontractor shall be made only with funds received by Contractor from the Owner, the Construction Lender or the Owner's Agent as final payment for Work under the General Contract. Final payment by Contractor to the Subcontractor shall not become due and payable until the following express conditions precedent have been met: (1) the completion and acceptance of the Work by Contractor and the Architect; (2) provision by the Subcontractor 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 for or in connection with the Work; (3) execution and delivery by the Subcontractor, in a form satisfactory to Contractor of a general release running to and in favor of Contractor and the Owner; and (4) complete and full satisfaction of all claims, demands and disputes, and all obligations and responsibilities of Subcontractor, arising out of or related to the Subcontract, including those as between Contractor and Subcontractor as well as those between Subcontractor and any third party. Should there be any such claim, obligation or lien or unsatisfied obligation or responsibility whether before or after final payment is made, the Subcontractor shall pay, refund or deliver to Contractor (1) all monies that Contractor and/or the Owner may have incurred or will incur in satisfying, discharging or defending against any such claim, obligation or lien or any action brought or judgment recovered thereon, (2), all costs and expenses, including legal fees and disbursements incurred or to be incurred in connection with defending against or otherwise addressing such claim, obligation or lien of third parties, and (3) such amounts as Contractor or Owner shall, in their sole discretion, determine to be an amount sufficient to protect Contractor and Owner therefrom (in lieu of payment of such amounts, Subcontractor may, at Owner's and Contractor's sole discretion, deliver a bond satisfactory to Contractor and Owner). Such refund and payment shall be made within ten (10) days of request by Contractor to Subcontractor for same. Provided all requirements under the Contract Documents for final payment have been met, final payment will not be due until the earlier of (a) ten (10) work days after receipt from the Owner, the Construction Lender or the Owner's Agent or (b) ninety (90) calendar days after the requirements of the Contract Documents for final payment have been satisfied. This provision is not intended to result in a waiver or forfeiture of the right to receive final payment and is intended only to defer the making of payment to Subcontractor for a reasonable time under the circumstances so that Contractor may pursue payment by the Owner in the event that Owner does not make payment timely.

Liens by Others

If any claim or lien is made or filed with or against Contractor, the Owner, the Project, the Premises or the Project funds by any person claiming that the Subcontractor or any subcontractor or other person under subcontract to Subcontractor, or any person or entity employed or engaged by or through Subcontractor at any tier, has failed to make payment for any labor, services, materials, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work, or if any such claim or lien is filed or presented, or if Contractor, in good faith, believes that such a claim or lien may be filed or brought, or if at any time there shall be evidence of such nonpayment or of any claim or lien for which, if established, Contractor or the Owner might become liable and which is chargeable to the Subcontractor, or if the Subcontractor or any subcontractor or other person under subcontract to Subcontractor, or any person or entity employed or engaged by or through Subcontractor at any tier causes damage to the Work or to any other work on the Project, or if the Subcontractor fails to perform or is otherwise in default under any of the terms or provisions of this Agreement, Contractor shall have the right (A) to retain from any payment then due or thereafter

to become due an amount which it deems sufficient to (1) satisfy, discharge and/or defend against any such claim or lien or any action which may be brought or judgment which may be recovered thereon, (2) make good any such nonpayment, damage, failure or default, and (3) compensate Contractor and the Owner for and indemnify and hold them harmless against any and all losses, liability, damages, costs and expenses, including legal fees and disbursements, which may be sustained or incurred by either or both of them in connection with defending or otherwise addressing such claim or lien; and (B) to demand that Subcontractor provide, within ten (10) days of Contractor's request therefore, proof to the satisfaction of Contractor and Owner that such nonpayment, claim or lien has been fully satisfied, dismissed and discharged. Upon the failure of Subcontractor to fulfill the requirements of a demand issued by Contractor pursuant to subsection (B) above, Contractor may, in such manner as Contractor may in its sole discretion determine, secure the satisfaction, dismissal and discharge of such claim, by payment or otherwise, and Subcontractor shall within ten (10) days of demand therefore, be liable for and pay to Contractor all damages (including legal fees and disbursements incurred in defending against or otherwise addressing such claim or lien) incurred or suffered by Contractor or

Owner. Contractor shall, in addition, have the right to apply and charge against the Subcontractor so much of the amount retained as may be required for the foregoing purposes. Subcontractor further agrees to indemnify, hold harmless and defend Contractor and Owner, upon demand, for any and all such claims, liens, and the costs, expenses (including legal fees and disbursements incurred by the Owner or Contractor in defending against or otherwise addressing such claim or lien), damages and liabilities arising out of or related thereto. Subcontractor acknowledges (1) that discharge of such liens or claims by bond imposes liability upon a surety and Contractor, and (2) that Contractor is not required to discharge such lien or claims by bond when exercising its rights hereunder. Subcontractor agrees that should there be any amounts due or which may become due to Subcontractor in connection with any other subcontracts between Contractor and Subcontractor or other obligations that Contractor may have to Subcontractor, Contractor shall be entitled to withhold payment under such other subcontract or obligations to the extent that Contractor believes that the unpaid balance of this Subcontract may not be adequate to satisfy Subcontractor's obligations to Contractor hereunder.

Effect of Payment

No payment (final or otherwise) made under or in connection with this Agreement shall be conclusive evidence of the performance of the Work or of this Agreement, in whole or in part, and no such payment shall be construed to be an acceptance of defective, faulty or improper work or materials nor shall it release the Subcontractor from any of its obligations under this Agreement; nor shall entrance and use by the Owner constitute acceptance of the Work or any part thereof. The failure of Subcontractor to fully perform and satisfy any or all obligations set forth in this Article IV shall constitute a default, entitling Contractor to take action as described in Article XI.

Subcontractor acknowledges and agrees that to the extent that payments received by Subcontractor include amounts for Work performed by subcontractors to Subcontractor or services or materials provided to Subcontractor by suppliers, vendors, workers employed by or through Subcontractor, all such payments received by Subcontractor shall be deemed to have been received by Subcontractor as trustee with those entitled to receive payment from Subcontractor as beneficiaries of such amounts, and Subcontractor shall hold such funds separately and utilize such amounts only for the purpose of making payment to these beneficiaries. In the event that Subcontractor subsequently determines that a beneficiary is not entitled to receipt of payment, Subcontractor shall return such unpaid funds to Contractor.

Extension of Time & Delays

ARTICLE V. Should the Subcontractor be delayed, obstructed, hindered or interfered with in the commencement, prosecution or completion of the Work by any cause including but not limited to any act, omission, neglect, negligence or default of Contractor or of anyone employed by Contractor or by any other contractor or subcontractor on the Project, or by the Architect, the Owner or their contractors, subcontractors, agents or consultants, or by damage caused by fire or other casualty or by the combined action of workers or by governmental directive or order in no way chargeable to the Subcontractor, or by any extraordinary conditions arising out of war or government regulations, or by any other cause beyond the control of and not due to any fault, neglect, act or omission of the Subcontractor, its officers, agents, employees, subcontractors or suppliers, then except where the General Contract has specific requirements at variance with the foregoing, in which case the requirements of the General Contract shall govern, the Subcontractor shall be entitled to an extension of time for a period equivalent to the time lost by reason of any and all of the aforesaid causes; provided, however, that the Subcontractor shall not be entitled to any such extension of time unless the Subcontractor (1) notifies Contractor in writing of the cause or causes of such delay, obstruction, hindrance or interference within forty eight (48) hours of the commencement thereof and (2) demonstrates that it could not have anticipated or avoided such delay, obstruction, hindrance or interference and has used all available means to minimize the consequences thereof. Subcontractor acknowledges that provision of such notice is an essential condition precedent to Subcontractor's rights in connection with any such delays, obstructive hindrances or interferences to Contractor's ability to fully identify, and expeditiously, address and avoid such cause or causes, and, accordingly, Subcontractor expressly waives all rights with respect to any such cause or causes for which notice hereunder was not provided. Notwithstanding the foregoing, if the General Contract is at variance with granting such time extension, then the provisions of the General Contract shall control.

The Subcontractor agrees that it shall not be entitled to nor claim any cost reimbursement, compensation or damages for any delay, obstruction, hindrance or interference to the Work except to the limited extent that Contractor has actually recovered corresponding cost reimbursement, compensation or damages from the Owner under the Contract Documents for such delay, obstruction, hindrance or interference, and then only to the extent of the amount, if any, which Contractor on behalf of the Subcontractor, actually received from the Owner on account of such delay, obstruction, hindrance or interference. Notwithstanding any term or provision herein to the contrary, Subcontractor expressly waives and releases all claims or rights to recover lost profit (except for profit on work actually performed), recovery of overhead (including home office overhead), and any other indirect damages, costs or expenses in any way arising out of or related to the Agreement, including the breach thereof by Contractor, delays, charges, acceleration, loss of efficiency or productivity disruptions and interferences with the performance of the work.

It shall be an express condition precedent to any obligation on the part of Contractor to make payment of any such cost, reimbursement, compensation or damages to the Subcontractor hereunder that Contractor shall first be determined to be entitled to such compensation on behalf of the Subcontractor and then receive such payment from Owner, and Subcontractor expressly acknowledges that Contractor is not obligated or required to pursue Subcontractor claims as against Owner if Contractor, in its sole discretion, after review of Subcontractor's claim, has deemed the claim to lack merit in whole or in part.

The Subcontractor agrees that it shall contribute a fair and proportionate share of the costs of advancing the claims of the Subcontractor for delay, including but not limited to legal and other professional fees.

Freight Charges & Shipments

ARTICLE VI. The Subcontractor in making or ordering shipments shall not consign or have consigned materials, equipment or any other items in the name of Contractor. Contractor is under no obligation to make payment for charges on shipments made by or to the Subcontractor but may, at its option, pay such charges, in which case the Subcontractor shall reimburse Contractor for the amount of such payments plus a service charge of twenty-five percent (25%) of the amount so paid.

Dimensions

ARTICLE VII. Notwithstanding the dimensions on the Plans, Specifications and other Contract Documents it shall be the obligation and responsibility of the Subcontractor to take such measurements as will ensure the proper matching and fitting of the Work covered by this Agreement with contiguous work.

Shop Drawings

The Subcontractor shall prepare and submit to Contractor such shop drawings as may be necessary to describe completely the details and construction of the Work. Approval of such shop drawings by Contractor and/or the Architect shall not relieve the Subcontractor of its obligation to perform the Work in strict accordance with the Plans, Specifications, the Additional Provisions hereof and the other Contract Documents, nor of its responsibility for the proper matching and fitting of the Work with contiguous work and the coordination of the Work with other work being performed on the site, which obligation and responsibility shall continue until completion of the Work.

The Subcontractor's submission of a shop drawing to Contractor shall constitute the Subcontractor's representation, upon which Contractor may rely, that the Subcontractor has reviewed the submission for accuracy and compliance with all Contract Documents and that wherever engineering is required to be performed, same has been performed by a qualified and licensed engineer. Furthermore, the review of the Shop Drawing by Contractor shall not constitute an undertaking by Contractor to identify deficiencies in the submission, that being an undertaking within the sole responsibility of the Subcontractor.

Contiguous Work

Should the proper and accurate performance of the Work hereunder depend upon the proper and accurate performance of other work not covered by this Agreement, the Subcontractor shall carefully examine such other work, determine whether it is in fit, ready and suitable condition for the proper and accurate performance of the Work hereunder, use all means necessary to discover any defects in such other work, and before proceeding with the Work hereunder, report promptly any such improper conditions and defects to Contractor in writing and allow Contractor a reasonable time to have such improper conditions and defects remedied. Should Subcontractor fail to comply with the requirements of this Article, Subcontractor shall bear all costs incurred by Contractor, Owner and other subcontractors, and shall not be entitled to extensions of time and adjustments in Price, that could have been avoided by Subcontractor's compliance with the requirements of this Article.

Interpretation of Plans & Specifications

ARTICLE VIII. The Work hereunder is to be performed and furnished under the direction and to the satisfaction of both the Architect and Contractor. The decision of the Architect as to the true construction, meaning and intent of the Plans and Specifications shall be final and binding upon the parties hereto. Contractor will furnish to the Subcontractor such additional information and Plans as may be prepared by the Architect to further describe the Work to be performed and furnished by the Subcontractor and the Subcontractor shall conform to and abide by the same.

The Subcontractor shall not make any changes, additions and/or omissions in the Work except upon written order of Contractor as provided in Article IX hereof.

Change Orders, Additions & Deductions

ARTICLE IX. Contractor reserves the right, from time to time, whether the Work or any part thereof shall or shall not have been completed, to make changes, additions and/or omissions in the Work as it may deem necessary, upon written order to the Subcontractor. The value of the work to be changed, added or omitted shall be stated in said written order and shall be added to or deducted from the Price.

The value of the work to be changed, added or omitted shall be determined by the lump sum or unit prices, if any, stipulated herein for such work. If no such prices are stipulated, such value shall be determined by whichever of the following methods or combination thereof Contractor may elect:

- (a) By adding or deducting a lump sum or an amount determined by a unit price agreed upon between the parties hereto.
- (b) By adding (1) the actual net cost to the Subcontractor of labor in accordance with the established rates, including required union benefits, premiums the Subcontractor is required to pay for workmen's compensation and liability insurance, and payroll taxes on such labor, (2) the actual cost to the Subcontractor of materials and equipment and such other direct costs as may be approved by Contractor less all savings, discounts, rebates and credits, (3) an allowance of SDS for overhead on items (1) and (2) above, and (4) an allowance of SDS for profit on items (1), (2) and (3) above.

Should the parties hereto be unable to agree as to the value of the work to be changed, added or omitted, the Subcontractor shall proceed with the work promptly under the written order of Contractor from which order the stated value of the work shall be omitted, and the determination of the value of the work, if not resolved in the normal course, shall be addressed pursuant to the dispute resolution procedures in accordance with Article XVIII.

In the case of omitted work Contractor shall have the right to withhold from payments due or to become due to the Subcontractor an amount which, in Contractor's opinion, is equal to the value of such work until such time as the value thereof is determined by agreement or by the Architect as hereinabove provided.

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

Subcontractor shall provide Contractor with written notice of any circumstance or direction given by Contractor which Subcontractor may regard as a change, addition and/or omission or which may otherwise serve as the basis for a request for an increase in Price or extension of time within 5 days of the receipt of the direction or the occurrence of the event giving rise to such a request. Such written notice shall provide a full explanation of the circumstances or direction and the extent of the increase and extension sought, including a detailed breakdown and analysis supporting such request. Failure of the Subcontractor to provide such written notice shall constitute a waiver of Subcontractor's right to any such increase or extension.

Subcontractor acknowledges that the General Contract may include provisions whereby Contractor is required to provide notice, information, reports and analyses in the event that Contractor intends to pursue or which may affect Contractor's rights to an extension of time or increase in Contractor's price to the Owner, whether by way of change order or otherwise, and that the failure to provide such notice, information, reports and analyses may result in a waiver or forfeiture of the right to such an extension or increase. Accordingly, Subcontractor agrees that Subcontractor shall provide all such notices, information, reports and analyses to Contractor, in the same form, content and manner as Contractor is required to provide to Owner under the General Contract in the event that Subcontractor intends to pursue an extension of time or increase in Price. Subcontractor shall provide all such notices, information, reports and analyses to Contractor not later than 3 business days prior to the time by which Contractor must submit corresponding notice, information, reports and analyses to Owner so that Contractor can pursue like

extensions and /or increases in Contractor's price from the Owner. Subcontractor acknowledges that its failure to comply with the terms of this paragraph may result in the loss of or prejudice to Contractor's ability to receive adjustments and extensions time from Owner. Subcontractor therefore agrees that it shall be deemed to have waived and forfeited all such rights in the event that it fails to provide notice, information, reports and analyses to Contractor as required by this Article. The terms and provisions of the paragraph are neither intended to relieve Subcontractor of the obligation to provide timely notices, information, reports and analyses, nor to extend shorter durations, required by the Contract Documents.

Notwithstanding the forgoing, the Subcontractor agrees that it shall not be entitled to nor claim any cost reimbursement, compensation, damages or extensions of time attributable to any changes, additions and/or omissions directed by Contractor except to the limited extent that Contractor has actually recovered corresponding cost reimbursement, compensation, damages or extensions of time from the Owner under the Contract Documents for such changes, additions and/or omissions and then only to the extent of the amount, if any, which Contractor on behalf of the Subcontractor, actually received from the Owner on account of such delay, obstruction, hindrance or interference. The preceding sentence shall not apply in a situation in which Contractor directed the performance of changes, additions and/or omissions by Subcontractor notwithstanding express language in the General Contract clearly indicating that Contractor is not entitled to recover a corresponding cost reimbursement, compensation, damages or extensions of time from the Owner.

