

Subcontractor Prequalification Form

Contact Information

Company Name _____

Address _____

City _____ State _____ Zip _____

Company Phone _____ Web _____

Primary Contact _____ Title _____

Phone _____ Email _____

Estimating Contact _____ Title _____

Phone _____ Email _____

Accounting Contact _____ Title _____

Phone _____ Email _____

Insurance Contact _____ Title _____

Phone _____ Email _____

Incorporation Information

Year Incorporated _____ State _____ FEIN# _____

Incorporated As: Corp LLC Partnership

Provide Certificate of Good Standing from State where incorporated issued within the last 90 days
(Attachment 1)

Are your personnel Employees Subcontractors Both

If Subcontractors, do you use a Subcontractor agreement? Provide copy. **(Attachment 2)**

Employees Total _____ # Office Employees _____ # Field Employees _____

Wage Scale Work? Yes No Wage Scale Only?

Are there any affiliated subsidiaries to your company? Yes No

If Yes, please name them _____

Is your company owned/controlled by another company? Yes No

If Yes, please name them _____

Is your company member of any trade/business associations? Yes No

If Yes, please name them _____

Is your company member signatory or member of any trade unions? Yes No

If Yes, please name them _____

List of Officers and Owners with greater than 10% ownership

Name _____ Title _____ Ownership % _____

Name _____ Title _____ Ownership % _____

Name _____ Title _____ Ownership % _____

Name _____ Title _____ Ownership % _____

Business Classification

How would you classify your company? Select all that apply.

Large Corporation Small Business CBE MBE MBE Balt. City MBE MDOT

WBE WBE Balt. City DBE DBE Washington, DC DBE MDOT

List your company's certifications and licenses. Include copies. (Attachment 3)

Do you have experience on LEED, Green or Energy Star projects? Yes No

Do you have capabilities to coordinate shop drawings? Yes No

Preferred project type?

Commercial New Construction Multifamily Renovation Commercial Renovation

Schools Multifamily New Construction w/Podium Multifamily New Construction Slab on Grade

Other Tenant in Place Scattered Site Gut Rehab

Geographic Work Area

Which states do you currently perform work?

Please provide copies of current registrations/licenses for each. (Attachment 5)

Trade Category

Subcontractor Material Only Labor Only Rental Professional Services

Primary CSI Division - See attached divisions/bid tab descriptions

01 02 03 04 05 06 07 08 09 10 11 12 13
14 17 18 21 22 23 25 26 27 28 31 32 33

Secondary CSI

- | | |
|--|---|
| <input type="checkbox"/> 02-00 Demolition and Abatement | <input type="checkbox"/> 09-30 Ceramic, Stone & Porcelain Tiling |
| <input type="checkbox"/> 03-00 Concrete | <input type="checkbox"/> 09-65 Resilient Flooring & Carpeting |
| <input type="checkbox"/> 03-54 Cast Underlayment | <input type="checkbox"/> 09-91 Painting |
| <input type="checkbox"/> 06-10 Rough Carpentry | <input type="checkbox"/> 10-14 Signage |
| <input type="checkbox"/> 06-20 Finish Carpentry | <input type="checkbox"/> 10-20 Interior & Exterior Specialties |
| <input type="checkbox"/> 06-22 Custom Woodworking | <input type="checkbox"/> 10-28 Toilet, Bath & Laundry Accessories |
| <input type="checkbox"/> 07-10 Damp proofing/Waterproofing | <input type="checkbox"/> 12-30 Casework, Cabinets, Countertops & Vanities |
| <input type="checkbox"/> 07-21 Insulation | <input type="checkbox"/> 12-40 Furnishings |
| <input type="checkbox"/> 07-30 Roofing | <input type="checkbox"/> 14-80 Scaffolding |
| <input type="checkbox"/> 07-46 Siding | <input type="checkbox"/> 31-60 Deep Foundations |
| <input type="checkbox"/> 08-10 Doors, Frames & Hardware | <input type="checkbox"/> 32-12 Asphalt Paving |
| <input type="checkbox"/> 08-41 Entrances & Storefronts | <input type="checkbox"/> 32-16 Site Concrete |
| <input type="checkbox"/> 08-50 Windows | <input type="checkbox"/> 32-31 Fences and Gates |
| <input type="checkbox"/> 09-01 Plaster Restoration | <input type="checkbox"/> 32-90 Planting and Landscaping |
| <input type="checkbox"/> 09-21 Gypsum Board Assemblies | |

Insurance Requirements

Have you reviewed the attached insurance requirements? Yes No

If yes, are you able to meet the minimum insurance requirements? Yes No

Please provide evidence of coverage certificate. (Attachment 4)

Operational Programs

Health and Safety

Do you have a written Health and Safety Program manual? Yes No

If Yes, please include a copy (Attachment 6)

Do you have a full-time Safety Director? Yes No

Are your field employees OSHA 10-hour certified? Yes No

Do you have a formal skills training program for field personnel? Yes No

Have you been cited by OSHA for safety violations within the last four years? Yes No

If yes, please describe any, and all, instances including fines levied.

Please submit your most recent OSHA 300 log. (Attachment 7)

Workers Compensation Modification Rating

_____ Current Year _____ Prior Year _____ 2 years Prior

Please attach Experience Mod Worksheet (Attachment 8)

Project History & References

Project History

Attach list of 5 major projects – past (Attachment 9)

Attach list of 5 major projects – present (Attachment 10)

Project lists should include: Project Name, Project Owner, General Contractor, Location, Year Work Performed, Project Status, Description of Work Performed, Contract Value, Contact Name, Contact Phone Number, Contact Email.