**Inspection
& Defective
Work**

ARTICLE X. The Subcontractor shall at all times provide sufficient, safe and proper facilities for the inspection of the Work by Contractor, the Architect, and their authorized representatives in the field, at shops or at any other place where materials or equipment for the Work are in the course of preparation, manufacture, treatment or storage. The Subcontractor shall, within twenty-four (24) hours after receiving written notice from Contractor to that effect, proceed to take down all portions of the Work and remove from the premises all materials whether worked or unworked, which the Architect, Contractor, Owner or any of its design consultants shall condemn as unsound, defective or improper or as in any way failing to conform to this Agreement or the Plans, Specifications or other Contract Documents, and the Subcontractor, at its own cost and expense, shall replace the same with proper and satisfactory work and materials and make good all work damaged or destroyed by or as a result of such unsound, defective, improper or nonconforming work or materials or by the taking down, removal or replacement thereof.

**Failure to
Prosecute, etc.**

ARTICLE XI. Should the Subcontractor at any time, whether before or after final payment or completion of the Work, refuse or neglect to supply a sufficiency of skilled workers or materials of the proper quality and quantity, or fail in any respect to prosecute the Work with promptness and diligence, or cause by any act or omission the stoppage, impede, obstruct, hinder or delay of or interference with or damage to the work of Contractor or of any other contractors or subcontractors on the Project, or fail in the performance of any of the terms and provisions of this Agreement or of the other Contract Documents, or should the Architect, Contractor, Owner or any of its design consultants, determine that the Work or any portion thereof is not being performed in accordance with the Contract Documents, or should there be filed by or against the Subcontractor a petition in bankruptcy or for an arrangement or reorganization, or should the Subcontractor become insolvent or be adjudicated a bankrupt or go into liquidation or dissolution, either voluntarily or involuntarily or under a court order, or make a general assignment for the benefit of creditors, or otherwise acknowledge insolvency, then in any of such events, each of which shall constitute a default hereunder on the Subcontractor's part, Contractor shall have the right, in addition to any other rights and remedies provided by this Agreement and the other Contract Documents or by law, at one time or in phases at Contractor's discretion, after three (3) days written notice to the Subcontractor mailed or delivered to the last known address of the latter, (a) to perform and furnish through itself or through others any such labor or materials for all or any portion of the Work and to deduct the cost thereof from any monies due or to become due to the Subcontractor under this Agreement, (b) to terminate the employment of the Subcontractor for all or any portion of the Work, and/or (c) enter upon the premises and take possession, for the purpose of completing all or any portion of the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon as Contractor may select, all of which the Subcontractor hereby authorizes Contractor to employ and/or communicate with any person or persons in connection with the completion of the Work and/or to provide all the labor, services, materials, equipment and other items required therefor. In case of Contractor taking action under this Article, including termination of the employment of the Subcontractor, the Subcontractor shall not be entitled to receive any further payment under this Agreement until the Work shall be wholly completed to the satisfaction of Contractor, Owner and the Architect and shall have been accepted by them, at which time, if the unpaid balance of the amount to be paid under this Agreement shall exceed the cost and expense incurred by Contractor in completing the Work, such excess shall be paid by Contractor to the Subcontractor; but if such cost and expense shall exceed such unpaid balance, then the Subcontractor and its surety, if any, shall pay the difference to Contractor. Such cost and expense shall include, not only the cost of completing the Work to the satisfaction of Contractor and the Architect and of performing and furnishing all labor, services, materials, equipment, and other items required therefore, but also all losses, damages, costs and expenses, (including legal fees and disbursements incurred in connection with procurement, in defending or otherwise addressing claims by the Owner or third parties), and disbursements sustained, incurred or suffered by reason of or resulting from the Subcontractor's default. Should Contractor take action by effectuating the provisions of this paragraph, and should it subsequently be determined that such action, including a termination effectuated by the terms of this Article, was improper, such termination shall be treated as a termination for convenience pursuant to Article XX below. Subcontractor hereby transfers and

assigns to Contractor the all rights under agreements that Subcontractor may have with subcontractors to Subcontractor, suppliers and vendors in connection with the Work or the Project, which transfers and assignments may be accepted at Contractor's sole discretion in the event that Contractor has taken action under this Article. Subcontractor agrees to fully cooperate with Contractor in pursuing Contractor's rights hereunder and that Contractor shall not be required to defer or delay action taken pursuant to this Article during the pendency of any review, investigation, evaluation or assessment by Subcontractor or its surety.

It is recognized that if the Subcontractor institutes or has instituted against it a case under Title 11 of the United States Code (Bankruptcy Code), such event could impair or frustrate the Subcontractor's performance of this Agreement. Accordingly, it is agreed that upon the occurrence of any such event, Contractor shall be entitled to request of Subcontractor or its trustee or other successor adequate assurances of future performance. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Contractor, in addition to any other rights and remedies provided by this Agreement or by law, to terminate this Agreement. Pending receipt of adequate assurances of performance and actual performance in accordance herewith, Contractor shall be entitled to perform and furnish through itself or through others any such labor, materials or equipment for the Work as may be necessary to maintain the progress of the Work and to deduct the cost thereof from any monies due or to become due to the Subcontractor under this Agreement. In the event of such bankruptcy proceedings, this Agreement shall terminate if the Subcontractor rejects this Agreement or if there has been a default and the Subcontractor is unable to give adequate assurance that it will perform as provided in this Agreement or otherwise is unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

To the fullest extent permitted by law, including but not limited to California Civil Code Section 2782 et seq., Subcontractor, in addition to any other rights available to Contractor hereunder, agrees to indemnify, hold harmless and defend Contractor from and against any and all claims, demands, suits, damages, judgments, liabilities, costs and expenses (including legal fees and disbursements) arising out of or related to Subcontractor's breach of any term of the Agreement.

**Loss or
Damage to
Work**

ARTICLE XII. Contractor shall not be responsible for any loss or damage to the Work to be performed and furnished under this Agreement, however caused, until after final acceptance thereof by Contractor and the Architect, nor shall Contractor be responsible for loss of or damage to materials, tools, equipment, appliances or other personal property owned, rented or used by the Subcontractor or anyone employed by it in the performance of the Work, however caused.

**Builder's Risk
Insurance**

Contractor or Owner shall effect and maintain All-Risk Builder's Risk insurance in accordance with the Contract Documents upon all Work, materials and equipment incorporated in the Project and all materials and equipment on or about the Premises intended for permanent use or incorporation in the Project or incident to the construction thereof, the capital value of which is included in the cost of the Work, but not including any contractors' machinery, tools, equipment or other personal property owned, rented or used by the Subcontractor or anyone employed by it in the performance of the Work.

A loss insured under Contractor or the Owner's All-Risk Builder's Risk insurance shall be adjusted by the Contractor or the Owner as fiduciary and made payable to Contractor or the Owner as fiduciary for the Insureds, as their interests may appear. Contractor or the Owner shall pay Subcontractors their just shares of insurance proceeds received by Contractor or the Owner, and by appropriate agreements, written where legally required for validity, and shall require Subcontractors to make payments to their subcontractors in a similar manner.

Cleaning Up

ARTICLE XIII. The Subcontractor shall, at its own cost and expense, (1) keep the Premises free at all times from all waste materials, packaging materials and other rubbish accumulated in connection with the execution of its Work by collecting and depositing said materials and rubbish in locations or containers as designated by Contractor from which it shall be removed by Contractor from the Premises without charge, (2) clean and remove from its own Work and from all contiguous work of others any soiling, staining, mortar, plaster, concrete or dirt caused by the execution of its Work and make good all defects resulting therefrom (3) at the completion of its Work in each area, perform such cleaning as may be required to leave the area "broom clean", and (4) at the entire completion of its Work, remove all of its tools, equipment, scaffolds, shanties and surplus materials. Should the Subcontractor fail to perform any of the foregoing to Contractor's satisfaction, Contractor shall have the right to perform and complete such work itself or through others and charge the cost thereof to the Subcontractor.

**Ethics &
Compliance**

ARTICLE XIV. The Subcontractor shall obtain and pay for all necessary permits and licenses pertaining to the Work and shall comply with all Federal, State, Municipal and local laws, ordinances, codes, rules, regulations, standards, orders, notices and requirements, including but not limited to those relating to safety, storm water management, discrimination in employment, fair employment practices, immigration laws or equal employment opportunity, and whether or not provided for by the Plans, Specifications, General Conditions, or other Contract Documents, without additional charge or expense to Contractor and shall also be responsible for and correct, at its own cost and expense, any violations thereof resulting from or in connection with the performance of its Work. Each requisition for payment shall constitute a representation and warranty that Subcontractor is in compliance with applicable law.

The Subcontractor shall at any time upon demand furnish such proof as Contractor may require showing such compliance and the correction of such violations. The Subcontractor agrees to save harmless and indemnify Contractor from and against any and all loss, injury, claims, actions, proceedings, liability, damages, fines, penalties, costs and expenses, including legal fees and disbursements incurred by Contractor in addressing or responding to third party, governmental agency or regulatory authority actions, caused or occasioned directly or indirectly by the Subcontractor's failure to comply with any of said laws, ordinances, rules, regulations, standards, orders, notices or requirements or to correct such violations therefore resulting from or in connection with the performance of Work.

The Immigration and Nationality Act as amended by the Immigration Reform and Control Act of 1986 (IRCA) makes it illegal for employers to knowingly hire persons who are not authorized to work in the United States. For all employees, employers are required to complete an Employment Eligibility Verification form I-9 which requires the prospective employee to produce documentation that establishes identity and employment eligibility. For more information visit www.uscis.gov, or speak to your attorney. Each subcontractor is solely responsible for properly completing Employment Eligibility Verifications for their own employees.

Subcontractor acknowledges represents and warrants that Subcontractor is aware of and understands IRCA, that Subcontractor is in compliance with IRCA, and that Subcontractor is not knowingly employing workers who are not authorized to work in the United States. Subcontractor agrees that Subcontractor will not employ any worker under this subcontract for whom Subcontractor has not completed and maintained I-9 verification. Subcontractor agrees that if Subcontractor acquires knowledge (constructive or otherwise, including receipt of a "no match" letter from Social Security Administration) indicating that one of Subcontractor's workers on this project may not be authorized to work in the United States, despite Subcontractor having conducted a facially valid I-9 verification, that Subcontractor will exercise due diligence as required by law to confirm authorization status and take appropriate action which may include termination of employment. Subcontractor represents and warrants that they will not subcontract to or utilize labor sources that it knows or has reason to know violate IRCA.

Contractor has a longstanding reputation for honesty and integrity in its business dealings and for its corporate policies promoting lawful and ethical behavior. Contractor is committed to upholding that reputation and has adopted a Standard of Business Conduct Policy Statement which governs the actions of all of its employees. Pursuant to that Policy Statement, Contractor employees are prohibited from accepting bribes or kickbacks in any form and, further, are prohibited from accepting goods or services provided by a subcontractor, supplier or vendor for the personal benefit of the employee, his or her relatives, or any entity in which the employee or his or her relatives has a personal interest. This prohibition includes, but is not limited to; work performed on an employee's residence and applies regardless of whether the beneficiary of the goods or services pays for them. Therefore, if the Subcontractor offers or provides a bribe or kickback to any employee, or offers or provides goods or services to any employee, his or her relatives, or any entity in which the employee or his or her relatives has a financial interest, the Subcontractor will be considered to be in material breach of this Subcontract. Subcontractor undertakes the commitment to advise Contractor of any action by any entity or person associated with the project that Subcontractor believes violates any applicable law, rule or regulation. Subcontractor's violation of any of the foregoing shall be considered as Subcontractor's failure to perform its obligations under the terms and conditions of this Agreement. Such failure shall be considered adequate and justifiable

grounds for Contractor to effectuate its rights and remedies under the provisions of Article XI of this Agreement.

The provisions of this Article must be incorporated into any subcontract Subcontractor enters into in connection with the performance of the Work.

Labor to be Employed

ARTICLE XV. The Subcontractor shall not employ workers, means, materials or equipment or assign work in any manner which may cause strikes, work stoppages or any disturbances by workers employed by the Subcontractor, Contractor or other contractors or subcontractors on or in connection with the Work or the Project or the location thereof. The Subcontractor agrees that all disputes as to jurisdiction of trades shall be adjusted in the manner or by a process that Contractor may require, including, if Contractor so requires, in accordance with any plan for the settlement of jurisdictional disputes to which Contractor may be bound in connection with the Project which may be in effect either nationally or in the locality in which the Work is being done. Subcontractor agrees that it shall assign work consistent with any such plan and shall be bound and abide by all such adjustments and settlements of jurisdictional disputes, provided that the provisions of this Article shall not be in violation of or in conflict with any provisions of law applicable to the settlement of such disputes. Should the Subcontractor fail to carry out or comply with any of the foregoing provisions, Contractor shall have the right, in addition to any other rights and remedies provided by this Agreement or the other Contract Documents or by law, after three (3) days written notice mailed or delivered to the last known address of the Subcontractor, to terminate this Agreement or any part thereof or the employment of the Subcontractor for all or any portion of the Work, and, for the purpose of completing the Work, to enter upon the Premises and take possession, in the same manner, to the same extent and upon the same terms and conditions as set forth in Article XI of this Agreement.

The Project or General Contract may be subject to Federal prevailing wage requirements, such as the Davis-Bacon Act or the Walsh-Healy Act, or other similar laws, statutes or requirements at a state or local level. Subcontractor shall strictly comply with all applicable prevailing wage laws, statutes or requirements and shall maintain such records as necessary to establish the amount of wages and other compensation paid to workers in connection with the Project and shall submit to Turner, as a condition for payment, certified payrolls in the form prescribed by any such laws, regulations or requirements. Subcontractor expressly agrees that the indemnification obligations set forth in Article XIV of this Agreement shall apply to any violations by Subcontractor of any such laws, statutes or regulations and the failure to maintain records as required herein.

Taxes & Contributions

ARTICLE XVI. The Subcontractor for the Price herein provided, hereby accepts and assumes exclusive liability for and shall indemnify, protect and save harmless Contractor and the Owner from and against the payment of:

1. All contributions, taxes or premiums (including interest and penalties thereon) which may be payable under the Unemployment Insurance Law of any State, Federal Social Security Act, Federal, State, County and/or Municipal Tax Withholding Laws, or any other law, measured upon the payroll of or required to be withheld from employees, by whomsoever employed, engaged in the Work to be performed and furnished under this Agreement.
2. All sales, use, personal property and other taxes (including interest and penalties thereon) required by any Federal, State, County, Municipal or other law to be paid or collected by the Subcontractor or any of its subcontractors or vendors or any other person or persons acting for, through or under it or any of them, by reason of the performance of the Work or the acquisition, ownership, furnishing or use of any materials, equipment, supplies, labor, services or other items for or in connection with the Work.
3. All pension, welfare, vacation, annuity and other union benefit contributions payable under or in connection with labor agreements with respect to all persons, by whomsoever employed, engaged in the Work to be performed and furnished under this Agreement.

In furtherance of, and in addition to the agreements, duties obligations and responsibilities of the Subcontractor with respect to the payment of sales, use, personal property and other taxes set forth in Articles IV and XVI of this Agreement, the Subcontractor agrees to reimburse and otherwise indemnify Contractor and the Owner for any expenses, (including legal fees incurred in connection with claims or litigation against third parties) arising from, or related to the Subcontractor's failure to pay any sales, use, personal property or other taxes based upon labor, services, materials, equipment or other items acquired, performed, furnished or used for or in connection with the Work.

Patents

ARTICLE XVII. The Subcontractor hereby agrees to indemnify, protect and save harmless Contractor and the Owner from and against any and all liability, loss or damage and to reimburse Contractor and the Owner for any expenses, including legal fees to which Contractor and the Owner may be put because of claims or litigation with third parties on account of infringement or alleged infringement of any letters patent or patent rights by reason of the Work or materials, equipment or other items used by the Subcontractor in its performance.

Disputes

ARTICLE XVIII. The parties recognize that problems and disputes between them may occur and that it is preferable for them to reach an amicable resolution of same without the need to resort to formal dispute resolution procedures. In that regard, the parties pledge to participate in good faith in voluntary and non-binding Alternate Dispute Resolution (ADR) procedures as set forth herein. The procedure for requesting such an ADR process shall begin with a written notice of a request for ADR delivered by one party hereto to the other. Within 14 days following the receipt of such notice, lead representatives of Subcontractor and Contractor shall meet in an effort to resolve the dispute. In the event that the dispute remains unresolved after the lead representatives meet, a meeting shall take place between the President of Subcontractor and the General Manager or Operations Manager of Contractor within 20 days thereafter. In the event that the dispute remains unresolved after the President/Manager meeting, the parties will participate in a mediation conducted by a neutral mediator as a condition precedent to addressing the dispute in any other forum, unless both parties waive this condition precedent in writing.