References

Bank References

Bank Name _____

Total Line of Credit _____ Current Amount Available on LOC _____

Any Assets Pledged as Collateral _____

Primary Contact _____ Title _____

Phone _____ Email _____

Trade References

Vendor Name _____ Credit Limit _____

Primary Contact _____ Title _____

Phone _____ Email _____

Vendor Name _____ Credit Limit _____

Primary Contact _____ Title _____

Phone _____ Email _____

Vendor Name _____ Credit Limit _____

Primary Contact _____ Title _____

Phone _____ Email _____

Legal and Financial Qualifications

Has your company ever failed to complete a project? Yes No

Has your company (or any of its officers) ever filed for bankruptcy? Yes No

Has your company been terminated on a contract? Yes No

Has your company failed to complete work awarded to it? Yes No

Is your company currently involved in arbitration or litigation? Yes No

Does your company have any outstanding judgments against it? Yes No

If Yes to any questions above, please provide explanations, use separate sheet/attachment if needed:

Bonding Information

Are you bondable? Yes No

Single Highest Bond Contract Value_____ Aggregate Bond Value_____

Bond Rate by Tiers:

1st \$100K Next \$400K Next \$2.0M Next \$2.5M Over \$7.5M

Surety Company Name_____

Primary Contact _____

Address _____

City _____ State_____ Zip_____

Phone _____ Email_____

Revenue Disclosure

Your revenue - past 3 years _____ Current _____ Last Year _____ 2 years ago

What is your current backlog of uncompleted work?_____

What is the average size of projects performed by your company?_____

Financial Statements

Please submit most recent CPA Prepared Financial Statements (**Attachment 11**)

Name of Outside CPA Firm_____

Contact_____ Phone_____

Confirm – You have attached all (**11**) attachments Yes No

Confirm – You have reviewed the minimum insurance requirements Yes No

Incomplete information and submissions will delay the approval process and your qualification may be rejected and/or contract award may be withheld.

Signature

Title

Printed Name

Date

Southway Builders, Inc

ATTACHMENT B

Insurance Requirements
Master Subcontract Agreement
All Projects

1. Coverage should be written on standard ISO forms or its equivalent. Carriers should be AM Best rated "A" or better.
2. Worker's Compensation
 - a. State or District of Project Location Statutory
 - b. Employer's Liability Including Board \$500,000 Each Incident
Form and Voluntary Compensation \$500,000 Disease, per Employee
\$500,000 Disease Policy Limit
3. Contractor's Liability Insurance including Contractual Liability in the form of Comprehensive General Liability – per project aggregate \$2,000,000 Products/Completed Operations Aggregate
\$2,000,000 Annual Aggregate
\$1,000,000 per Occurrence
4. Automobile Liability (Owned, Non-Owned, Leased, or Hired) \$1,000,000 per Occurrence
5. Umbrella Excess Liability \$1,000,000 Aggregate
\$1,000,000 per Occurrence

Notes:

1. Southway Builders, Inc. shall be added as an Additional Insured on General Liability, Auto Liability, and Umbrella policies. The additional insured provision for General Liability will include the ISO CG 2010 11 85 or its equivalent.
2. Project Name and Project number must be noted on the certificate of insurance or it must state "All Operations for Southway Builders, Inc"
3. Only the original certificate of insured will be accepted.
4. Subcontractor may not commence work on site until Subcontractor's certificate of insurance is received by Southway Builders, Inc e.
5. Cancellation clause shall not be less than thirty (30) days. Policies may not be cancelled without proof of adequate substitution prior to cancellation.
6. If the Umbrella coverage contains a General Aggregate Limit, such General Aggregate Limit shall apply separately to each project.
7. Umbrella coverage for such additional insured's shall apply as primary before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured other than the Comprehensive General Liability, Automobile Liability, and Employer's Liability maintained by the Subcontractor.
8. Subcontractor waives all rights against Contractor, Owner and Architect and their agents, officers, directors and employees for recovery of damages to the extent these damages are covered by commercial general liability, commercial umbrella liability, automobile liability or workers compensation and employers liability insurance maintained per requirements stated above.
9. With reference to General Liability coverage, there will be no exclusions or limitations with regard to contractual liability, damage to your work, or XCU. There will be no exclusions for EIFS, if you are an EIFS subcontractor, or exclusions for residential construction (pertaining to all).

SUBCONTRACT

Project: **Insert Project Name**

Address: Project Address Line 1
Project Address Line 2
Project Address Line 2

Owner: **Owner Name**
Owner Address Line 1
Owner Address Line 2
Owner Address Line 3

Contractor: **SOUTHWAY BUILDERS, INC.**
1318 East Fort Avenue
Baltimore, Maryland 21230
Phone: (410) 332-4134
Fax: (410) 332-4136

Subcontractor: **Subcontractor Name**
Subcontractor Address Line 1
Subcontractor Address Line 2
Subcontractor Address Line 3

Trade: Enter Trade

Date: [Click here to enter a date.](#)

(1) Parties

This Subcontract Agreement (“Subcontract”) is made and entered into by and between Southway Builders, Inc. (herein called “Contractor”) and the Subcontractor named above (herein called “Subcontractor”).

(2) Contract Documents

The Contract Documents (hereinafter “Contract Documents”), whether or not physically attached hereto, consist of this Subcontract, the General and Special Conditions, Amendments, Provisions and Instructions, which include Drawings, Plans, Project Manual and Specifications for the Project, the Agreement between Owner and the Contractor for the Project and the General and Special Conditions between the Owner and the Contractor (“the Prime Contract”) and all other documents listed in Attachment A, all which are incorporated herein by reference. Subcontractor acknowledges that it has examined all of the Contract Documents and is familiar with the contents thereof. All of the Contract Documents are incorporated by reference herein and made an integral part of this Subcontract, and Subcontractor agrees that it will be bound by each and every provision in the Contract Documents applying to Subcontractor’s Work. The Contract Documents are available by request.

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Southway _____
Subcontractor _____

Should there be a conflict between or among any of the Contract Documents the more stringent and more expensive requirement upon Subcontractor will govern.

If this unaltered, signed Subcontract is not received by Contractor within 20 calendar days from the date of the transmittal of this Subcontract to Subcontractor, this Subcontract shall be deemed to have been executed by Subcontractor, or at Contractor's sole discretion, this Subcontract may be withdrawn by Contractor and rendered null and void.

(3) Mutuality of Documents

Subcontractor acknowledges that it has carefully reviewed and examined the Subcontract and the Contract Documents and that any and all ambiguities and discrepancies have previously been clarified and/or corrected. Subcontractor agrees that it will not make any claim or demand upon Contractor based upon or arising out of any misunderstanding or misconception of the provisions and requirements of the Subcontract or the Contract Documents. Any information given, or statements made, to Subcontractor by Contractor or others as to nature or characteristics of the Work or as to the particular details relating to the Work shall not reduce, alter, or change any part of the Work to be performed by Subcontractor under the Subcontract and Contract Documents. Subcontractor acknowledges that it has fully examined and analyzed all conditions that could affect performance of the Work and that no conditions exist which would affect the progress or performance of the Work or price thereof. Subcontractor will perform and furnish any and all work, labor, services and/or materials mentioned, depicted or required in any Contract Document. In case of any ambiguity or discrepancy in the Contract Documents, Subcontractor shall promptly call the same to the attention of Contractor, in writing; otherwise Subcontractor will be held solely liable to make any change necessary to correct same, at Subcontractor's sole cost. Any decision or adjustment by Subcontractor with respect to any such ambiguity without a written determination by Contractor shall be at Subcontractor's sole risk and expense. Any and all decisions by Owner or Architect/Engineer relative to any ambiguity or discrepancy shall be binding on Subcontractor. Subcontractor shall be required to do all things required by Owner or Architect/Engineer, and be bound by all rulings of Owner or Architect/Engineer to the same extent and degree as Contractor is bound thereto.

(4) Subcontractor's Work

Subcontractor, for the contract price stated, subject to changes as herein provided, hereby agrees to furnish all labor, materials, shop drawings, submittals, testing, installations, cartage, supplies, equipment, safety equipment requirements, scaffolding, cleanup, and other facilities of every kind and description required for the performance and completion of the following described portion of the Project (hereinafter "the Work"): See Attachment A, and any rules and regulations promulgated thereunder, which are in force or which are adopted during the course of the Work.

(5) Laws, Regulations, Etc.

Subcontractor and Subcontractor's work, labor, services, materials and equipment comprising the Work must strictly comply with all Federal, State, Local, Municipal, as well as any and all other governing jurisdiction's and authorities' laws, or legislation, rules, regulations, statutes, ordinances, directives, and all safety and health laws (herein designated as "Law(s)"). All work, labor, services, materials and equipment, in addition to those specially required by the Subcontract, but necessary to fully comply with said Laws, shall be furnished and performed by Subcontractor as part of the Subcontract without any additional compensation. If Subcontractor discovers or should have discovered any variance between the Subcontract,



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the Contract Documents, and any of the governing Laws, Subcontractor shall promptly notify Contractor, in writing, and make the necessary changes before proceeding with its Work, subject however to prior written approval by Contractor. Subcontractor agrees to indemnify and hold Contractor and Owner harmless from and against any and all claims, losses or expenses, including attorney's fees, caused or occasioned directly or indirectly by its failure to fully comply herewith.

(6) Contract Price

Upon the terms and conditions provided for herein, Contractor will pay to the Subcontractor out of funds received from the Owner the contract price pursuant to ATTACHMENT A. Contractor shall have the right to make payments jointly to Subcontractor and its suppliers of materials, equipment or labor. Subcontractor shall not be entitled to any progress or other payments hereunder unless Subcontractor has completed all Work to date in strict accordance with the terms and provisions of this Subcontract and the Contract Documents and the Work has been accepted by the Owner and funds for the payment have been disbursed, for said work, by the Owner to the Contractor. No progress or other payment made to Subcontractor shall constitute Contractor's or Owner's acceptance of any work done, but all work done shall be subject to final inspection and approval by Contractor and Owner, and Subcontractor shall be, and remain, responsible for (and shall bear the risk of any loss or damage to) all of the Work until final acceptance thereof by Contractor.

If Owner pays Contractor less than the amount Contractor believes due under the Prime Contract on account of the Subcontractor's Work, Contractor shall have no obligation to pay Subcontractor any amount greater than the amount paid by Owner allocable to Subcontractor's Work. If Contractor receives payment from Owner for less than the full value of materials delivered to the site, the payment to the Subcontractor shall likewise be proportionately reduced. Subcontractor acknowledges that Subcontractor is sharing, to the extent of payments to be made to Subcontractor, in the risk that Owner may fail to make payments to Contractor for all or a portion of the Subcontract Work. Notwithstanding that Contractor may have received any progress or final payment from Owner, Contractor shall be further entitled to offset or deduct from any payment or payments claimed by Subcontractor, sums which are due or may become due to Contractor arising out of the Subcontractor's failure to perform in accordance with this Subcontract, the Contract Documents, or otherwise.