Thereafter, the parties acknowledge and agree that the preferable manner and forum in which disputes may be addressed differs depending upon various factors associated with the dispute. Accordingly, the parties agree that the forum and manner for the resolution of disputes shall be as set forth below and the parties further agree to waive the right to trial by jury so as to facilitate resolution of disputes in such a forum and manner:

- A. In the event the matter in dispute between Contractor and Subcontractor includes a claim or matter that is or will be the subject of dispute resolution, in a forum or by a procedure dictated or determined by a third party or pursuant to an agreement between Contractor and that third party, Subcontractor and Contractor agree that Subcontractor may be joined by Contractor in such forum and the dispute between Contractor and Subcontractor shall be resolved in such forum and in accordance with the applicable procedures. More specifically and to afford greater clarity in this

regard, the parties acknowledge the possibility that a claim may be brought by a third party alleging personal injury or property damage, and that such third party claim may be brought in a court of law. Further, the parties acknowledge that a dispute may arise between Subcontractor and Contractor that is the subject of a related dispute between Contractor and Owner, and that the forum for resolving the dispute between Owner and Contractor may be established in the General Contract (for example, arbitration or litigation, as may be applicable). The parties acknowledge the potential for inefficiencies, inconsistent determinations and the lack of judicial economy that would result from having the related dispute between Subcontractor and Contractor addressed and resolved in a different forum. Therefore, the parties agree that the forum and process for resolving such related disputes shall be determined by this subparagraph so as to facilitate resolving all related disputes in one forum and process. Accordingly and without limitation, the provisions regarding resolution of disputes in the General Contract are expressly incorporated herein by reference and shall be applicable to such related disputes in which Subcontractor may be joined as a party.

- B. Should the matter in dispute not be subject to subparagraph A immediately above, the parties agree that the forum and manner by which disputes between Contractor and Subcontractor shall be as follows:
1. Arbitration shall be had either with ADR Services, Inc. or JAMS ("Judicial Arbitration and Mediation Services"), as the parties may agree, in their Los Angeles County or San Francisco County offices, depending on which offices are geographically closer to the Work, in accordance with the JAMS rules pertaining to engineering and construction disputes as said rules may be in effect at the time the arbitration is initiated, without regard to the amount in dispute. If the parties are unable to agree, then arbitration of the dispute will be referred to JAMS. Should any party refuse or neglect to appear or participate in arbitration proceedings, the arbitrator is nonetheless empowered to decide the controversy in accordance with whatever evidence may be presented.
 2. If any party refuses to engage in arbitration after being requested to do so in accordance with this Agreement, the other party may institute proceedings before the Superior Court in the County where jurisdiction lies to enforce the Arbitration provision of this Section by way of a petition to compel arbitration, motion and other legal or equitable action.
 3. It is the intent of the parties that the arbitrator be guided by the fact that various claims and issues, or the dispute in its entirety, may be resolved by dispositive motion (including but not limited to motions akin to Cal. Code Civ. Proc. Sections 437c and 438, with timing on such motions as the arbitrator(s) deem appropriate). Accordingly, the parties agree that the arbitrator should be guided by the parties' interest in the efficiency and judicial economy of having the arbitrator entertain dispositive motions regarding all or a portion of a matter in dispute as opposed to requiring a full hearing of all issues before so doing, as is authorized by JAMS Engineering and Construction Arbitration Rules & Procedures Rule 18.
 4. The parties consent and agree that any arbitration under this Agreement may, at the option of the parties, by consolidation, joinder or otherwise, include other persons involved in or affected by the decision in such arbitration, specifically including other subcontractors.
 5. Unless the parties agree otherwise, an arbitration involving less than \$1,500,000 in dispute shall be conducted by one arbitrator, and an arbitration involving \$1,500,000 or more in dispute shall be conducted before 3 arbitrators whose determination shall be reached by majority vote of the arbitration panel.

Subcontractor further agrees that in the event that it suffers damages, cost or expenses or otherwise intends to pursue a recovery that arises out of or relates to the performance of work by another subcontractor to or under Contractor, Subcontractor's sole remedy shall be as against that responsible subcontractor and Subcontractor shall not pursue a remedy from Contractor.

Subcontractor shall continue with the diligent performance of Work pursuant to this Subcontract and follow and abide by directions and instructions issued by Contractor during the pendency of any dispute, including dispute resolution procedures, ADR procedures, arbitration or litigation.

The right of Contractor to seek or recover attorneys' fees pursuant to this Agreement, including as set forth in Articles III, IV, XIV, XVI, XVII, XVIII, XXII, XXIII and XXV, is limited to fees incurred as damages to the Contractor, and does not include fees incurred for prosecuting direct claims against the Subcontractor, or defending claims by the Subcontractor against Contractor. Nothing contained in this Agreement confers to Contractor or Subcontractor the right to collect attorneys' fees and costs as prevailing parties in connection with claims either may assert against the other relating to the breach of any provision of this Agreement.

All claims, suit or demands by Subcontractor as against Contractor or Owner shall be brought within the earlier of one year following Subcontractor's achieving substantial completion for the Subcontractor's Work or within one year of Contractor's notice of default in the event that Contractor has taken any action in accordance with Article XI, and Subcontractor hereby agrees that all relevant statutes of limitations shall be deemed reduced to such time period, to the fullest extent permitted by law.

**Mechanics'
Liens &
Claims**

Subcontractor acknowledges that its rights to remedies pursuant to California Mechanic's Lien law, Stop Notice and Design Professional Lien law (collectively referred to herein as "Lien") shall be governed, to the fullest extent permitted by law, by this clause. Subcontractor agrees that its rights to pursue a Lien shall be limited to that portion of its subcontract price which is unpaid and due under the terms of the subcontract at the time of recording a Lien claim or filing a Stop Notice. Subcontractor agrees that it shall not record Liens or file Stop Notices for any sum which is not due hereunder and specifically agrees and covenants that it will not record Liens or file Stop Notices for sums which it may contend are due as damages by reason of delays, accelerations or other such claims, unless such sums are specifically agreed to be due to Subcontractor by written contract modification signed by all parties. Subcontractor agrees that its Lien rights, whatever they may be, are reduced by each payment made to Subcontractor by Contractor or any other party on behalf of Contractor. Subcontractor acknowledges that a Lien recorded by it or Stop Notice filed by it may be disruptive of project finances and could have an adverse impact on the Contractor's relationships with the Owner and its other subcontractors. Therefore, Subcontractor further agrees that if it records a Lien or files

a Stop Notice, which is not permitted by law, or which contains claims which are not permissible hereunder or pursuant to law, or which is negligently or purposefully overstated, Contractor shall be entitled to recover from Subcontractor all of Contractor's costs and damages arising therefrom, and shall further be held harmless and indemnified by Subcontractor from all claims of owner and other subcontractors arising therefrom.

If any subcontractor, laborer, materialman or supplier of the Subcontractor or any other person directly or indirectly acting for, through or under it or any of them files or maintains a lien or claim, whether a mechanics' lien or an attested account or otherwise, a mechanic's lien or claim against the Project or Premises or any part thereof or any interests therein or any improvements thereon or against any monies due or to become due from the Owner to Contractor or from Contractor to the Subcontractor, for or on account of any work, labor, services, materials, supplies, equipment or other items performed or furnished for or in connection with the Work or under any change order or supplemental agreement for extra or additional work in connection with the Project, the Subcontractor agrees to cause such liens and claims to be satisfied, removed or discharged at its own expense by bond, payment or otherwise within ten (10) days from the date of the filing thereof, and upon its failure to do so Contractor shall have the right, in addition to all other rights and remedies provided under this Agreement and the other Contract Documents or by law, to cause such liens or claims to be satisfied, removed or discharged by whatever means Contractor chooses, at the entire cost and expense of the Subcontractor. The Subcontractor agrees to indemnify, protect and save harmless Contractor and the Owner from and against any and all such liens and claims and actions brought or judgments rendered thereon, and from and against any and all loss, damages, liability, costs and expenses, as well as legal fees incurred in responding to any lien or claim of third parties.

Assignment & Subletting

ARTICLE XIX. To the fullest extent permitted by law, Subcontractor agrees that it shall not assign, sell, transfer, delegate or encumber any rights, duties or obligations arising under this Agreement including, but not limited to, any right to receive payments hereunder, without the prior written consent of Contractor in its sole discretion and the giving of any such consent to a particular assignment shall not dispense with the necessity of such consent to any further or other assignments. In the event Subcontractor assigns, sells, encumbers or otherwise transfers its right to any monies due or to become due under this Agreement as security for any loan, financing or other indebtedness (hereafter "Assignment"), notification to Contractor of such Assignment must be sent by certified mail, return receipt requested, to the Purchasing Manager in charge of the business unit responsible for the construction of the Project and the Assignment shall not be effective as against Contractor until Contractor provides its written consent to such Assignment. Subcontractor agrees that any such Assignment shall not relieve the Subcontractor of any of its agreements, duties, responsibilities or obligations under this Agreement and the other Contract Documents and shall not create a contractual relationship or a third party beneficiary relationship of any kind between Contractor and such assignee or transferee. Subcontractor further agrees that all of Contractor's defenses and claims arising out of this Agreement with respect to such Assignment are reserved unless expressly waived in writing by a duly authorized corporate officer. Subcontractor hereby agrees to indemnify and hold harmless Contractor from and against any and all loss, cost, expense or damages Contractor or Owner has or may sustain or incur in connection with such Assignment.

Termination for Convenience

ARTICLE XX. Contractor shall have the right at any time and for any reason, by written notice to the Subcontractor, to terminate this Agreement without cause and require the Subcontractor to cease work hereunder. In the event of such a termination for convenience, the Subcontractor shall be entitled to payment pursuant to the terms of the Agreement only for all Work performed as of the date of termination, together with reasonable costs of demobilization and such other reasonable costs as may be encountered by the Subcontractor and directly attributable to such termination provided that such amount shall be reduced by all amounts for which Subcontractor is liable or responsible hereunder. However, the Subcontractor shall only be entitled to profit on that portion of the Work actually performed and approved for payment to the date of termination together with retainages held upon payments made prior thereto. Subcontractor waives any claim for loss of anticipated profits or other damages in the event Contractor exercises this clause.

Guarantees

ARTICLE XXI. The Subcontractor hereby guarantees the Work to the full extent provided in the Plans, Specifications, General Conditions, Special Conditions and other Contract Documents.

The Subcontractor shall expeditiously remove, replace and/or repair at its own expense and at the convenience of the Owner any faulty, defective or improper Work, materials or equipment existing or discovered within one (1) year from the date of the acceptance of the Project as a whole by the Architect and the Owner or for such longer period as may be provided in the Plans, Specifications, General Conditions, Special Conditions or other Contract Documents.

Without limiting the generality of the foregoing, the Subcontractor warrants to the Owner, the Architect and Contractor, and each of them, that all materials and equipment furnished under this Agreement will be of first class quality and new, unless otherwise required or permitted by the other Contract Documents, that the Work performed pursuant to this Agreement will be free from defects and that the Work will strictly conform with the requirements of the Contract Documents. Work not conforming to such requirements, including substitutions not properly approved and authorized, shall be considered defective. All warranties contained in this Agreement and in the Contract Documents shall be in addition to and not in limitation of all other warranties or remedies required and/or arising pursuant to applicable law. Failure of Subcontractor to honor and satisfy the foregoing and any other warranties or guarantees required of the Subcontractor under the Contract Documents, shall constitute a default by Subcontractor.

Accident Prevention & Other Policies

ARTICLE XXII. The Subcontractor agrees that the prevention of accidents to workmen and property engaged upon or in the vicinity of the Work is its responsibility. The Subcontractor agrees to comply with all Federal, State, Municipal and local laws, ordinances, rules, regulations, codes, standards, orders, notices and requirements concerning safety as shall be applicable to the Work, including, among others, the Federal Occupational Safety and Health Act of 1970 and the Clean Water Act, as amended, and all standards, rules, regulations and orders which have been or shall be adopted or issued thereunder, and with the safety standards established or imposed during the progress of the Work by Contractor. When so ordered, the Subcontractor shall stop any part of the Work which Contractor deems potentially unsafe, noncompliant or in violation until corrective measures satisfactory to Contractor have been taken, and the Subcontractor agrees that it shall not have nor make any claim for damages growing out of such stoppages. Should the Subcontractor neglect to take such corrective measures, Contractor may do so at the cost and expense of the Subcontractor and may deduct the cost thereof from any payments due or to become due to the Subcontractor. Failure on the part of Contractor to stop unsafe practices shall in no way relieve the Subcontractor of its responsibility therefor.

This Subcontractor acknowledges the receipt of "Contractor's "Corporate Safety, Health and Environmental Policy", "Substance Abuse Policy", "Equal Employment Opportunity" policy and "Policy Statement on Harassment." This Subcontractor acknowledges the receipt of "Contractor Corporate Safety, Health and Environmental Policy" and "Contractor Policy Statement on Harassment". Subject to applicable law this Subcontractor further agrees to be bound to these policies as a part of the supplemental and special conditions to the contract for construction of the project, including any amendments or modifications of such policies that Contractor may issue at any time. Subcontractor further acknowledges that Contractor endeavors to employ on its projects robust programs with respect to safety and storm water management, as well as compliance with relevant laws and regulations, including, without limitation, OSHA and the Clean Water Act. Such programs may include aggressive measures and requirements, such as reporting, training of personnel and inspections that may be considerably above and beyond minimum standards. Subcontractor agrees to comply with any and all requirements Contractor may impose in connection with such programs and policies, whether as part of this Subcontract or hereafter, and the cost and expense of such compliance shall be borne by the Subcontractor.

In the event that hazardous substances of a type of which an employer is required by law to notify its employees are being used or stored on the site by the Subcontractor, the Subcontractor's subcontractors and anyone directly or indirectly employed or otherwise retained by them or either of them, the Subcontractor shall immediately provide written notice of the chemical composition thereof (including, without limitation, a copy of the applicable Material Safety Data Sheet) to Contractor in sufficient time to permit compliance with such laws by Contractor, other subcontractors and other employers on the site. In the event that the Subcontractor encounters on the site material reasonably believed to be hazardous substances (including, without limitation, asbestos or polychlorinated biphenyl) which has not been rendered harmless, the Subcontractor shall immediately stop Work in the area affected and immediately report the condition to Contractor in writing. Work in the affected area shall resume when such hazardous substances have been rendered harmless or removed as determined by Contractor in its sole and absolute discretion. To the extent of Subcontractor's responsibilities hereunder, Subcontractor shall indemnify and save harmless Contractor from and against any and all loss, injury, claims, actions, proceedings, liability, damages, fines, penalties, cost and expenses, as well as legal fees incurred in responding to claims or actions of third parties, governmental agencies or regulatory authorities, caused or occasioned directly or indirectly by the Subcontractor in regard to such hazardous substances.

**Assumption of
Liability &
Indemnity**

ARTICLE XXIII. Throughout this Agreement, the "Indemnified Party (ies)" means Contractor, the Owner, any party required to be indemnified pursuant to the General Contract, and any of their respective officers, agents, servants, or employees, and affiliates, parents and subsidiaries.

To the fullest extent permitted by law, the Subcontractor hereby assumes the entire responsibility and liability for any and all physical and economic, actual or potential damage or injury of any kind or nature whatever (including death, business interruption or loss of use resulting therefrom) to all persons and entities, whether employees of any tier of the Subcontractor or otherwise, or to all property; or as a result of a perceived risk of such damage or injury (including actions taken to avoid or contain such actual or potential damage or injury, whether required or incurred by a public authority or otherwise); caused by, resulting from, arising out of or occurring in connection with the Subcontractor's Work, Subcontractor's breaches of obligations under this Agreement, or its willful or negligent acts or omissions in the execution of the Work, or in preparation for the Work, or any extension, modification, or amendment to the Work by change order or otherwise.

Should any claims for such physical and economic, actual or potential damage or injury (including death resulting therefrom) be made or asserted, whether or not such claims are based upon an Indemnified Party's alleged negligence or participation in the wrong or upon any alleged breach of any statutory duty or obligation on the part of an Indemnified Party, to the full extent permitted by law, including without limitation California Civil Code Sections 2782 and 2782.05, if applicable, the Subcontractor agrees to indemnify and save harmless the Indemnified Party from and against any and all such claims and further from and against any and all loss, cost, expense, liability, damage, penalties, fines or injury, including legal fees and disbursements, that the Indemnified Party may directly or indirectly sustain, suffer or incur as a result thereof and the

Subcontractor agrees to and does hereby assume, on behalf of the Indemnified Party, the immediate defense of any action at law or in equity which may be brought against the Indemnified Party upon or by reason of such claims and to pay on behalf of the Indemnified Party, upon demand, the amount of any judgment that may be entered against the Indemnified Party in any such action. Nothing contained in this Agreement requires Subcontractor to indemnify the Indemnified Party for Indemnified Party's own active negligence or willful misconduct.

To the fullest extent permitted by law, including without limitation California Civil Code Sections 2782 and 2782.05, if applicable, Subcontractor's duty to defend, save harmless and indemnify the Indemnified Parties is effective immediately upon tender of written notice by an Indemnified Party requesting that Subcontractor undertake its duty to defend and indemnify the Indemnified Parties. Subcontractor will provide its written acceptance or denial of the Indemnified Party's tender no later than twenty (20) days after receipt thereof, as Subcontractor agrees that twenty (20) days is a reasonable time period for Subcontractor to respond. If Subcontractor fails to provide written acceptance to the Indemnified Parties within twenty (20) days of such tender of written notice by an Indemnified Party, or if Subcontractor does not elect to provide a defense to Indemnified Parties as provided in California Civil Code Sections 2782 and 2782.05, if applicable, Subcontractor will be liable to the Indemnified Parties for all attorneys' fees and costs of defense to the fullest extent permitted by applicable law, including the fees and costs apportioned to the Subcontractor.