It is specifically understood and agreed that there is a risk that Owner may make late payments or may, under certain circumstances, not make required payments to Contractor. As a consequence of the foregoing understanding and consistent with that allocation of risk, Subcontractor agrees that Contractor's receipt of payment from the Owner on behalf of Subcontractor's requisitions for payment (whether interim requisitions or final requisition, including amounts for contract work, changes, extras, claims and retainage) shall be, to the fullest extent provided by law, a condition precedent to the right of Subcontractor to receive payment from Contractor. In the event that Contractor is not receiving proper payment from the Owner on account of the work of Subcontractor such that Contractor is not required to make payment to Subcontractor hereunder, Contractor may, in its sole discretion and to the extent it is legally able to do so, formally and in writing assign to Subcontractor the rights of Contractor to pursue claims against the Owner for the payment due to Contractor on behalf of Subcontractor's entitlement under the terms of the Subcontract, which assignment Subcontractor shall be obliged to accept in full and complete liquidation of the obligations of payment of Contractor to Subcontractor hereunder.

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

Final payment to Subcontractor shall be made only with funds received from the Owner as final payment



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for Work under the Prime Contract. Final payment to Contractor by Owner shall be an express condition precedent which must occur before Contractor shall be obligated to make final payment to Subcontractor. In addition, final payment by Contractor to Subcontractor shall not become due and payable until the following other express conditions precedent have been met: (1) the completion and acceptance of the Work by Contractor, the Owner, and the Architect/Engineer; (2) the compliance by Subcontractor with all applicable requirements of the Subcontract and the Contract Documents; and (3) the 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 in connection with the Work. The final payment shall be due within forty (40) days after all of these express conditions precedent have been met. Acceptance of final payment by Subcontractor shall constitute a waiver by Subcontractor of all claims.

Notwithstanding anything in this Subcontract, it is expressly understood and agreed that the Subcontractor's right to any and all progress and all payments pursuant to the terms of this Subcontract is expressly conditioned upon Subcontractor having paid any and all amounts that were due and owing to any and all of Subcontractor's materialmen, subcontractor's equipment suppliers, rental equipment dealers and labor forces, for work done or materials or equipment furnished to the Project through the end of the month prior to such payment. Moreover, if at any time during this Subcontract evidence arises that Subcontractor is not paying or may not pay amounts due and owing to its materialmen, subcontractors, equipment suppliers, rental equipment dealers or labor forces, Contractor may, at its discretion, pay said amounts by joint check or directly to the materialmen, equipment suppliers, rental equipment dealer or laborer. If a direct payment is so made, Contractor has the right to deduct the amount of such payment, a five percent (5%) service charge for Contractor's administrative expenses, and any and all attorney's fees, expenses and costs incurred by Contractor from the balance of contract funds, or from any amount due and owing to Subcontractor. If the amount paid by Contractor directly to such materialmen, subcontractors, equipment suppliers, rental equipment dealers or labor forces, plus the amount of any and all attorneys' fees, expenses and costs, exceeds the balance of Subcontract funds, Subcontractor shall be liable to Contractor for the difference, and any other damages provided by law. The terms, rights and remedies set forth in this paragraph are in addition to all other rights and remedies of Contractor under this Subcontract, or at law or in equity.

Notwithstanding anything in this Subcontract to the contrary, Subcontractor acknowledges and agrees that if Subcontractor is in default under or has breached any other Subcontract or Purchase Order with Contractor, that Contractor has the right, from the time of such default or breach, to retain monies otherwise due and payable to Subcontractor under this Subcontract, and the further right to apply such monies to cover, pay, or reimburse Contractor for Contractor's expenses, costs, damages and liabilities resulting from Subcontractor's breach or default under such other Subcontract or Purchase Order for as long as Subcontractor remains in default or breach thereunder.

No payment (final or otherwise) made under or in connection with this Subcontract shall be evidence of the performance of the Work or of this Subcontract, 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 Subcontract; nor shall entrance and use by Contractor or Owner constitute acceptance of the Work or any part thereof.

(7) Payment Verification and Lien Releases

Subcontractor shall submit to Contractor, before Subcontractor shall be entitled to any payment hereunder, a verification statement in a form satisfactory to Contractor, certifying amounts then due and owing from Subcontractor for material and labor performed under this Subcontract, setting forth the names of the



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Subcontractor _____

persons whose charges and/or claims for materials, labor and supplies are unpaid, and the amount due to each. Subcontractor shall deliver to Contractor completed, fully executed lien and labor release forms, in form and content reasonably satisfactory to Contractor, before Subcontractor shall be entitled to any payments hereunder. Before final payment is made, Subcontractor shall submit satisfactory evidence that no unpaid claims exist for labor, equipment, material or other obligations incurred by or on behalf of Subcontractor in the performance of the Subcontract.

(8) Withholding of Payments

Contractor may withhold from Subcontractor any part of any payment as may, in the judgment of Contractor, be necessary:

1. To assure payment of just claims of any person supplying labor or materials for the Work;
2. To protect Contractor from loss due to Subcontractor's defective work not remedied, failure to comply with the Subcontract, the Contract Documents, delay or disruption; or
3. To protect Contractor from loss due to injury to persons or damage to the Work or others caused by the act or neglect of Subcontractor.
4. To secure deliverables as identified in Attachment A, including, but not limited to: daily briefings, toolbox talks, Chemical Information List, Safety Data Sheets, Submittals, Certified Payrolls, and Schedule of Value

(9) Liens and Encumbrances

Subcontractor agrees to discharge any Notice of Lien, Recordation of Lien, Petition for Lien, Complaint for Lien, or any other filing relating to a Lien, or other encumbrance filed against or sent to Subcontractor, Contractor, Surety, Owner, or the Project, or any monies earned by Subcontractor or Contractor. The filing or effectuating of such encumbrance and Subcontractor's failure to discharge the same by bond or otherwise within ten (10) days shall constitute a material breach of this Subcontract. Subcontractor shall be responsible and liable for all damages and expenses incurred by Contractor, including bond premiums, attorneys' fees, and all other expenses to discharge and/or defend against same. The existence of any encumbrance shall preclude Subcontractor's right to receive any payment until such encumbrance has been satisfied and removed.