Concurrently with its written notice of acceptance of an Indemnified Party's tender, and so as to enable the Indemnified Parties to protect their interests, Subcontractor shall provide written notice to an Indemnified Party if, in any respect, the Subcontractor contends that the defense of any claim or portion thereof is outside the scope of a complete defense assumed by Subcontractor. Subcontractor shall have a continuing obligation to provide such written notice prior to providing legal services for which Subcontractor may contend is outside the scope of the complete defense assumed by Subcontractor. The Subcontractor's failure to provide such written notice shall conclusively establish that a complete defense of all claims is being provided by Subcontractor and that no part of the defense provided is outside the scope of that complete defense.

Should Subcontractor elect to appoint counsel to defend an Indemnified Party, including under California Civil Code Sections 2782 and 2782.05, if applicable, only counsel that is (a) experienced in and capable of handling matters that are the subject of the tender and, (b) is free from conflicts and other bias or prejudice towards the Indemnified Parties, may be appointed by Subcontractor.

Subcontractor acknowledges and agrees that the allocation or reallocation of attorneys' fees and costs of defense in accordance with California Civil Code Sections 2782 and 2782.05, if applicable, by an Indemnified Party need not be established with specificity or by other empirical analysis or finite precision. As such, Subcontractor and Indemnified Parties further agree that all that is required is for the Indemnified Party to provide a general, but reasonable, allocation based on the facts then known to the Indemnified Party.

A defense or objection by Subcontractor regarding its allocated fees and costs under California Civil Code Sections 2782 and 2782.05 may be raised only after such allocation has been the subject of a request for reallocation by Subcontractor made within 30 days after full and final determination of the claim. Any dispute between Subcontractor and Indemnified Parties regarding such an allocation or a reallocation of fees and costs shall be resolved through binding arbitration, except as otherwise specifically provided in this paragraph. The parties may elect to retain a mutually selected arbitrator through JAMS or ADR Services Inc., and if they are unable to agree, any party may institute arbitration by serving a notice of demand for arbitration on the other party and filing same with JAMS. Indemnified Parties shall have the right to join in such arbitration all other potential indemnitors or subcontractors with whom allocation or reallocation may be an issue. Unless otherwise agreed by the parties, the arbitrators shall endeavor to have the arbitration take place within thirty (30) days of the joining of all parties and appointment of the arbitrator in accordance with the JAMS rules pertaining to engineering and construction disputes as said rules may be in effect at the time the arbitration is initiated, without regard to the amount in dispute. The arbitrators shall be guided by the parties' preference to limit or avoid costly or time consuming discovery and the above stated requirement that the Indemnified Party need only present a general, but reasonable, allocation based on the facts then known to the Indemnified Party. The award rendered by the arbitrator shall be final, binding and non-appealable, and judgment may be entered thereon in accordance with applicable law of any court having jurisdiction thereof. Notwithstanding the foregoing, to the extent Subcontractor and Indemnified Parties are bound to any dispute resolution procedure that is the subject of a related dispute regarding allocation or reallocation between Contractor and Owner as established in the General Contract (for example, arbitration or litigation, as may be applicable), Subcontractor and Indemnified Parties agree to adjudicate their dispute as to reallocation of defense costs and indemnity obligations in the forum and process for resolving such related disputes with the Owner.

In the event that any such claims, loss, cost, expense, liability, damage, penalties, fines or injury arise or are made, asserted or threatened against the Indemnified Party, Contractor shall have the right to withhold from any payments due or to become due to the Subcontractor an amount sufficient in its judgment to protect and indemnify the Indemnified Party from and against any and all such claims, loss, cost, expense, liability, damage, penalties, fines or injury, including legal fees and disbursements, or Contractor in its discretion may require the Subcontractor to furnish a surety bond satisfactory to Contractor guaranteeing such protection, which bond shall be furnished by the Subcontractor within five (5) days after written demand has been made therefor.

Nothing in this Agreement shall be deemed to relieve the Subcontractor of its immediate duty to defend any and all Indemnified Parties, as specified in this Agreement, pending a determination of the respective liabilities of the Subcontractor, and the Indemnified Parties, by legal proceeding or agreement.

In furtherance to but not in limitation of the indemnity provisions in this Agreement, Subcontractor hereby expressly and specifically agrees that its obligation to indemnify, defend and save harmless as provided in this Agreement shall not in any way be affected or diminished by any statutory or constitutional immunity it enjoys from suits by its own employees or from limitations of liability or recovery under worker's compensation laws.

Nothing in this Agreement shall be deemed to relieve the Subcontractor of its obligations and responsibilities under a project wrap-up insurance program.. To the fullest extent allowed by law, including without limitation California Civil Code Section 2782.9, where there are claims for losses and costs covered by such wrap-up program, the Subcontractor, if enrolled, shall be required to make a contribution towards the deductibles and/or self-insured retentions under such wrap-up insurance program.

IN THE EVENT THAT THE LAW OF THE STATE IN WHICH THE PROJECT IS LOCATED (OR OTHER APPLICABLE LAW) LIMITS THE INDEMNITY OBLIGATIONS OF THE SUBCONTRACTOR, THEN THE INDEMNITY OBLIGATIONS OF THE SUBCONTRACTOR SHALL BE ENFORCED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, AND THIS ARTICLE SHALL BE CONSTRUED TO CONFORM TO SUCH LAW.

Insurance

ARTICLE XXIV. Insurance.

A. Required Insurance

Before commencing the Work, the following insurance coverages from insurance companies satisfactory to Contractor shall be in place and maintained until completion and final acceptance of the Work:

1. WORKERS' COMPENSATION in accordance with laws of the State in which the Work is situated, and EMPLOYERS' LIABILITY INSURANCE in the amount of \$1,000,000.
2. COMMERCIAL GENERAL LIABILITY INSURANCE INCLUDING COMPLETED OPERATIONS, CONTRACTUAL LIABILITY INSURANCE AGAINST THE LIABILITY ASSUMED HEREINABOVE, and including INDEPENDENT CONTRACTOR'S LIABILITY INSURANCE if the Subcontractor sublets to another all or any portion of the Work, Personal Injury Liability, Broad Form Property Damage (including completed operations), and Explosion, Collapse and Underground Hazards, with the following minimum limits:(Coverage shall be equivalent to current ISO Occurrence Form). No exclusions or restrictions for Crane usage will be permitted.

\$ SDS /Occurrence

\$ SDS General Aggregate

Subcontractor has elected to obtain the above insurance coverages set forth in paragraphs 1 and 2 above in the manner set forth in the Subcontractor Election A, B or C (with Subcontractor Election B having a further coverage option that is stated in, and may be elected by checking, Sub-Part B-1) that is checked below (Note: only one of Subcontractor Election A, B or C is to be selected, however Subpart B-1 may also be selected but only if Subcontractor Election B is selected):

SDS Subcontractor Election A). The above insurance coverages shall be provided by insurance companies selected by the Subcontractor. Contractor shall have the right, without limitation, to reject any insurance company selected by Subcontractor that has an A.M. Best rating of less than A or Standard and Poor's rating of less than AA or a Moody's rating of less than Aa. This insurance coverage shall include Products and Completed Operations coverage which Subcontractor agrees to maintain for a period equal to the statute of repose in the state in which the project is located. Subcontractor further agrees that it shall require each of its sub-subcontractors to provide the above insurance coverages subject to the terms and conditions set forth below. All costs are included in the Price and are to be paid by the Subcontractor.

or

SDS Subcontractor Election B). The above insurance coverages shall be provided through a consolidated insurance program that insures Subcontractor and its eligible lower tier subcontractors, which program has been made available to Subcontractor by Contractor, as described and with limits of liability, terms and conditions set forth in the Contract Documents, including, but not limited to, the CCIP Manual, and Subcontractor agrees to all terms and conditions therein, and makes all representations and warranties, associated therewith. Subcontractor acknowledges and agrees i) that insurance costs will be incurred to provide the above insurance coverages under the consolidated program; ii) that as opposed to Subcontractor including such insurance costs in the Price and paying such costs directly, the Price does not include insurance costs for the above insurance coverages, iii) that it is more convenient and efficient for Contractor to pay such insurance costs on Subcontractor's and Subcontractor's eligible lower tier subcontractor's behalf, and iv) that Contractor is authorized by Subcontractor to pay such insurance premiums on Subcontractor's behalf and Subcontractor's eligible lower tier subcontractor's behalf.

SDS Sub-Part B-1 to Subcontractor Election B. By checking this further election, Subcontractor agrees that it has selected Subcontractor Election B with respect to providing the above insurance coverages for eligible lower tier subcontractors engaged by or through Subcontractor to the extent permitted by the Contract Documents (including the CCIP Manual), however, Subcontractor agrees that as to Subcontractor itself, the above insurances will be provided by Subcontractor in accordance with the terms and conditions of Subcontractor Election A above. Accordingly, Subcontractor itself shall be deemed an "Excluded Party" with respect to the consolidated insurance program as described in the Contract Documents (including the CCIP Manual). Any other "Excluded Party" lower tier subcontractors (if applicable) with respect to the consolidated insurance program arranged by Contractor shall be required to procure their own insurance coverages at their expense. For Subcontractor's lower tier subcontractors that are not an "Excluded Party", the above insurance coverages shall be provided through the consolidated insurance program as described in Subcontractor Election B to the extent permitted by the Contract Documents (including the CCIP Manual).

Subcontractor represents and warrants that all amounts, information and data that Subcontractor and its lower tier subcontractors has provided or will provide in connection with CCIP applications and other related forms and documents, including estimated payroll and insurance costs, are, or shall be when submitted, true and accurate. Subcontractor represents and warrants that the amount of estimated unburdened payroll (payroll without benefits or overtime, unless the overtime portion is included as required by the regulations of the State in which the project is located) actually used by Subcontractor and its eligible lower tier subcontractors in calculating the Price is \$ SDS ("Initial Payroll Estimate" or "Estimated On-Site Payroll") (if Sub-Part B-1 is elected, this amount only pertains to Subcontractor's eligible lower tier subcontractors). Subcontractor further agrees that all such amounts, data and information, including the estimated unburdened payroll amount used to calculate the Price, shall be to subject to audit and verification if Contractor or the CCIP Administrator elects to do so and Subcontractor agrees to cooperate fully and provide documents and other records requested in connection with such audit and verification and to cause its lower tier subcontractors to do the same. Subcontractor acknowledges that such amounts, information and data or such other amounts as verified in accordance with the CCIP Manual or through audit may be used to calculate final and interim cost adjustments to the Price and/or payments to Subcontractor (at Contractor's discretion) as described in the CCIP Manual. Contractor and the CCIP Administrator shall not be required to use any amount greater than the foregoing "Estimated On-Site Payroll" as the unburdened payroll amount when calculating such adjustments for Subcontractor and its lower tier subcontractors as described in the CCIP Manual.

or

SDS Subcontractor Election C). The above insurance coverages shall be provided through an Owner Controlled Insurance Program (OCIP) as described and with limits of liability set forth in the Contract Documents and Subcontractor agrees to all terms, and makes all representations and warranties, associated therewith.

Subcontractor acknowledges that if any of the above insurance coverages are provided through a consolidated program arranged pursuant to Subcontractor Election B, Subcontractor Election B-1 or Subcontractor Election C, such coverage will not apply to any operations off of the premises (as defined in the CCIP Policy or Manual or OCIP Policy or Manual) and Subcontractor shall provide and maintain the above insurance coverages with respect to off-premises operations. Subcontractor further agrees that in the event that the insurance coverage provided by a consolidated insurance program (Subcontractor Election B or C) is cancelled prior to the completion of the Work, subcontractor shall provide the insurance coverage (set forth in paragraphs 1 and 2). Subcontractor further acknowledges and represents i) that it was not required to select any particular election provided for above and was free to choose Subcontractor Election A if it preferred to apply for and obtain insurance itself, ii) that Subcontractor has reviewed the other Subcontractor Elections available for this Project and has chosen the election selected above, and iii) that Subcontractor has satisfied itself that the Subcontractor Election checked above is preferable to Subcontractor for reasons of convenience, economics and/or coverage afforded.

3. COMMERCIAL AUTOMOBILE LIABILITY INSURANCE covering all owned, non-owned and hired automobiles used in connection with the Work, with the following minimum limits:

Combined Single Limit \$ SDS /accident

4. ALL RISK CONTRACTOR'S EQUIPMENT INSURANCE COVERAGE shall be provided by all Subcontractors utilizing a crane or other equipment in connection with the performance of the Work and insured to the full value of equipment.

B. Insurance Conditions

The following terms and conditions are applicable to all insurance:

Before commencing the Work, the Subcontractor shall furnish a certificate(s), satisfactory to Contractor from each insurance company showing that the above insurances (1, 2 Subcontractor Election A, 3 and CGL operations off of the premises under 2 Subcontractor Election B and C, and 4) are in force, stating policy numbers, dates of expiration, and limits of liability thereunder, and further providing that should any of the described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Subcontractor shall advise Contractor of the amount of any Deductible or Self-Insured Retention that exists on any policies of insurance on the face of the certificates provided. Subcontractor shall be responsible for and agrees to pay and/or reimburse Contractor for any such Deductible or Self-Insured Retention.

The Subcontractor shall name the Indemnified Parties and such other entities as may be reasonably requested as additional insureds under the policies of insurance listed in paragraph A maintained by the Subcontractor (with the exception of Workers Compensation insurance), whether during the performance of the Work or any time thereafter. The coverage to be provided to the additional insureds shall be for all liability arising out of the Work. Subcontractor will submit a certificate of insurance and a copy of endorsements to the insurance policies listing all parties required to be named by Subcontractor as additional insureds. Subcontractor hereby waives all rights of recovery from Contractor and the Indemnified Parties, including but not limited to rights of subrogation, with respect to any matter, claim or suit that is required to be covered by insurance to be maintained by Subcontractor pursuant to the Contract Documents.

It is expressly agreed by and between Subcontractor and Contractor that all insurance, whether issued on a primary or excess basis, afforded the additional insureds shall be primary insurance to any other insurance available to the additional insureds and that any other insurance carried by the additional insureds shall be excess of all other insurance carried by the Subcontractor and shall not contribute with the Subcontractor's insurance. Subcontractor further agrees that the amount of insurance available to Contractor and the additional insureds shall be for the full amount of the loss up to policy limits of liability and shall not be limited to the minimum requirements of this Subcontract. Subcontractor further agrees to provide endorsements on its insurance policies that shall state the foregoing; however, Subcontractor's failure to provide such endorsement shall not affect Subcontractor's agreement hereunder.

If the Subcontractor fails to procure and maintain such insurance, if required, Contractor shall have the right, but not the obligation, to procure and maintain said insurance for and in the name of the Subcontractor and the Subcontractor shall pay the cost thereof and shall furnish all necessary information to make effective and maintain such insurance or at Contractor's option, Contractor may offset the cost incurred by Contractor against amounts otherwise payable to Subcontractor hereunder. Subcontractor further agrees that in the event of such failure to procure and maintain such insurance, Subcontractor shall be liable for all amounts which would have been payable pursuant to the insurance required by this Subcontract. If, in Contractor's discretion, Contractor is concerned that any insurance company selected by Subcontractor has, at any time, faced diminished financial strength or that the insurance company may no longer provide the same level of financial strength (such as a decline in an A. M. Best, Standard and Poor's or Moody's rating), Contractor may require that Subcontractor provide replacement insurance coverage through an insurance company satisfactory to Contractor.

IN THE EVENT THAT THE LAW OF THE STATE IN WHICH THE PROJECT IS LOCATED (OR OTHER APPLICABLE LAW) LIMITS THE ADDITIONAL INSURED COVERAGE THAT CONTRACTOR MAY REQUIRE FROM SUBCONTRACTOR, THEN SUBCONTRACTOR SHALL BE REQUIRED TO OBTAIN ADDITIONAL INSURED COVERAGE TO THE FULLEST EXTENT OF COVERAGE AND LIMITS ALLOWED BY APPLICABLE LAW AND THIS CONTRACT SHALL BE READ TO CONFORM TO SUCH LAW

Bonds

ARTICLE XXV. The Subcontractor shall furnish to Contractor a performance bond in the amount of \$ SDS and a separate payment bond in the amount of \$ SDS the form and contents of such bonds and the Surety or Sureties thereon to be satisfactory to Contractor. Such bonds shall be furnished to Contractor within ten (10) calendar days after Subcontractor has executed this Agreement or within such other time period agreed to by Contractor in writing. In the event Subcontractor fails to furnish such bonds to Contractor within the time period as hereinabove provided, such failure shall constitute a default under this Agreement in which event Contractor shall have all of the rights and remedies provided in Article XI hereof with respect to default on the part of Subcontractor including, without limitation, the right to terminate this Agreement.