(10) Warranties and Retention

Subcontractor hereby guarantees that all materials furnished and installed by Subcontractor and all workmanship performed it under this Subcontract will fully meet all requirements of the Subcontract and the Contract Documents and will be free from defect, and will be in accordance with the highest industry standards, and all applicable Laws and codes. This Warranty is in addition to all other guarantees and warranties contained in the Subcontract, the Prime Contract, and applicable law, and not in limitation of Contractor's other rights at law or in equity.

It is further agreed that if any part of the Work, furnished and installed or constructed by Subcontractor shall fail to fulfill any of the requirements of this Warranty, Subcontractor will, upon written direction from Contractor, without delay, and with the least practicable inconvenience to the Owner, and without further cost to the Owner, repair or replace any part of said work.

Should Subcontractor fail to act promptly in accordance with these requirements, or should the demands of the case require repairs or replacements to be made before Subcontractor can be notified or can respond to



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notification, Subcontractor hereby agrees that the Owner or Contractor shall have the right to make the necessary repairs or replacements at the expense of the Subcontractor.

Subcontractor hereby further agrees that it is responsible for each and every expense incidental to making good any and all of the above guarantees and agreements, including Contractor's overhead and profit and all costs attendant with delay, disruption and/or acceleration allocable to the performance of said repairs or replacements.

The warranties and obligations provided for in this paragraph shall not be restrictive but shall be cumulative and in addition to all other warranties, rights and remedies provided by law, or other remedies of Contractor with respect to the Work.

Unless otherwise provided in Attachment A, an amount equal to ten percent (10%) of the total amount of the Subcontract shall be retained until after all work has been completed and inspected and accepted by Contractor, Owner, Architect/Engineer, applicable governmental inspectors and construction lender, if any. Contractor shall further have the right to retain said amount as long as any defects or failures in the labor, equipment or materials supplied remain uncorrected after reasonable notice thereof to Subcontractor.

(11) Subcontractor's Obligations

If Subcontractor fails to meet and pay any of its obligations outstanding for labor, equipment, materials or otherwise at any time during the term of this Subcontract, or if any liens, claims, demands or stop notices arising out of, or in connection with the Work or its performance shall be outstanding at any time during the term of this Subcontract or are likely to be made thereafter, or if any claims arising out of, or in connection with Subcontractor's operations under this Subcontract are made against Contractor by any other person than Subcontractor, Contractor shall have the right to withhold out of any payments, final or otherwise, such sums sufficient to protect against loss or to assure the payment of claims of third persons, and to apply such sums to secure protection and/or to satisfy such claims. Any obligations assumed by Contractor by bond, indemnity or otherwise in connection with such discharge, as well as Contractor's attorneys' fees, expenses and all costs in connection herewith, shall be charged to and paid by Subcontractor.

(12) Subcontractor's Investigation

Except as otherwise expressed herein, Subcontractor is entering into this Subcontract based upon its own investigation of all matters affecting the Work, and is no way relying upon any opinions or representations of Contractor or any other persons. Subcontractor shall not be entitled to extra compensation attributable to any condition existing on the Project site, except as expressly provided in the Contract Documents. Subcontractor's failure to report in writing to Contractor, prior to commencement of the Work, any alleged defects in any Work of another person or persons on or in which Subcontractor is to install his work shall be deemed an acknowledgment by Subcontractor that such other work is fit and proper for the Subcontractor's Work, and no claims caused by any other work, or extra expense to Subcontractor, will be recognized as valid or may be asserted by Subcontractor unless said report is made.

(13) Construction Schedule

Subcontractor shall commence performance of the Work upon notice from Contractor and thereafter proceed diligently in strict compliance with the construction schedule, as revised from time to time. Time is of the essence for this Subcontract.



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Subcontractor shall conform to Contractor's schedule and all revisions or changes thereto. Subcontractor shall prosecute its work in a prompt and diligent manner and provide at all times sufficient manpower, materials and equipment to enable Subcontractor to comply with Contractor's schedule without delaying, disrupting or hindering Contractor's work or the work of other contractors or subcontractors. In the event Subcontractor fails to maintain its part of the Contractor's schedule or if, in the sole judgment of Contractor, Subcontractor will not meet schedule milestones for the Work: a) Contractor may in its discretion undertake the Work or any portion of the Work itself or retain others to undertake such tasks and deduct Contractor's costs, expenses, and damages incurred in connection therewith from any moneys due or thereafter to become due to Subcontractor under this Subcontract; and/or b) Subcontractor shall, without additional compensation, accelerate the work as Contractor may direct until Subcontractor's work is in accordance with such schedule.

Subcontractor shall forthwith order all materials, equipment and other items, required for the performance of the Work hereunder. Contractor shall have the right to request that Subcontractor submit a list of all suppliers from whom subcontractor proposes to purchase necessary materials, equipment and other items which may be required by Subcontractor for the performance of the Work, together with documentary evidence satisfactory to Contractor confirming that all such materials, equipment and other items will be available in sufficient time to avoid delay in prosecution of the Project as a whole. Subcontractor's failure to furnish such documentary evidence within a seventy-two (72) hour period after demand by Contractor shall constitute a breach of this Subcontract. Subcontractor shall coordinate its Work with the Contractor and other subcontractors so that there will be no delay or disruption on the Project.