Without limiting the responsibilities of Subcontractor and its Surety under the terms of this Agreement, Subcontractor and its Surety hereby agree to promptly pay all lawful claims of subcontractors, materialmen, laborers, persons, firms or corporations for labor or services performed or materials, supplies, machinery equipment, rentals, fuels, oils, tools, appliances, insurance and other items furnished, used or consumed in connection with the prosecution of the Work provided for in said Subcontract and any and all modifications thereof, and shall indemnify and save harmless Contractor of and from all liability loss, damage and expense, including interest, and costs, which Contractor and/or its Surety may sustain by reason of Subcontractor's or its Surety's failure to do so.

Subcontractor and its Surety hereby agree to execute and deliver to Contractor when requested in connection with the issuance of change orders under this Agreement, Rider "A" amendments (or other documents as Contractor may require) increasing the amount (Penal Sum) of the Payment and Performance Bonds furnished by the Subcontractor. The reasonable premiums or other charges paid by the Subcontractor for the procurement of the Rider "A" amendments will be paid as a change to this Agreement.

Severability

ARTICLE XXVI. In the event that any provision or any part of a provision of this Agreement shall be finally determined to be superseded, invalid, illegal or otherwise unenforceable pursuant to applicable laws by an authority having jurisdiction, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provisions or parts of provisions of this Agreement, which shall remain in full force and effect as if the unenforceable provision or part were deleted.

Business Enterprise Compliance

ARTICLE XXVII. In the event that the Project or General Contract is subject to any federal, state, or local program(s) requiring Contractor or its subcontractors to meet certain goals or commitments with regard to the award of subcontracts or supply contracts to small and/or disadvantaged businesses, including but not limited to minority owned, woman owned, veteran owned and local businesses, then the provisions of this Article shall apply. Subcontractor acknowledges that: a) the Federal Small Business Program applies if the General Contract is a direct federal government contracts (*i.e.*, contracts awarded by a federal executive agency); b) the Disadvantaged Business Enterprise Program applies to projects that are funded in whole or in part with federal funds, including those funded through a grant awarded to the Owner; c) there are state and local programs that may apply to public projects that are funded by a state or local government; and d) these programs have different eligibility requirements as well as different methods of counting small business, minority, and other designated categories of participation at all subcontracting levels. Subcontractor agrees that it shall fully understand and comply with the rules and regulations of all such programs to the fullest extent applicable to the General Contract, Subcontract or this Agreement.

A. If Subcontractor is or otherwise satisfies the qualifications or requirements of any of the following, or if Subcontractor has in any way represented or given Contractor reason to believe that such is the case: (a) a small business under the Federal Small Business Program (*i.e.*, a small business, a small disadvantaged business (SDB), a HUBZone small business, a service-disabled veteran-owned small business (SDVOSB), a veteran-owned small business (VOSB), or a women-owned small business (WOSB)) (hereinafter collectively referred to as an "SBE"); (b) a Disadvantaged Business Enterprise (DBE), Minority

Owned Business Enterprise (MBE), or Woman Owned Business Enterprise (WBE), or the functional equivalent under federal, state, or local law (hereinafter collectively referred to as a "DBE"); or (c) a category or status designated by state or local authorities which otherwise classifies or designates certain business entities, collectively referred to as Local Business Enterprises (LBEs); then Subcontractor acknowledges, represents, agrees and warrants that: (i) Subcontractor in fact has such status and has obtained all required federal, state, or local certifications of such status; (ii) Contractor is relying upon such representation and status to fulfill any and all SBE, DBE or LBE goals or commitments Contractor has made to the Owner and/or a government agency or as otherwise required of Contractor; (iii) Subcontractor shall maintain its status as an SBE, DBE or LBE throughout the performance of the subcontract or purchase order; (iv) Subcontractor immediately shall notify Contractor if there is a change in Subcontractor's status as an SBE, DBE or LBE; (v) Contractor has engaged Subcontractor based on Subcontractor's representation that Subcontractor shall perform in such a manner that 100% of Subcontractor's Work and 100% of the Subcontract value shall be eligible for credit towards Contractor's goals and commitments with regard to the award of subcontracts to SBEs, DBEs and/or LBEs; (vi) Subcontractor shall perform in such a manner that Contractor shall be eligible to receive credit towards Contractor's goals and commitments regarding the award of subcontracts to SBEs, DBEs, and/or LBEs for 100% of the Subcontract value; (vii) Subcontractor will not engage in any effort or take any action that would prevent Contractor from receiving 100% credit; (viii) Subcontractor shall engage in a genuine commercially useful function as defined by law and shall not act as a pass-through to sub-subcontractors, suppliers, or vendors who are not SBEs, DBEs or LBEs; (ix) Subcontractor will not engage in any effort to create the appearance of SBE, DBE or LBE legitimacy or participation when in fact it does not exist; and (x) if Subcontractor awards any of its work through sub-subcontract, purchase order, or otherwise, to an SBE, DBE or LBE, then Subcontractor will do so only in a manner that does not affect the ability to receive credit as described above for 100% of the Subcontract value, including awarding same only to SBE, DBE or LBE sub-subcontractors, suppliers, or vendors if and to the extent necessary to achieve this result.

B. If Subpart A. of this Article is not applicable to Subcontractor, then Subcontractor acknowledges and agrees that the obligations and commitments assumed by Contractor with regard to the award of subcontracts to SBEs, DBEs and/or LBEs, have likewise been assumed by Subcontractor pursuant to this Agreement, including but not limited to meeting or exceeding the same percentage or other requirements or goals for each separate category of SBE, DBE and/or LBE employment in connection with the performance of the Work and satisfying all obligations and responsibilities with respect to reporting and documenting same.

C. The provisions of this Subparagraph C. shall be applicable to all Subcontractors. If or when Subcontractor awards any of its work through sub-subcontract, purchase order, or otherwise, to an SBE, DBE or LBE, to the extent permitted or required by this Agreement, then Subcontractor further acknowledges, represents, agrees and warrants that Subcontractor shall: (i) verify that such SBE, DBE or LBE has such status and has obtained all required federal, state, or local certification of such status; (ii) require its SBE, DBE or LBE sub-subcontractors, suppliers, or vendors to maintain their status as an SBE, DBE or LBE throughout the performance of their sub-subcontract, purchase order, or other agreement; (iii) immediately notify Contractor if there is a change in a sub-subcontractor's, supplier's, or vendor's status as an SBE, DBE or LBE; (iv) require all SBE, DBE or LBE sub-subcontractors, suppliers, or vendors to engage in a genuine commercially useful function as defined by law; (v) ensure that all SBE, DBE or LBE sub-subcontractors, suppliers, or vendors are not acting as a pass-through to another sub-subcontractor, supplier, or vendor who is not a SBE, DBE or LBE; and (vi) not permit a sub-subcontractor, supplier, or vendor to engage in any effort to create the appearance of SBE, DBE or LBE legitimacy or participation when in fact it does not exist.

Subcontractor agrees that: (i) Contractor, or its authorized representative, shall have access to and the right to examine and audit all of Subcontractor's records relating to Subcontractor's Work under this Agreement including, but not limited to, lower-tier subcontracts, equipment leases, purchase orders, and other agreements with third parties; (ii) Subcontractor and its sub-subcontractors, vendors and suppliers shall submit any forms, certifications or documents required by Contractor relating to participation on the Project, regardless of whether such forms or documents have been requested or required by the Owner; (iii) failure to honor and comply with any of the terms or conditions of this Article and/or its failure to comply with any applicable law relating to the award of subcontracts to SBEs, DBEs and/or LBEs shall constitute a material breach of this Agreement; (iv) submission by Subcontractor of a monthly requisition for payment or invoice shall constitute a certification by Subcontractor that each and every representation and warranty set forth in this Article is and remains truthful, accurate, and complete, and that Subcontractor is in full compliance with the terms and conditions of this Article, as of the date such requisition or invoice is submitted to Contractor; (v) Contractor may rely on these certifications in making payment to Subcontractor and in making like representations to others; (vi) Contractor shall have the right to withhold payment from Subcontractor if Contractor has reasonable grounds to believe that Subcontractor is not in full compliance with its obligations set forth in this Article; and (vii) that

Subcontractor shall include a provision in all agreements with its sub-subcontractors, vendors and suppliers, whereby such sub-subcontractors, vendors and suppliers acknowledge and agree to conduct their operations and affairs in a manner that ensures that Subcontractor is not in violation of any provision in this Article and to provide forms, certifications and documents as required by Contractor or this Article.

**U.S. Government
Prime Contract**

ARTICLE XXVIII. In the event that the General Contract under which this Subcontract is being issued is a General Contract between Contractor and the United States Government or an agency thereof, additional Federal Acquisition Regulation ("FAR") and agency FAR supplemental provisions are applicable to this Agreement. Such FAR and agency FAR supplemental provisions are contained on the attached document entitled "Federal Supplement" and such provisions are hereby incorporated by reference herein as if set forth at length herein. Subcontractor hereby ratifies and re-affirms its Subcontractor Certifications and Disclosures that Subcontractor signed and submitted with its proposal submitted earlier to Contractor and such Certifications and Disclosures are hereby incorporated herein by reference as if set forth at length herein.

**Entire
Agreement**

ARTICLE XXIX. This Agreement constitutes the entire agreement between the parties hereto. No oral representations or other agreements have been made by Contractor except as stated in the Agreement. This Agreement may not be changed in any way except as herein provided, and no term or provision hereof may be waived by Contractor except in writing signed by its duly authorized officer or agent. Subcontractor acknowledges and represents that it has completed and submitted to Contractor a prequalification questionnaire, that all statements therein and in the attachments to such questionnaire were true, accurate and complete, and remain true, accurate and complete, and that Contractor has relied on truthfulness, accuracy and completeness of such statements and the contents of the attachments thereto in deciding to enter into this Agreement. The marginal descriptions of any term or provision of this Agreement are for convenience only and shall not be deemed to limit, restrict or alter the content, meaning or effect thereof.

The said parties, for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of all of the terms and provisions herein contained.

In Witness Whereof the parties to these presents have hereunto set their hands as of the day and year first above written.

SUBCONTRACTOR	CONTRACTOR
<u>SDS</u>	<u>SDS</u>
By: _____	By: _____
Official title: <u>SDS</u>	Vice- President
Witness: <u>SDS</u>	Witness: <u>SDS</u>

Subcontractor's Federal Employers Identification Number (FEIN) SDS

Subcontractor's State Unemployment Ins. No. SDS

(Insert State and Register No. for State in which the Work is to be performed)

Subcontractor's License No. SDS

(Insert License No., if any, for State or locality in which the Work is to be performed)

Subcontractor's State Sales Tax Registration No. SDS

ADDITIONAL PROVISIONS

ROOFING

Provide all necessary labor, materials, equipment, transportation, hoisting, loading, off-loading, scaffolding, tools, rigging and any other facilities necessary to complete the **ROOFING** Work for the Great Wolf Lodge, located in Garden Grove, California.

I. DOCUMENTS:


- A. This Work shall be in accordance with the following, which is hereby made part of this Agreement.
1. Exhibit "A" – Contract Documents List, dated 9/18/2014, attached via Exhibits Compact Disk 3.
 2. Exhibit "B" – Turner's Standard Provisions, dated 05/05, attached via Exhibits Compact Disk 3.
 3. Exhibit "C" – Requirements for Affirmative Action to Ensure Equal Employment Opportunity and MBE/WBE Participation, dated 09/13, attached via Exhibits Compact Disk 3.
 4. Exhibit "D" – Southwest Business Unit OSHA 30-Hour Policy, dated 04/01/02, attached via Exhibits Compact Disk 3.
 5. Exhibit "E" – Turner Corporation Subcontractor Substance Abuse Program, dated 06/22/12, attached via Exhibits Compact Disk 3.
 6. Exhibit "F" – Project Safety Manual, dated 10/25/13, attached via Exhibits Compact Disk 3.
 7. Exhibit "G" – Turner Project Construction Schedule, dated 9/29/14, attached via Exhibits Compact Disk 3.
 8. Exhibit "H" – Logistics Plan dated 04/11/14, attached via Exhibits Compact Disk 3.
 9. Exhibit "I" – Turner Contractor Controlled Insurance Program (CCIP), dated 10/30/13, attached via Exhibits Compact Disk 3.
 10. Exhibit "J" – Virtual Design and Construction Requirements, dated 10/16/13, attached via Exhibits Compact Disk 3. Applicable to HVAC, Plumbing, Electrical, Fire Protection, Site Utilities, Framing & Drywall, EIFS, Shoring, Structural Steel, CIP Concrete, ACT, Kitchen Equipment, Concrete Reinforcing, Bathroom PODS, Rough Carpentry/Heavy Timber, Shoring, Glass & Glazing trades only.
 11. Exhibit "K" – User Guide for Haulers – Waste Tracking System, dated 05/15/09, attached via Exhibits Compact Disk 3. Applicable as defined per Scope below Site Concrete, CIP Concrete, Landscape, Roofing, Framing & Drywall, EIFS and Masonry only
 12. Exhibit "L" - FC Background Service Agreement for drug and alcohol testing, dated 06/30/10, attached via Exhibits Compact Disk 3.

13. Exhibit "M" – Ladders Last Policy Document, dated 10/11/11, attached via Exhibits Compact Disk 3.
14. Exhibit "N" – Turner EEO Policy dated 01/13, attached via Exhibits Compact Disk 3.
15. Exhibit "O" - Turner Harassment Policy, dated 01/13, attached via Exhibits Compact Disk 3.
16. Exhibit "P" – Geotechnical Report dated 05/27/11 and Supplement dated 7/23/13 by Leighton Consulting, Inc. attached via Exhibits Compact Disk 3.
17. Exhibit "Q" – GWL Subcontractor Parking Location Map dated 12/02/13, attached via Exhibits Compact Disk 3.
18. Exhibit "R" – GWL Differentiation Document, dated 09/05/13, attached via Exhibits Compact Disk 3.
19. Exhibit "S" – Temp Power Scope, dated 03/03/14, attached via Exhibits Compact Disk 3.
20. Exhibit "T" – Lean/Last Planner Exhibit, dated 12/02/13, attached via Exhibits Compact Disk 3.
21. Exhibit "U" – Prevailing Wage Requirements and Affidavit, dated 11/11/13, attached via Exhibits Compact Disk 3.
22. Exhibit "V" – Requirements for Offsite Store Materials Billing, dated 09/11/08, attached via Exhibits Compact Disk 3.
23. Exhibit "W" – Subcontractor Procedure Manual, dated 11/05/13, attached via Exhibits Compact Disk 3.
24. Exhibit "X" – Turner Logistics Plan and Equipment Coordination Matrix dated 09/09/13, attached via Exhibits Compact Disk 2.
25. Exhibit "Y" – Quality Control Program, dated 11/05/13, attached via Exhibits Compact Disk 3.
26. Exhibit "Z" – Soil and Water Contact Procedures and Work Practices by Vista Environmental dated 3/24/2014 and 3/25/2014 and Phase 1 and Phase 2 Environmental Reports, dated 03/27/2009, 06/2012, Rev. 12/2012, 04/2012, Rev. 12/2012, 11/2013, attached via Exhibits Compact Disk 3.
27. Exhibit "AA" – Shoring Plan, dated 11/15/13, attached via Exhibits Compact Disk 3.
28. Exhibit "BB" – City of Garden Grove Export Site Location Map, dated 11/15/13, attached via Exhibits Compact Disk 3.
29. Exhibit "CC" – SWPPP binder prepared by Tait & Associates Inc., dated July 29, 2013 (binder cover) and July 24, 2013 (inside cover) attached via Exhibits Compact Disk 3.
30. Exhibit "DD" – RFI Responses Log as of 07/31/14, dated 09/01/14 attached via Exhibits Compact Disk 3.

This Subcontractor has received the above referenced Exhibits as noted via Exhibits Compact Disk 3, dated 10/16/14 and also available at the following link: <https://turner.box.com/s/7rm9ty4zd0wwjbw11vw7> and understands that these attachments are hereby made part of the Contract as legal and binding. By signing below, this Subcontractor acknowledges that the Compact Disc was received as part of this Contract.

Print Name: Tony Baratto

Title: President

Signature: 

II. **WORK INCLUDED:**

- A. This Work includes, but is not limited to all **ROOFING** Work as shown, specified, required and inferred in the Contract Documents, with specific reference to the requirements of Introductory Documents, Bidding Requirements, Division 0 and Division 1 - General Requirements, unless specifically excluded in Section X, Exclusions.
- 0722170 - Sloped Roof Deck Insulation
 - 075400 - Thermoplastic Membrane Roofing
 - 076210 - Flexible Flashings
 - 079005 - Joint Sealers
 - 074113 - Metal Roof Panels
 - 077200 - Roof Accessories This work also includes all items as it relates to the **ROOFING** of work and identified in the following Specification Sections:
 - 077100 - Roof Specialties
 - 076200 - Sheet Metal Flashing and Trim
 - 079500 - Expansion Control
 - 086300 - Metal Framed Skylights
 - 112423 - Building Maintenance Equipment
 - Division 22 - Plumbing
 - Division 23 - HVAC
 - Division 26 - Electrical

- B. The drawings, specifications and other information included in the Contract Documents indicate the general Scope of Work and do not necessarily indicate or describe everything required for the full performance and completion of the Work. Subcontractor shall be solely responsible for completing the Work in accordance with all requirements of governmental authorities having jurisdiction over the project including, but not limited to, building codes, ordinances, legislation and published standards, as well as completing the required Work as reasonably inferred from the Contract Documents. Review and include all information as shown on the Drawings, General and Key Notes.
- C. Subcontractor shall visit the site and become familiar with the existing conditions and the physical condition of the site. Subcontractor shall examine and fully understand the Contract Documents and all other exhibits, attachments, engineering reports, soil reports, special studies, and existing conditions to the extent necessary to perform the Work.
- D. The word "PROVIDE", when used herein shall mean **furnish and install completely**, including all costs for labor, material, equipment, hoisting, loading, off-loading, scaffolding, tools, rigging and any other facilities necessary for a complete installation. The word "remove" when used herein shall mean locate, demo, remove and legally dispose offsite, unless otherwise noted.
- E. The items and descriptions of the Work listed herein are particularly included in the Contract scope and are not intended to limit the Subcontractor's Work, but only to clarify or emphasize it.

As further clarification, Subcontractor shall:

Specific Scope:

1. Provide complete **ROOFING** Work as described and required by the Contract Documents and as further clarified herein. The intent is that the Scope of Work is complete in all respects and change orders will only be considered for actual increases in quality or quantity to the Work.
2. Provide material escalation for durations indicated in Exhibit G, "Turner Project Construction Schedule".
3. Provide the work force and shift requirements necessary to maintain the activity durations shown and/or inferred for this Scope of Work as indicated on the Project Schedule (Exhibit "G").
4. The scope of work included in this contract is thru Addendum J and Bulletin 7, Issued for Construction set.
5. Provide all scope reasonably inferred by the documents listed in Exhibit "A" and items indicated below for this Scope of Work to be complete and code compliant. This includes, but is not limited to, **ROOFING** work. It is understood that the bid documents are not 100% construction documents and this Contractor has assumed at minimum, code compliant assumptions for this Scope of Work.
6. Comply with all applicable codes and regulations. If there is a conflict between the codes and regulations and the Project Contract Documents, the more stringent requirements shall apply.

7. Include all required Trade Permits, fees, sales taxes, freight, or other ancillary charges associated with the performance of this work. The General Building Permit shall be provided by others.
8. Provide all safeguards required for this work, including but not limited to temporary safety requirements, barricades, warning signs, and other forms of protection and safeguards necessary to isolate the work for the protection of occupants, workers, public and others as may be necessary.
9. Provide all required warranties/guarantees for all work and materials associated with this scope and as identified in the contract documents.
10. When there is a conflict between the plans, specifications, supplementary documents, and Additional Provisions, the more stringent requirements shall apply.
11. Installation of this Scope of Work shall be in accordance with the Contract Documents and manufacture's installation instructions for complete, water-tight assemblies at all locations.
12. Provide roofing in accordance with the contract documents. Provide a complete PVC/TPO roofing system including, but not limited to the following: PVC/TPO roofing membrane, protection board (dens deck), insulation, walkway pads, all wall/curb flashing, all PVC/TPO clad flashings, all prefabricated PVC/TPO pipe flashing, all roof drain flashing/sealants, all PVC/TPO cone flashing, all cant strips, all stainless steel clamps and sealants, PVC/TPO scuppers, and all thermoplastic flashing as required per the Contract Documents.
13. Provide all standing seam metal roofs including all underlayment materials, insulation, vapor barrier, clips, cleats, pressure plates, fasteners, closures, sealants and accessories as required for a complete and watertight system ref A12.4a.
14. Provide pre-installation conferences as required by the contract documents or Turner, minimum of 4 weeks prior to start of installation. Ensure attendance by manufacturer's representative and coordinate as required with Turner to ensure attendance by all affected parties.
15. Provide manufacturer representative onsite during standing seam and TPO roofing application periods as required by Specification Section 075400-3.07-B. Copies of this representative's field observation shall be submitted with daily reports.
16. Prior to installation of any products and/or materials required by this contract, this contractor shall verify and accept the suitability of the substrate. Once items are installed, it is assumed that this contractor has accepted the substrate.
17. This contractor is responsible to provide generators for added power requirements during the seaming operation. Coordinate with Turner Superintendent as required.
18. Provide R38 rigid roof insulation as indicated by Specification Section 075400-Stagger insulation joints as required.
19. Provide all roof assembly types as indicated on sheet A3.1c.
20. Provide all crickets and tapered insulation as necessary to slope roof as indicated on A3.1 series drawings. Coordinate as required with MEP trades to ensure roof

penetrations have required height above roof to properly flash per manufacturer's recommendations and as required by the contract documents.

21. Provide walkpads in accordance with Specification Section 075400 and as indicated on Sheet A3.1 and A3.1a. ref. note 5.
22. Provide all PVC/TPO flashings at roof penetrations as indicated in the Contract Documents. Coordinate installation of all boots for MEP and steel penetrations, ref. A12.4 thru A12.4c.
23. Provide all roof drain flashing for roof drain assemblies, ref. 10/A12.4. Provide caulking/sealants at ring as required.
24. Provide roofing on roof equipment pads per Detail 18/A12.4b. Coordinate with Turner, Sheet Metal, and MEP subs as required.
25. Provide TPO membrane at parapet, run up and over at parapet conditions as required by Detail 7/A12.5 and the Contract Documents. Assume similar at Lobby Core condition.
26. Coordinate this Work for proper fit and execution.
27. The total cost of replacing materials rejected for failure to comply with contract documents shall be the responsibility of this contractor.
28. Provide scaffolding and hoisting required for the work.
29. Provide all shop drawings, samples, mock - ups and extended warranties as required by the contract documents.
30. Provide specified roofing materials.
31. Provide temporary protection at the end of each work day. Seal all open ends.
32. Provide dumpsters for all waste generated by this trade.

Thermoplastic Membrane Roofing:

33. Provide thermoplastic membrane roofing including all underlayment materials, tapered insulation , vapor retarder, flashing, sealants, fasteners and roof accessories.
34. Provide all board and tapered insulation required for TPO roof in order to meet required slopes. Coordinate as required with MEP to ensure required slopes are provided.
35. Provide all 'DensDeck" sheathing over metal deck and on interior side of all parapet walls. Ref. 7/A12.5.
36. Provide all cant strips, blocking, reglets, crickets, leads, pipe flashing for drains and pipes as required.
37. Provide wood blocking and nailers required for a complete installation.
38. Provide PVC/TPO overflow scuppers per 17&19/A12.5a.
39. Provide roofing transitions at expansion joints per details on A12.3 and A12.3a, coordinate as required with Turner and Sheetmetal subcontractor for a water tight assembly. Expansion Joint assemblies shall be by Sheetmetal subcontractor.

40. Provide roofing and plywood at framed curb per 18/A12.4b. Sheetmetal lid shall be by sheetmetal subcontractor, coordinate as required.
41. Provide additional TPO sacrificial membrane to 10'-0" past all grease ducts per note 24 on A3.1a, coordinate as required with MEP and Foodservice.
42. Provide all flashing at pipe penetrations and duct thru roof penetrations (refer to MEP drawings for locations). Provide a complete roofing assembly to seal all penetrations ref A12.4 and A12.5a
43. Provide 20- Year Labor and Material Warranty.
44. Provide Installers Qualifications: Minimum 5 years of documented experience, and Approved by the roofing system manufacturer.

Standing Seam Metal Roof:

45. Provide all standing seam metal roofs including all underlayment materials, insulation, vapor barrier, clips, cleats, pressure plates, fasteners, closures, sealants and accessories as required for a complete and watertight system ref A12.4a.
46. Provide all nailers as required for a complete installation for your roof system, ref. details 4&9/A12.4a, . Perimeter nailers required for fascia shall be rough carpentry sub, coordinate as required.
47. Coordinate with Turner Superintendent for location and duration of onsite fabrication of metal roofing panels. Provide hoisting and roof access as required for your work.
48. Provide drip flashing at standing seam metal roof ref. 14/A12.4a.
49. Provide heavy vapor barrier / ice and water shield beneath all metal roofs as required by specs, ref. 5/12.4a.
50. Provide vapor barrier over 3X T&G decking and under 3/4" plywood sheathing (T&G decking and plywood sheathing per Structural shall be by rough carpentry sub). Coordinate as required with Turner and rough carpentry sub for sequence.
51. Provide all nail base insulation with 7/16" plywood per detail 5/12.4a. in lieu of OSB as specified.
52. Provide prefinished aluminum gutter and downspouts at standing seam metal roof where shown in the contract documents. Coordinate as required w/Turner, Site Utilities for downspout connections.
53. Provide 20- Year Labor and Material Warranty
54. Provide Installers Qualifications: Minimum 10 years of documented experience.
55. Provide Installers Qualifications: Approved by the roofing system manufacturer.
56. Provide all material handling equipment for the proper transportation, delivery, receiving, unloading, disbursement and storage of their materials. Deliveries shall be sequenced and coordinated with Turner Superintendent.

57. Provide all equipment and materials as indicated on the Contract Documents with no substitutions. See Section XI Alternate Prices of these Additional Provisions for Alternates and/or Substitutions.
58. Provide all cutting, patching and repair as required for the installation of the Work, including all spray-on-fireproofing (SOFP) removed or damaged by this Subcontractor.
59. Provide daily clean up of trash and debris generated from your work and/or by your workers. All work areas shall be left **broom clean** and free of any and all items related to this scope of work at the end of each work day. All large items shall be removed by this Subcontractor immediately or as directed by Turner's Superintendent. Crates, boxes and other large items of debris must be broken down by Subcontractor to maximize dumpster use. Dunnage may not be left on site. Hazardous materials and petroleum products may not be placed in the dumpster(s). Subcontractor must legally dispose of any hazardous or petroleum waste that is generated and provide Turner with the required documentation related to disposal of hazardous or petroleum wastes. Any clean-up not performed on a daily basis will be performed by others at this Subcontractor's cost after a period of 48 hours from written notice by Turner. Any costs associated with clean up will be issued via Change Order within a 30 day period of time. This Subcontractor shall provide all dumpsters for this scope of work.
60. If Turner determines daily clean-up to be unsatisfactory, this subcontractor will be required to provide, once a week, on a day designated by Turner, one laborer for 4 hours for a composite clean-up crew of the entire project. This only applies when your workforce is on the Project. This clean up shall not be limited to items specifically associated with Subcontractor's work, but shall include all accumulative debris. This requirement does not relieve the Subcontractor of cleaning up its own work and is in addition to any other clean-up scope specifically detailed in this document.
61. All contract awards are contingent upon Owner approval of each subcontract award.
62. Submit a Quality Control / Quality Assurance Program for this scope of work including test and acceptance requirements per Division 1.
63. Provide all necessary mobilizations in the Contract Price, including the phasing of Work on multiple buildings at the same time and/or as required to accomplish the milestones established in the project schedule.
64. Maintain a current set of as-builts drawings of the Work, for review by Turner each month. A value of \$21,345. (1% of contract value), for accounting purposes only, will be identified in your schedule of values for the as-builts and will be paid in monthly increments as long as they are up to date and complete for that billing period.
65. Note, a value of \$21,345. (1% of contract value), for accounting purposes only, will be identified in your schedule of values for the close-out documents. Progress billings of this dollar amount are acceptable as close-out documents are submitted.

66. Provide the following allowances for T&M work included in the Work, to be directed by the Turner Superintendent. Allowances are to be all-inclusive, including overhead and profit, based on specific scope, and will be strictly accounted for. This Subcontractor will make charges against these allowances only when specifically approved by Turner. Any unused amounts will be deducted from the Contract Price upon completion of the Work. This Subcontractor shall obtain a Potential Change Order Number (PCO) prior to commencing work against allowance and indicate PCO# on all T&M tickets. T&M Allowance work will require all tickets to be signed by the Turner Superintendent at the end of each day that any T&M work is completed in order for the T&M tickets to be considered valid. T&M Tickets without a Turner signature and/or a Turner PCO # will not be valid.
- a. NONE \$ _____

JOB SITE REQUIRED Specific Scope:

1. Subcontractor binds itself to Contractor and Owner and is obligated to Contractor and Owner in the same manner and the same extent that Contractor is bound and obligated to Owner under the Prime Contract. All rights which Owner may exercise and enforce against Contractor may be exercised and enforced by Owner against Subcontractor. In the event of any dispute between the Owner and Contractor, Subcontractor shall be bound by all decisions, directives, interpretations and rulings of the Owner, including Owner's termination or suspension of the Contractor.
2. OWNERSHIP AND USE OF CONTRACT DOCUMENTS AND OTHER INSTRUMENTS OF SERVICE: The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect's consultants.
3. Any strikes (including sympathy strikes) or any other stoppage of work related to the Project shall not excuse any delay of the Subcontractor in the proper performance of its work, regardless of whether the strike or other stoppage of work is attributed to union action or the decision of an individual employee. Subcontractor will be required to recover or make up any time lost at its own expense. The Project will utilize a dual gate system. Subcontractor shall notify in writing, and assign its employees, material men and suppliers, to such gates or entrances as may be established for their use by Turner and in accordance with such conditions and at such times as may be imposed by Turner. Strict compliance with Turner's gate usage procedures shall be required by the Subcontractor, who shall be responsible for such gate usage by its employees, material men, suppliers, subcontractors, and their material men and suppliers.

4. Review the environmental reports in Exhibit Z and provide and comply with a specific safety plan to protect this subcontractor's workers from any noted hazards; specifically exposure to arsenic that is listed below EPA maximums but potentially still above OSHA allowable levels.
5. As directed by Turner provide all necessary foreman and crews to properly accomplish the phasing of Work on multiple buildings at the same time and/or as required to accomplish the milestones established in the project schedule.
6. Provide the use of LCP Tracker for submittal of payroll/prevaling wage requirements.
7. Unless otherwise directed or authorized, in writing, by Contractor, all Applications for Payment and all supporting documents (including but not limited to lien waivers, sworn statements, and the like) for Subcontractor and its sub-subcontractors and suppliers, shall be in electronic format and shall be submitted to Contractor using the Textura® CPM payment management system. Subcontractor shall be responsible for the fees and costs owed associated with Subcontractor's use of the Textura CPM payment management system. Subcontractor shall include a similar provision in its sub-subcontracts and purchase orders. Fees to Subcontractors are calculated as 0.15% (15 basis points) of contract value, with a minimum fee of \$50 and a maximum fee of \$1,450. Fees to Subcontractors' sub-subcontractors and suppliers are a fixed fee of \$50 per sub-subcontractor or supplier contract.

III. GENERAL SCOPE:

- A. Subcontractor and all lower tier sub-subcontractors shall comply with the requirements of Turner's OSHA 30-hour Training Policy dated 4-1-02, which states that: "For all subcontracts up to \$5 million in value, any one of their site supervisory staff on the project must be certified. Staff with written evidence of certification within the last 3 years will be acceptable. Training for Subcontractor's staff not currently certified can be done through Turner Knowledge Network (TKN). The web site address is www.turneruniversity.com and must be completed within 3 months from the date of the Subcontract Agreement or no less than 30 days from start of work. The cost for this certification is \$495, and is included in the contract price. Monthly payment is contingent upon evidence of current certification or enrollment in TKN within the 3-month period mentioned above. Reference Exhibit "D".
- B. All workers employed by the Subcontractor on the Project shall be drug and alcohol tested as identified in the Project Safety Manual. This testing shall be performed by an agency provided by Turner and will include the drug and alcohol testing and photo ID badge. This Subcontractor shall contact FC Background direct to set up a testing location and billing (Reference attached Exhibit "L"). Billing will be directly between FC Background and the Subcontractor. Turner will not be involved unless Subcontractor fails to make payment to FC Background. At that time Turner will be notified by FC Background of the amount and the Project will complete a deductive Change Order if necessary.
- C. Installation/application of the Work of this Subcontract constitutes the Subcontractors acceptance of the substrate. This Subcontractor shall include inspections to ensure that

all surfaces are clean, well cured and within tolerances required for the proper execution of its portion of the Work. This Subcontractor shall notify Turner in writing of any defects and/or conditions that will interfere with or prevent a satisfactory application, and shall not proceed until such defects and conditions are corrected. Should this Subcontractor proceed to apply any materials to unacceptable surfaces, this Subcontractor will be responsible for all costs incurred to correct, repair, and refinish the Work.