Normal work hours on the jobsite will be designated by the Contractor. Weekend work will not be allowed in the normal course of construction. Request for weekend work must be received no later than three (3) days in advance. Contractor must supervise all work on the Project, and weekend or overtime supervision provided by Contractor as a result of Subcontractor's failure or inability to perform during the normal work days will be billed to the Subcontractor at Contractor's backcharge rate times 1.5.

(14) Materials and Workmanship

Unless otherwise specifically provided for in the Contract Documents, all materials, equipment and other items incorporated in the Work are to be new and of the most suitable grade of their respective kinds for the purpose, and all workmanship shall be first class.

(15) Changes and Clarifications

Without invalidating this Subcontract, Contractor, Architect/Engineer or their respective duly representative, may at any time, by written order to the Subcontractor, make changes in the Contract Documents. Contractor may, by reason of such changes, provide to Subcontractor a written order adding to or reducing the Work to be performed hereunder without invalidating this Subcontract. Subcontractor shall, within five (5) days of receipt of said written order, furnish Contractor with a written itemized estimate for any extra work. Subcontractor will also provide supporting documentation to substantiate said itemization, including, but not limited to: supplier and subcontractor quotes, proposals, and invoices, labor reports, certified payrolls, work orders, work tickets, materials receipts, landfill receipts, shipping tickets, and any other information deemed by Contractor to be relevant to the change in the Work. Subcontractor shall receive written authorization from Contractor before proceeding with any extras or changes in work. Subcontractor's failure to submit such written itemization within five (5) days constitutes agreement by Subcontractor that it will not be paid for the extra or changed work. In no event shall Subcontractor alter or deviate from the Contract Documents, and Subcontractor shall not make or have any claim for any extra



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compensation whatsoever, unless and until a specific written change order shall have been signed and delivered by Contractor. To be valid, a change to this Subcontract must be in writing and signed by the designated representative of Contractor. Oral changes will not be recognized, and performance by Subcontractor of change order or extra work without a written, signed change order constitutes a waiver by Subcontractor of the right to additional costs for that change or extra. Subcontractor shall, during the course of the Work, notify Contractor or Contractor's representatives, in writing, of any problem or clarification which it believes needs immediate review and resolution which is not covered by the Contract Documents.

If a dispute arises between Contractor and Subcontractor about whether particular work is a change in the Work, Subcontractor shall timely perform the disputed work and must, prior to performance of the work, provide written notice of its intent to make a claim for additional compensation for that work. Furthermore, within ten (10) days after such work is performed, or sooner if required by the Contract Documents or Contractor, Subcontractor shall deliver to Contractor Subcontractor's detailed claim, which includes a statement of the work performed, an itemization of labor, equipment and materials utilized for said work, and copies of all applicable labor records and equipment and material receipts for said disputed work. Subcontractor's failure to give notice prior to its performance of the disputed work or to provide a claim as set forth herein constitutes an agreement that Subcontractor will not be paid additional amounts for said work.

(16) Protection of Work and Persons

Until the acceptance of the Work by Contractor and Owner, Subcontractor shall have charge and care thereof and shall bear the risk of injury or damage to any part thereof by the action of the elements or from any other cause whatsoever. Contractor shall not be liable for any loss, damage, or theft of materials or equipment stored on the Project site or furnished by Subcontractor. Subcontractor shall take all necessary precautions for and shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of workmen and the public, and shall post danger signs warning against the hazards created by such features of construction, including but not limited to protruding nails, hoists, holes, scaffolding, window openings, stairways and falling materials.

(17) Cooperation

Subcontractor shall fully cooperate and coordinate its Work with Contractor and any other contractor or subcontractor at the Project. Subcontractor shall be directly responsible to other contractors or subcontractors for any damages caused by, or resulting from acts or omissions of Subcontractor, and Subcontractor shall bear the costs of all said damages to other contractors or subcontractors.

(18) Disputes

In case of any disputes between the Subcontractor and Contractor, Subcontractor agrees to be bound to Contractor to the same extent that Contractor is bound to Owner both by the terms of the Prime Contract and by any and all decisions or determinations made thereunder by the party or board so authorized in the Prime Contract. It is agreed that in the event the Prime Contract contains a provision, hereinafter called "Disputes" clause, whereby claims may be resolved under an administrative procedure or by arbitration, then as to any claims of Subcontractor for or on account of acts or omissions of the Owner or his Architect/Engineer which are not disposed of by agreement, Contractor may at its discretion, present to the Owner, in Contractor's name, such claims for additional monetary compensation or time extension and to further invoke, on behalf of Subcontractor, those provisions in the Prime Contract for determining disputes. Subcontractor may, at Contractor's discretion, be given the option to present such claims directly to the



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Owner. In any event, Subcontractor shall bear all costs and expenses allocable to each of its claims presented, including attorney's fees. Subcontractor agrees to be bound by the procedure and final determination as specified in any such Disputes clause, and agrees that it will not take, or will suspend, any other action with respect to any such claims and will pursue no independent litigation with respect thereto, pending final determination under such Disputes clause. Subcontractor shall not be entitled to receive any greater amount from Contractor than Contractor is entitled to and actually does receive from the Owner on account of Subcontractor's Work, less any markups or costs incurred by the Contractor and to which Owner is otherwise entitled, and Subcontractor agrees that it will accept such amount, if any, received by Contractor from Owner as full satisfaction and discharge of all claims for or on account of acts or omissions of the Owner or his Architect/Engineer.

Subcontractor shall be bound by Contractor's determination, made in good faith, as to apportionment of any amounts received from Owner for claimants, including Contractor and other subcontractors, whose work is affected by any act or omission of the Owner or his Architect/Engineer.

Subcontractor shall proceed diligently with the Work, pending final determination pursuant to any Disputes Clause or pursuant to any other action taken with respect to a claim or claims.

(19) Inspection

Contractor shall, at all times, have access to the Work wherever it is in preparation or progress, and Subcontractor shall provide proper facilities for access and inspection. Subcontractor shall furnish Contractor as often as Contractor requires, full reports of the work as may be required by the Contractor, including any plans, drawings, or diagrams in course of preparation. If the Contract Documents, Contractor's instructions, Laws, ordinances, public authority, or any Authority Having Jurisdiction require any article of Work to be specially tested or approved, Subcontractor shall give Contractor timely notice of its readiness for inspection, and if the inspection is by an authority other than Contractor, of the date fixed for such inspection. If any portion of the Work is covered up without approval or consent of Contractor, it must, if required by Contractor, be uncovered for examination at Subcontractor's expense. The inspection of the Work shall not relieve Subcontractor of any Subcontractor's obligations hereunder. Contractor shall not make the final inspection for acceptance until the work provided for has been completed and the final cleanup performed.

(20) Performance and Payment Bonds

Concurrently with the execution of this Subcontract, Subcontractor shall execute Performance and Payment Bonds, in an amount equal to 100% of the contract price. Performance and Payment Bonds *Choose an item.* See Attachment's "O" and "P" for Performance and Payment Bond requirements.

(21) Material, Inspection, Storage and Approvals

Subcontractor shall provide, at its own place of business, at the places of business of its subcontractors, and suppliers, and at the Project, sufficient safe and proper facilities for the inspection of Subcontractor's work by Contractor, Owner, Architect/Engineer, or any other authorized representative. Subcontractor must be prepared, at all times, to prove the exact quantities and qualities of the materials and equipment being used. If Subcontractor is assigned a storage area for its equipment, material and tools, it shall not store any item outside of the designated area. Subcontractor shall be responsible for the receipt, delivery, unloading, storage, warehousing, protection, insurance and all other risk of loss relating to any materials or equipment it is to furnish, install, provide, or have provided to it under the Subcontract. If Contractor furnishes material



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or equipment to Subcontractor, then Subcontractor shall be obligated to inspect all material and equipment at time of receipt or delivery to it. Subcontractor shall be responsible to immediately notify Contractor, in writing, of any defects or non-conformity in the material or equipment so received or delivered. Failure to notify Contractor shall be deemed an acknowledgment and acceptance of the material as being in accord with the Subcontract and the Contract Documents. Subcontractor shall be liable for all damages incurred by Contractor as a result of its failure to so notify Contractor. It is Subcontractor's obligation to take all necessary steps, including, but not limited to, delivery of samples, tests and reports, guarantees, drawings manuals, certificates, details, warranties, inspections, etc., to obtain any and all required approvals necessary or required under the Subcontract, or the Prime Contract. Subcontractor shall, within 24 hours after receipt of written notice from Contractor, commence to take down and proceed diligently to remove any designated portion of the Work which is condemned, disapproved or is questioned by Contractor, Owner or Architect/Engineer, or Authorities Having Jurisdiction (herein referred to as "AHJ"), or Inspector as not being in compliance and conformity with the requirements of the Subcontract or the Prime Contract. Subcontractor shall promptly, at its own expense, correct and rectify same. Subcontractor shall, at its own expense, fully protect insure and secure its Work and material from injury, damage or theft. Any injury, damage or theft prior to final acceptance and final payment for the Project shall be immediately corrected and rectified by Subcontractor at its sole expense. Inspection or supervision by Contractor shall not relieve Subcontractor of its obligations herein. Subcontractor shall promptly perform any and all punch list work submitted to it by Contractor.

(22) Insurance

Refer to Attachment B for specific insurance requirements.

Prior to commencing the Work, Subcontractor shall procure, and thereafter maintain, at its own expense, until final acceptance of the Work or later as required by the terms of the Subcontract or any individual Work Order, insurance coverage required by this Subcontract. At a minimum, and subject to modification in individual Work Orders, the types of insurance and minimum policy limits specified shall be maintained in a form and from insurers acceptable to Contractor as set forth below. All insurers shall have at least an A- (excellent) rating by A.M. Best and be qualified to do business in the state where the project is located.

This insurance will provide a defense and indemnify the Contractor, but only with respect to liability for bodily injury, property damage and personal and advertising injury caused in whole or in part by the Subcontractor's acts or omissions or the acts or omissions of those acting on the Subcontractor's behalf.

Proof of this insurance shall be provided to the Contractor before the Work commences, as set forth below. To the extent that the Subcontractor subcontracts with any other entity or individual to perform all or part of the Subcontractor's Work, the Subcontractor shall require the other Sub-Subcontractors to furnish evidence of equivalent insurance coverage, in all respects, terms and conditions as set forth herein, prior to the commencement of work by the Sub-Subcontractor. In no event shall the failure to provide this proof, prior to the commencement of the Work, be deemed a waiver by the Contractor of Subcontractor's or the Sub-Subcontractor's insurance obligations set forth herein.

In the event that the insurance company(ies) issuing the policy(ies) required by this exhibit deny coverage to the Contractor, the Subcontractor or the Sub-Subcontractor will, upon demand by the Contractor, defend and indemnify the Contractor at the Subcontractor's or Sub-Subcontractor's expense.



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22.1 Casualty Insurance

Subcontractor shall, at its expense, procure and maintain insurance as listed in ATTACHMENT B on all of its operations, in companies acceptable to Contractor. In addition, Subcontractor shall require the required insurance coverage of all its subcontractors of any tier and incorporate same in their subcontract agreements.

22.2 Workers' Compensation and Employer's Liability Insurance

Workers' Compensation insurance shall be provided as required by any applicable law or regulations. Employer's Liability insurance shall be provided in amounts not less than: See ATTACHMENT B.