- D. All on-site construction and grading activities shall be limited to the hours between 7 a.m. & 8 p.m., Monday through Saturday. No construction shall occur on Sundays or legal holidays, unless a special Construction Permit is first obtained. Construction and grading activities within the public Right-of-way shall be limited to the days and hours approved by the Director of Public Works at the time of permit issuance. No on-site repair, maintenance or delivery of equipment and/or materials shall be performed before 7 a.m. or after 8 p.m., Monday through Saturday, nor on any Sunday or legal holiday unless otherwise specified in the conditions stated herein or a special Construction Permit is obtained. Emergency repairs are exempt from this condition.
- E. Provide all coring, sleeving, fire stopping, grouting, caulking and acoustical caulking, of your penetrations through walls and slabs as required. Provide all additional bracing or support framing as required for penetrations. If sleeves or blockouts are missed when they were scheduled to be installed prior to the concrete installation then provide x-ray of post-tensioned decks/slabs and, if required by the Structural Engineer, any non-PT concrete prior to coring in order to confirm clear area in which to core.
- F. Provide all seismic bracing as required for your Work.
- G. This Subcontractor is required to disclose all second tier sub-subcontractors and material suppliers to be utilized in connection with the work. Turner is to review all second tier sub-subcontractor's EMR and safety records prior to the commencement of any Work.
- H. This Subcontractor is responsible for purchasing the Contract Documents (Drawings and Specifications) or down loading the Documents on-line at <http://www.e-arc.com/ca/costamesa>. The Contract Documents will also be made available for download from the Turner Sharepoint or Box.com FTP Site.
- I. When there is a conflict between building code, plans, specifications, supplementary documents, laws, or Additional Provisions, the more stringent requirements shall apply.
- J. In the event that archaeological resources or suspicious materials are unearthed during project construction, all earth disturbing work within the vicinity of the find must be temporarily suspended or redirected until Owner's consultant(s) evaluate the nature and significance of the find. After the work has been appropriately mitigated, work in the area may resume. This Subcontractor shall include the cost of "minor disruptions" to his work.
- K. In accordance with Turner's contractual agreement with the Owner, when this Subcontractor becomes aware of errors, omissions or discrepancies in the Plans, Specifications or other Contract Documents, Subcontractor must within (3) business days after such discovery, notify Turner in writing of the errors, omissions or discrepancies. Failure to notify Turner within this time limitation will waive Subcontractor's right to any additional compensation associated with these errors, omissions or discrepancies.

- L. Submit DCR's electronically thru Turner's Sharepoint Site or other electronic format as directed by Turner. Provide a Daily Construction Report (DCR) on Turner forms to Turner field offices every working day while crews are working on the project site. DCR shall be signed by Turner and any DCR that is incomplete, inaccurate or contains unverified statements may be rejected and must be re-submitted within (24) hours. For the purposes of verifying certified payroll hours, this Subcontractor shall have each of its workers on site sign a weekly man hours report confirming the amount of regular time, overtime and double time hours listed match the actual hours they worked. It is this subcontractor's responsibility to ensure that any of its tiered subcontractors also turn in DCRs and follow the same requirements of this section. Daily entry confirming submission of that day's DCR and listing total manpower on a chart provided by Turner and posted in Turner's trailer is also required at the time that each DCR is turned in. Failure to provide timely DCR's and weekly manhours sign in sheets may result in delaying of monthly payment applications due to Turner's inability to properly verify work completed without the proof of DCR's. At the start of each workday, report verbally to Turner's Superintendent this subcontractor's manpower count for that day.
- M. Provide warranties that will commence upon Substantial Completion of the Project and acceptance by the Owner OR as otherwise required in the Specifications. Warranty period shall be a minimum 2 years for parts and labor; if specified, requirements beyond 2 years will prevail. During this period, any of the Work that is found to be not in accordance with the requirements of the Contract Documents, the Subcontractor shall correct it within 14 days after receipt of notice from the Owner or Turner to do and at the sole cost of the Contractor.
- N. Include all required trade permits, fees, sales taxes, freight, or other ancillary charges associated with the performance of the Work. Taxes included in the contract amount within the original contract timeframe are considered lump sum. No monetary contract adjustments (additions or deductions) will be considered as a result of changes in local tax rates.
- O. This Subcontractor shall perform all work in such a manner to ensure the continuous and uninterrupted use of all systems in the buildings.
- P. Comply with all on-site tobacco and eating regulations. Tobacco use and eating will only be allowed in designated areas. Tobacco use will not be permitted in any building, or within any of the work areas. Only drinking water will be permitted in the building.
- Q. This Subcontractor shall only proceed with extra or change order work with prior written direction from Turner. This Subcontractor shall obtain, prior to commencing extra work, a Turner directive or a Superintendent's Instruction to Subcontractor (SIS) and a Potential Change Order Number (PCO). T&M work will require all tickets to be signed by the Turner Superintendent at the end of each day work is completed to be valid. T&M Tickets without a Turner signature or without a Turner PCO # will not be valid. Turner's signature on T&M tickets shall only verify time, material and equipment quantities. In no case shall this signature constitute an approval of a change in contract amount.
- R. This Subcontractor acknowledges that the best practices of Lean Construction will be administered on this project. Lean principles can be reviewed in Exhibit "T" and at www.leanconstruction.org. Weekly meetings and site planning will be dedicated in efforts to promote Lean Construction.

- S. Receive, unload, uncrate, inventory, store, protect, handle, distribute, position, and install any items designated for installation by this Subcontractor. Immediately upon receipt of items received from other subcontractors, or others, for installation by this subcontractor, provide documentation to Turner which identifies what was received and notes any issues with the delivery. Documentation shall include quantities and a description for each item received. Upon acknowledgement of receipt, all responsibility for items transferred shall be transferred to this subcontractor.
- T. For all items to be furnished by this subcontractor and installed by others, this subcontractor is responsible for coordinating the delivery/ acceptance of such items with the installing subcontractor. This subcontractor shall document all transmitted material, including description and quantities, and is responsible for obtaining acknowledgement of receipt from the receiving subcontractor in the form of a dated signature. This subcontractor is responsible for immediately providing all such documentation to Turner. In the event that any item to be furnished by this subcontractor is lost and proper documentation was not obtained/ transmitted, neither Turner nor the receiving subcontractor will be made responsible for missing items, and this subcontractor will be responsible for the replacement of such items at no additional cost.
- U. This Subcontractor will not be allowed to store material at the site unless Turner's Superintendent gives specific approval for location and duration. This subcontractor shall only deliver materials that will be installed within one (1) week of delivery. All materials, tools, equipment, etc. must be stored on wheels to facilitate relocation if required to allow other trades to continue with their work.
- V. Subcontractors must comply with the NOTHING HITS THE GROUND policy. General items include:
1. FABRICATION:
 - a. All material fabrication shall be performed at a work station between 30 and 39 inches off the floor.
 - b. Work station shall be mobile and include a fire stop directly behind all chop saws.
 - c. Rubbish containers shall be mobile and located directly adjacent to the work station.
 - d. The subcontractor is to furnish all mobile rubbish containers for their work.
 2. HOUSEKEEPING:
 - a. All rubbish shall be disposed of as it is generated and be immediately place in a mobile rubbish container provided by the subcontractor.
 - b. Cordless power tools are required unless the subcontractor can demonstrate a hardship or need to use tools with power cords.
 - c. The subcontractor is required to elevate off the ground all power cords in order to minimize tripping hazards on walking/working surfaces.
 - d. Debris is not allowed to be consolidated on the floor.
 3. MATERIAL HANDLING/ STORAGE:
 - a. Material may not be stored within 10 feet of the building perimeter or adjacent to shafts or stairwells.

- b. All material lay-down areas must be coordinated and designated by Turner.
- c. Material must be stored to promote mobility of material. Pipes, conduits, metal fabrications and steel framing are to be stored on rolling racks or similar means of conveyance. Bulk material should be palletized to allow for easy mobility using a pallet jack.
- d. "Just in Time" delivery required to minimize clutter. Nothing should be stored on a floor that cannot be installed within one week.
- e. Heavy material such as glass and drywall must be loaded so as not to overload the structure. The subcontractor is required to do a floor loading analysis for submission to Turner for review and approval.

IV. CLEANUP & PROTECTION

- A. Participate in site wide litter control consisting of emptying trash receptacles and cleaning up around dumpsters.
- B. Provide all clean up of streets, adjacent properties, and site debris, if applicable and as generated by execution of this Work.
- C. Provide all required dust control, if applicable, for this Subcontractor's operations in performance of this Work.
- D. As required, Subcontractor shall be responsible for all SWPPP requirements during all work activities and clean-up. If this Subcontractor should fail to comply with SWPPP requirements, any and all associated costs/fines shall be charged to this Subcontractor.
- E. Protect survey stakes provided for the Work and use caution to minimize any re-staking. It will be at the discretion of the Turner Superintendent to assess any back-charges for re-staking.
- F. Protect all site structures, including, but not limited to, all cleanouts, manholes, gas meters, transformers, water valves, irrigation meters, vaults and pull boxes, within the limits of construction and designated to remain.
- G. Protect any adjacent finished Work that may be damaged during the execution and completion of this Scope of Work. Any damage to other Work caused by this Subcontractor shall be repaired at Subcontractor's expense.
- H. Secure equipment and materials left on site after working hours to prevent unauthorized operation, wind blown movement, theft and damage. Any material stored for extended periods of time will be kept covered and protected from the weather.

V. SITE LOGISTICS:

- A. Provide all material handling equipment for the proper transportation, receiving, unloading and disbursement of this Subcontractors material. Once delivered, the material shall be promptly installed to prevent any hazardous storage conditions on site, and minimize site-stocking requirements. Subcontractor acknowledges that on-site stocking space is severely limited and that material deliveries will only be allowed on an as-needed for immediate installation basis. Provide all equipment and means for offloading, transporting and hoisting as required by your own work, subject to

- coordination with, and approval by the Turner Superintendent. A man-hoist will be provided at the Hotel Tower for the Subcontractor's use during construction as indicated on the Hotel Tower Schedule. The man-hoist will be available for use during regular working hours, and available for use off hours by written request and approval by Turner. The subcontractor making the request for use off-hours shall be responsible for paying the overtime for the operator as required.
- B. Obtain approval from Turner prior to staging, delivery, and/or storing materials on site. This includes providing protection of stored materials from weather and construction activities. Subcontractor shall coordinate all deliveries with Turner Superintendent Delivery Schedule.
 - C. Immediately remove from the project site any extra or waste material associated with this subcontractor's Work.
 - D. Parking will be available off-site at the location identified in Exhibit "Q" – GWL Subcontractor Parking Location Map. Costs associated with lease and maintenance of the off-site parking lot are paid by the Owner; all other costs associated with parking for this Subcontractor's field crew and staff for the duration of the project is included in the Contract Price. On-site parking will only be allowed based upon availability and approval from the Turner Superintendent. It is the sole responsibility of this subcontractor to get its workers from the Parking Lot located at the intersection of Harbor Blvd. and Twintree Lane.
 - E. Subcontractor's jobsite trailers will be located where space is available as shown on the site logistics plan. These trailers shall be removed prior to the completion of the project to allow for Work in the area to be completed. Subcontractor shall pay for and make arrangements for electrical connection from the trailer to the service points provided by Turner. Subcontractor is also responsible for furnishing and paying for their own telephone services. Lights on the exterior of Subcontractor trailers shall be compact fluorescent lights or LEDs on timers or photocells for energy efficiency. For subcontractors to be located in the Turner provided team trailer complex, costs for set up, rental, maintenance, utilities, and removal will be shared by all occupants. For any trailers, containers, or other items stored on the "Future Restaurant" pad (See Exhibit "H" – Site Logistics Plan), this subcontractor must first receive approval from Turner and shall remove any such items within 25 days from notice to vacate if items are to be removed from site or with 5 days if items are to be relocated to another location on site. Space is not guaranteed and the use of this space shall mainly be limited to storage bins or Connex type containers.
 - F. Provide traffic control as required for the performance of the Work, including, flagmen and staging for all activities, vehicles and equipment related to your work. Traffic control personnel shall wear orange safety vests and have stop/slow signs when directing traffic in the street at all times. Provide radios for staging of trucks.
 - G. Coordinate with Turner and other Subcontractors to safely provide and maintain building and site access. Comply with the Turner project site access requirements, safety program and site logistics plan.
 - H. Turner to provide temporary power within 100 feet of Subcontractor's work areas. This will be only within the building footprint. Subcontractor shall run extension cords from

- the provided "spider boxes". Subcontractor must provide temporary power for their own welding machines.
- I. Turner will provide temporary lighting to meet Cal-OSHA standards. Provide supplemental task lighting that may be necessary to perform your scope of work.
 - J. Turner will provide one temporary water (non-potable) connection at the Subcontractor trailer/storage yard and one at each building.
 - K. Turner will provide the necessary amounts of portable toilets and hand wash stations.
 - L. Turner will provide an operated tower crane adjacent to the Hotel Tower for eight hours a day on normal workdays Monday through Friday. Use of the tower crane and hook time is subject to Turner approval. Primary use of the tower crane during concrete operations shall be for the CIP Concrete subcontractor and secondarily for the Concrete Reinforcing subcontractor. Use by other trades at the Hotel Tower during normal hours is not guaranteed but will be accommodated as possible through request to and approval by Turner. Use of the tower crane for picks during normal hours at the Waterpark and Lobby Core shall not be assumed. Use of the tower crane on off-hours and weekends will be made available upon request and Turner approval at an added cost per hour used to be paid (or deducted from the Contract Price) by the Subcontractor to Turner for actual cost for operator time, crane rental and maintenance, and Turner Supervision.

VI. PAYMENT:

- A. The price stipulated in Article IV is a firm price, no escalation shall be allowed for the duration of the project within the schedule outlined in Exhibit "G". This also applies to any sub-subcontractors and/or material suppliers and extends to alternates and unit prices.
- B. Potential Change Orders (PCO's) will be closed out on a monthly basis. Turner will periodically issue a Subcontractor Reconciliation Letter to be executed by both Turner and the Subcontractor with the purpose of reconciling contract value and interim schedule updates. All claims for additional costs, extensions of time, damages or delays, shall be submitted to Turner in writing within five (5) business days of Subcontractor's knowledge of the basis of the claim; otherwise the claim shall be waived and voided.
- C. Payment Applications are due the 15th day of each month or by the date indicated on the schedule provided by Turner and projected to the end of the month. Invoices must include the pre-approved project specific Schedule of Values on the standard G703 form. Failure to submit a payment request within the time specified will result in payment delays or the rejection of your Payment Application for the month in question.
- D. Payment requests will not be accepted without submitting complete Daily Construction Reports, weekly Tool Box Talks, Certified Payroll and Prevailing Wage Affidavit (Exhibit "U"), and, if applicable, current as-built drawings.
- E. Subcontractor shall submit an updated Change Order Log on a monthly basis with each Application for Progress Payment. The Change Order Log shall list all the approved and outstanding scope changes and include the following information: change number, reference to Turner PCO number, summary description of the change, requested amount, whether or not the work is done and, if so, reference to Turner SIS number.

- F. All billings are subject to Turner's and the Owner's review, verification and concurrence.
- G. Certified Payroll and the TSIB Form-4 payroll report are required with Applications for Payment.

VII. SAFETY:

- A. All workers performing work above 6'-0" shall be required to be tied off with proper safety equipment (i.e. harness and lanyard). The only exception to this requirement will be those ladders which are required to be tied off above 24'-0". No exceptions will be tolerated.
- B. Replace all safety/protection devices when removed or damaged by this Work.
- C. Provide ground fault interrupt (GFI) extension cords for your work.
- D. Provide drinking water, cups and waste receptacles in accordance with Cal-OSHA to your own employees. Potable water will not be available at the site.
- E. Require that all jobsite staff wear proper clothing, gloves, footwear, hardhat, and safety glasses at all times. No exceptions will be taken.
- F. Radios, music players and other media devices are not permitted on site at any time.
- G. High-visibility vests or shirts are required to be worn on the exterior of the site when heavy equipment is operating. Vests or Shirts shall have the name of your company clearly identified.
- H. All workers employed by Subcontractor on the Project shall attend a project specific safety orientation prior to commencing work on the project. All workers will be required to sign a document confirming that they have completed this orientation prior to being allowed to perform any work.
- I. "Ladders Last" Policy: Ladders must be considered as a last means of access and egress for all work, and only be used where no other means is possible, with preference given to safer means of access. Safer means may include, but not be limited to: stairs, rolling stairs, scissor and aerial lifts, scaffolds and Tele-towers. Additionally, it may be possible to plan and sequence work in a way that minimizes the number of times that a worker has to leave the floor working level via ladder or other means to access other elevations, which often raises the frequency and severity of risk exposure. During Job Safety Analyses and pre-planning, give preference to methods that reduce elevated exposure. A ladder-use permit may be required by Turner.
- J. Safety Stand Downs will be conducted at the start of each work week and after all Holidays, at 7:00 AM. Attendance is mandatory for everyone on the jobsite. Sign in sheets will be provided for tracking attendance.
- K. All inspections required by applicable regulations or codes for tools, equipment, scaffolding, etc provided or used by this Subcontractor shall be performed by a Competent Person provided by this Subcontractor.
- L. Provide Job Hazard Analyses and Pre-task plan, as required by Turner, which include job steps, potential job hazards associated with each step, and protective measures which will be taken to eliminate the hazards.

VIII. COORDINATION:

- A. This Subcontractor's key personnel shall attend an on-site pre-construction meeting to be scheduled by Turner where the Subcontract Procedure Process will be discussed. Meeting topics include: the Subcontractor's specific scope of work, schedule, format of monthly application for progress payment, change order request procedures, submittal items and submittal schedule.
- B. The Subcontractor agrees that a Principal or high-level Manager of its firm shall attend a Turner jobsite meeting and walk the project with its Project Staff at least once per month. The purpose of a monthly site visit shall be to assure Turner and the Owner that Subcontractor's senior management is committed to performing the work at the level of safety and quality that is in conformance with the Contract Documents, industry standards and requirements.
- ~~C. This Agreement includes full time 3D coordination with Turner and the work of other trades including active participation in coordination meetings as required to execute the work. Meetings will be held weekly, or more often as required, until the coordination process is complete. The intent is to resolve conflicts in the coordination drawing process rather than at the installation stage. Subcontractors shall provide coordination drawings as outlined in the contract documents and Exhibit "J" 3D coordination (Virtual Design and Construction Requirements dated 06/14/13).~~
- D. This Subcontractor's onsite Foreman, Superintendent or Project Manager are to attend required coordination meetings and weekly Foreman meetings to discuss safety, upcoming activity sequencing of trades, field problems and any other issues that may arise. The person directing/managing the work for the Subcontractor shall attend these meetings while commencing the Work onsite and for a period of 1 month prior to mobilization, if necessary, for coordination.
- E. Subcontractor shall assign an on-site foreman, superintendent, or project manager that is on site each day that this Subcontractor has workers on site. This single person shall be Turner's main point of contact for on-site coordination and general site issues related to all of this Subcontractor's Work, shall be able to communicate clearly with Turner staff, and shall be reasonably empowered to make immediate decisions for the Subcontractor.
- F. Key personnel assigned to the project must be approved by Turner. Such key personnel shall not be removed from the project without prior written approval from Turner. If for any reason Turner determines that any such personnel must be removed from project, this subcontractor shall promptly remove identified personnel and provide a satisfactory replacement.
- G. Provide estimating support for your onsite staff when requested by Turner to substantiate Change Order estimates.
- H. Schedule and supervise all trade inspections required for your Work. Pre-test all systems and coordinate all required inspections with the Turner Superintendent, the Owner's on-site testing/inspection and/or commissioning agency, Inspector of Record and/or City/County/State agencies.

- I. This Subcontractor is responsible for notifying the City Agency and/or Utility Company and USA/DigAlert prior to commencing work near existing utilities.
- J. Provide coordination of Work and any layout, accordingly, with other trades. Shop drawings for each trade will be forwarded as required and requested to each trade upon receipt to be used as coordination drawings. Trade contractor shall review the shop or coordination drawings received from Turner and submit in writing any issues with coordination. Trades that are late with submission of shop drawings or do not submit coordination drawings will be responsible for any cost of field changes or delays that have to be made for accommodation of their work.
- K. Provide layout/verification as required for the work unless noted otherwise. Two reference grid lines and benchmark elevations will be provided at each floor by the surveyors.

IX. SHOP DRAWINGS / SUBMITTALS / CLOSE-OUT:

- A. Subcontractor shall prepare and submit to Turner within ten (10) working days of execution of the subcontract agreement, comprehensive lists of manufacturers and products proposed for the Work including information on materials, equipment, and fixtures required by Contract Documents, as may be required for Architect and Owner preliminary approval.
- B. Subcontractor shall provide a Schedule of Values based on the Master Project Schedule's activities, acceptable to Turner and the Owner for its portion of work within ten days of contract signing. The Schedule of Values shall include line items for close out documentation and punch list corrections.
- C. Subcontractor shall submit a copy of their company safety manual within ten (10) working days of contract execution. Attached to the submitted safety manual shall be evidence of worker certification and training for OSHA 30, forklift operation, fall protection, scaffolding, CPR, first aid, etc. Evidence shall include specific names of individuals trained/ certified, copies of any certifications, and any other evidence of training.
- D. Prepare complete submittals (shop drawings, product data, calculations, analysis, sketches, diagrams, certifications, samples, etc.) for review by the Owner, Architect, Engineer and/or Turner. Submittals shall be made in complete packages and submitted electronically (samples, mock-ups, etc are to remain physical submittals) in a professional manner. Include a minimum quantity of 10 copies for any physical submittals. Provide sufficient detail for a full understanding of the scope of work. The accuracy, completeness, code compliance, compatibility, and level of coordination for any CAD or BIM files requested by or provided to the Subcontractor for the use of producing submittals or performing coordination are not guaranteed; files received by the Subcontractor without signing a release from Turner or other entity with interest are not to be used for production of submittals or coordination. One hardcopy of the submittal shall be provided to Turner for its use and records at time of submittal. Turner reserves the right to request up to 10 copies of approved submittals as may be required at its sole discretion.

- E. Provide with each submittal package, a detailed transmittal form identifying the Submittal and the appropriate Specification Section. Submittals shall be received within fifteen (15) working days of execution of the Subcontract Agreement. If these drawings/documents are not approved and require correction to be resubmitted before approval, this Subcontractor will be solely responsible to make up this lost time to maintain the Project Schedule. Any submittals which require corrections and resubmittal must be resubmitted to Turner within 14 calendar days of Subcontractor's receipt of the returned submittal.
- F. Submit Material Safety Data Sheets to Turner's Project Safety Manager within ten (10) working days of product submittal approval and prior to the materials being delivered to the Project.
- G. All materials and installation practices are to conform to the Contract Documents, all applicable codes and the requirements of any regulatory agencies having jurisdiction. This Subcontractor is responsible for all Contract Document information in the preparation of shop drawings. If there are conflicts, shop drawings shall highlight this discrepancy with a recommended solution. Any deviations from the Contract Documents, should there be any, shown or not shown on the submittals/shop drawings shall be accompanied with notes in **bold font** and **clouded**. RFIs shall be submitted to Turner to memorialize any deviations described by the submittals.
- H. Evaluate long lead equipment items and coordinate with the project schedule.
- I. Notify Turner, in writing, with sufficient advanced warning of any delays or potential delays that may occur due to the lack of information or slow return of submittals and RFI's.
- J. Subcontractor shall maintain a record set of approved shop drawings onsite, which shall be marked up to clearly reflect as-built field conditions, and shall be turned over to Turner upon the completion of your work. At the end of the project, the SUB- Contractor shall turn over its as-built drawings in AutoCAD. AutoCAD as-builts are to be maintained on a **monthly** basis. "Field As-built drawings" shall be updated at the end of each week. They will be reviewed by Turner before pay applications will be approved.
- K. Submit operation and maintenance manuals two (2) months prior to acceptance of the Work. FINAL As-builts and warranties must be submitted within twenty (20) days after the Substantial Completion. These and all closeout submittals shall be submitted electronically; physical copies will also be required if requested by the Owner. Subcontractor agrees that progress payment will be held if the submissions of the operation and maintenance manuals are late.
- L. Provide competent personnel for the formal training of Owner staff on equipment operation and the performance of any required preventative maintenance. The training program shall consist of classroom and "Hands-on" equipment training prior to the start-up operation period and turn-over program as described in the Contract Documents.
- M. Note that one set of black-line prints of the drawings and specifications will be maintained on-site by Turner and updated during the execution of the Work by the Subcontractor. All deviations from the Contract Documents shall be recorded, in addition to any details in the services not previously shown, changes to existing conditions, the actual installed location and position of equipment, piping, conduit, etc shall be recorded on this set of documents.

Sub 13
Turner [Signature]

- N. If applicable: As-built documentation for all systems utilizing piping including, but not limited to plumbing and mechanical systems, shall be referenced with the appropriate invert, pipe size and coordinates locating the component within the building. As-builts for underground utilities shall be referenced with the appropriate invert, pipe size and coordinates dimensioned with the stationing/coordinates indicated in the Contract Documents.
 - O. Mock-ups may be required to be constructed at an offsite Southern California location, on site but not in place, or in-place. Any costs associated with construction of the mock-ups, regardless of location, are included in the Contract Price within reason.
- X. **EXCLUSIONS:**
- A. The following is specifically excluded from the Work:
 - 1. Expansion Joint assemblies (by Sheetmetal subcontractor)
 - 2. Sheet metal flashings, non-pvc coated. (By Sheetmetal Sub)
 - 3. Aluminum gutters at Membrane roofing. (By Sheetmetal Sub)

XI. **ALTERNATE AND UNIT PRICES:**

- A. The following alternate prices may be used at Turner's discretion to determine the cost of a change in the Work. These alternate prices include all materials, labor, taxes, insurance (other than that provided by CCIP), bond costs, shipping, freight, overhead, profit and all other costs incurred by the Subcontractor and his suppliers for the change. Work covered by these alternate prices shall be performed in strict accordance with the applicable provisions of this Agreement.
- B. Alternates:
 - 1. None ADD/DEDUCT: \$ N/A
- C. Unit Prices:
 - 1. None \$ N/A lf/ea/sf
- D. Hourly Labor Rates:
 - 1. Laborer Classification \$ N/A STD/OT/DT

Labor rates for changes in the Work shall be in accordance with Contract Documents and subject to approval by the Owner. Subcontractor shall submit their proposed labor rates with sufficient breakdown of taxes, burden, fringes, etc. as required with the Subcontractor's initial schedule of values for approval.

This is a prevailing wage project and is governed by all laws and regulations. The Subcontractor is required to attend a pre-job prevailing wage reporting orientation meeting prior to the start of work, and comply with the State's prevailing wage reporting requirements. IF RATES ARE NOT AGREED UPON PRIOR TO CONTRACT SIGNING,

PREVAILING WAGE RATES WILL BE USED FOR Subcontract Change Orders. REFERENCE EXHIBIT 'U'.

Labor rates for changes in the Work shall be in accordance with State Prevailing Wage rates. If the subcontractor intends to use labor rates other than State Prevailing Wage, it will have to submit them for prior approval on project specific forms.

XII. BONDS / INSURANCE / OTHER INFORMATION:

- A. The cost of 100% Payment and Performance Bonds ~~ARE~~ **ARE NOT** included in the contract price.
- B. The following permits and fees will be paid by others: General Building Plan Check and General Building Permit. All other required City or governing agency approvals, trade permits, fees, haul route permits, street usage permits, sales taxes, licenses, governmental agency inspection fee requirements, OSHA permit fees, freight, or other ancillary charges associated with the performance of this work are included in the base contract.
- C. Contractor Controlled Insurance Policy: This project is under a Contractor Controlled Insurance Program. All subcontractors, whether included or excluded, shall provide insurance per the CCIP Insurance Manual, attached hereto. Reference Section 4, 5, and 6A for excluded parties' obligations.
- D. For Subcontractors enrolled in CCIP, Turner will be providing Workmen's Compensation, General Liability, and Excess Liability Insurance for all work performed on site under a Contractor Controlled Insurance Program (CCIP) in accordance with Exhibit "I". All automobile insurance and off-site insurance shall be provided by this Subcontractor. Minimum limits of liability provided by the Automobile coverage shall be a combined single limit of \$2,000,000.
- E. Any insurance provided by the Subcontractor, not provided under the CCIP Insurance program, with the exception of Professional Liability Insurance, shall list the following as Additional Insured:
- GWGG, LLC, GGMXDR, Inc, McWhinney Real Estate Service, Inc, David L. Bray, Great Wolf Resorts, Inc, CMB Infrastructure Investment Group XVI, LLC, Bank of Ozarks, MGWGG, Investments, LLC, MGG NC, LLC, City of Garden Grove as Successor Agency to the Garden Grove Agency for Community Development, City of Garden Grove, Turner Construction, their officers, employees, representatives, volunteers, and agents.
- F. Professional Liability Insurance: For bid packages requiring stamped and certified design drawings, the Professional Engineer hired by this Subcontractor shall assume professional responsibility for any design work required in this Subcontract including but not limited Structural and Life Safety design components.
- a. This Subcontractor will include PRACTICE (OFFICE) PROFESSIONAL LIABILITY INSURANCE (E&O) for protection from claims arising out of the performance of any design or engineering services performed or furnished in connection with the Work caused by any negligent act error or omission for which Provider and/or the

Provider's Architect(s) and/or Engineer(s) may become legally liable. Such professional liability insurance shall provide for coverage as follows:

- i. Limit of liability - \$5,000,000
 - ii. Deductible Amount - Not more than \$50,000 (payable by the Subcontractor)
- b. Subcontractor agrees that they will maintain [or cause to be maintained] this Professional Liability coverage for 5 years after substantial completion of the Project, will notify Turner of any changes in the policy in subsequent years and will ensure that the policy will not provide less limits or coverage than the current policy."
 - c. Sixty (60) days prior written notice to Turner of cancellation of such insurance or any material change with respect thereof.
 - d. Such professional liability insurance shall be in a form and from a company acceptable to Turner and policy shall be available for review by Turner as requested.

XIII. AFFIRMATIVE ACTION COMPLIANCE REQUIREMENTS

- A. Turner Construction is committed to affirmative action in hiring, and maintains an affirmative action plan in each of its business units. In conjunction with this:
 1. Subcontractor shall take affirmative action to ensure that discriminatory actions toward any employee due to race, color, religion, sex, or national origin are non-existent. Subcontractor shall not discriminate against any individual because the individual is disabled or a special disabled or other veteran. Subcontractor is expected to make every effort to employ minority and female employees evenly on each of their projects and be compliant with all Local, County, and State and Federal requirements, including but not limited to those set forth by the Office of Federal Contract Compliance Programs of the US Department of Labor.
 2. This Subcontractor shall be obligated to offer opportunity to Disadvantaged Business Enterprises (DBE's) for a minimum of 20% of the value of this subcontract. All efforts to provide this opportunity shall be documented and submitted to Turner at the time of their proposal with commitments formalized by the Subcontract.
 3. Upon request, subcontractor shall provide reports listing all employees hired under this subcontract, including information on employees' race, gender, and veteran and disability status.
- B. Your commitment is TBD % for this project. In the event that Subcontractor fails to meet this commitment, Subcontractor shall provide documentation that a "good faith effort", as defined by the Federal Government, was made to attain the commitment. The list of Subcontractors that will be utilized by your company in order to achieve the MBE/WBE goal must be submitted at the time of the first application for payment (See Exhibit "C").

XIV. SCHEDULE

- A. All design and construction shall be performed in accordance with the Turner Construction Schedule. Subcontractor is required to perform and complete the Work to meet or exceed the project's duration in accordance with the Project Schedule, Exhibit "G".
- B. In addition, Subcontractor shall complete various portions of the Work within the following MILESTONE durations:
1. Start Roof at Bunker 1/2/15
 2. Start Roof at Water Park 1/15/15
 3. Start Roof at Hotel 4/3/15
 4. Start Roof at Lobby Core 4/13/15
- C. Subcontractor acknowledges that the Agreement between Turner and the Owner provides that Turner shall have a fixed amount of time to complete various portions of the Project, and that Turner will be obligated to pay damages to the Owner for each day that completion is delayed beyond such date and any extension(s) thereof as provided in the Contract Documents. These damages are \$3,750 for each day up to 30days, \$7,500 for each day from 31 to 60 days, and \$12,500 for each day beyond 60 days for the "Turnover of Waterpark West Half to Owner Sub" (Activity ID A1550) and for the "Turnover of Hotel Tower 1st Floor for FFE" (Activity ID A1060) and \$15,000 for each day up to 30days, \$30,000 for each day from 31 to 60 days, and \$50,000 for each day beyond 60 days for "Substantial Completion".
- Subcontractor agrees, in addition to its other duties and obligations under this Agreement and not in limitation thereof, to indemnify and save Turner harmless from any and all such damages including any loss, costs and expenses incurred in connection therewith, which Turner may become obligated to pay Owner by reason of, resulting from or otherwise caused by Subcontractor's failure to perform and prosecute its Work in accordance with the terms of this Agreement and the Contract Documents.
- D. The sequencing of the work is to be scheduled and approved by Turner. It is understood that Turner reserves the right to change the sequencing of the work, if necessary. After this Subcontractor has reviewed and approved the mutually acceptable revisions, Subcontractor shall be responsible for the costs of all overtime, shift time differentials, and other premium time costs required to make the schedule commitments outlined above. This includes, but is not limited to, work in excess of eight hours per day, forty hours per week, and/or work on Saturdays, Sundays and Holidays.
- E. Within ten (10) workdays after contract execution, the Subcontractor will have notified Turner in writing of any foreseeable conflicts in the project schedule, Exhibit "G". Within fifteen (15) workdays after contract execution, the Subcontractor shall provide a detailed schedule using scheduling software and neatly printed on 8-1/2"x11" or 11"x17" white paper that further details their activities while conforming to the intent of the activities, durations and dates established in Exhibit G. The subcontractor recognizes that it is to comply with the schedule requirements and will utilize additional labor, materials and equipment where needed. In case of a delay, or upon the request of Turner for an anticipated delay, caused by this subcontractor, a recovery schedule shall be submitted every week outlining the additional men, overtime, etc. that will be provided to return to the original schedule.

Great Wolf Lodge
Garden Grove, CA
PO# 4700040244

Project No. 131510
10-19-14

END OF ADDITIONAL PROVISIONS