If there is an exposure of injury to Subcontractor's employees under the U.S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or under laws, regulations or statutes applicable to maritime employees, coverage shall be included for such injuries or claims.

22.3 General Liability Insurance

Subcontractor shall carry Comprehensive General Liability or Commercial Liability insurance covering all operations by or on behalf of Subcontractor providing insurance for bodily injury liability and property damage liability for the limits of liability indicated on ATTACHMENT B hereof and including coverage for:

- (a) premises and operations,
- (b) products and completed operations;
- (c) contractual liability insuring the obligations assumed by Subcontractor in this Agreement;
- (d) broad form property damage (including completed operations);
- (e) explosions, collapse and underground hazards; and
- (f) personal injury liability

The limits of liability shall not be less than the amounts required of Subcontractor in the Contract Documents but in no event less than that which is stipulated in Attachment B

22.3.1 At a minimum Contractor, his officers, directors and employees and Owners shall be named as additional insured's under the Comprehensive General Liability insurance policy. Other entities, groups, or persons shall be named as additional insured as may be required by the Contract Documents. The policy shall stipulate that the insurance afforded the additional insured shall apply as primary insurance and that any other insurance carried by Contractor his officers, directors and employees or Owner will be excess only and will not contribute with this insurance.

22.3.2 Claims Made Policy Form Provisions:

Subcontractor shall not provide general liability insurance under any Claims Made General Liability Form without the express prior written consent of Contractor.

22.4 Automobile Liability Insurance

Subcontractor shall carry automobile liability insurance including coverage for all owned hired and non-owned automobiles.

22.5 Property Insurance



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Contractor and Subcontractor waive all rights against each other and against all other subcontractors and Owner for loss or damage to the extent reimbursed by Builders Risk or any other property or equipment insurance applicable to the Work, except such rights as they may have to the proceeds of such insurance. If the policies of insurance referred to in this Section require an endorsement or consent of the insurance company to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed or obtain such consent.

Upon written request of Subcontractor, Contractor shall provide Subcontractor with a copy of the Builders Risk policy of insurance or any other property or equipment insurance in force for the Project and procured by Contractor. Subcontractor shall satisfy itself as to the existence and extent of such insurance prior to commencement of Subcontractor's work.

If Builders Risk insurance purchased by Owner or Contractor provides coverage for Subcontractor for loss or damage to Subcontractor's work, Subcontractor shall be responsible for the insurance policy deductible amount applicable to damage to Subcontractor's work, and/or damage to other work, caused by Subcontractor.

If not covered under the Builder's Risk policy of insurance or any other property or equipment insurance required by the Contract Documents, Subcontractor shall procure and maintain at its own expense property and equipment insurance for portions of Subcontractor's work.

If Owner or Contractor has not purchased Builder's Risk or equivalent insurance including the full insurable value of Subcontractor's work, then Subcontractor shall procure such insurance at its own expense as will protect the interest of Subcontractor, and its subcontractors and suppliers in the Work. Such insurance shall also apply to any of Owner's or Contractor's property in the care, custody or control of Subcontractor.

22.6 Products & Completed Operations Liability

Subcontractor shall maintain the Products and Completed Operations Liability Coverage in force until expiration of the applicable statute of limitation relating to latent defects in construction of, or improvements to, real property.

22.7 Certificates of insurance, as evidence of the insurance required by this Agreement, shall be furnished by Subcontractor and its subcontractors and suppliers of any tier, to Contractor before Subcontractor hereunder commences any work. The certificates of insurance shall include endorsement providing 30-day written notice to Contractor there will be no cancellation or reduction of coverage without thirty (30) days prior written notice.

Contractor may take such steps as are necessary to assure Subcontractor's compliance with its obligations under Section 22. In the event Subcontractor fails to maintain any insurance coverage required under this Subcontract, Contractor might maintain such coverage and charge the expense to Subcontractor, or terminate this Subcontract.

The required insurance shall be subject to the approval of Contractor, but any acceptance of insurance certificates by Contractor shall in no way limit or relieve Subcontractor of the duties and responsibility by Subcontractor in this Subcontract. If higher limits or other forms of insurance are required in the Contract Documents, Subcontractor will comply with such requirements.



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Failure of Contractor to enforce in a timely manner any of the provisions of Section 22 shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Subcontract. Any exceptions to the provisions of Section 22 must be delineated in the Contract Documents.

(23) Indemnification/ Risk of Loss/ Subcontractor Liability.

23.1.1 Subcontractor hereby assumes the entire responsibility and liability for all Work, supervision, labor and materials provided under any Work Order issued pursuant to this Subcontract, whether or not erected in place, and for all plant, scaffolding, tools, equipment, supplies and other things provided by Subcontractor until final acceptance of the entirety of the Work by Owner. In the event of any loss, damage or destruction thereof from any cause, Subcontractor shall be liable therefor, and shall repair, rebuild and make good said loss, damage or destruction at Subcontractor's cost, subject only to the extent that any net proceeds are payable under any builder's risk property insurance that may be maintained by Owner or Contractor, if any.

Subcontractor shall be liable to Contractor for all costs Contractor incurs as a result of any failure of Subcontractor, or any of its suppliers or subcontractors of any tier, to perform.

To the fullest extent permitted by law, the Subcontractor shall indemnify, defend, and hold harmless the Contractor, Owner and their respective officers, directors, employees and agents ("Indemnified Parties") from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities (including all costs of reasonable attorneys' fees, consequential damages, and punitive damages), arising out of or resulting from, or alleged to arise out of or result from, the performance of Subcontractor's Work under the Subcontract and/or any Work Order; but only to the extent attributable to the negligence, act or omission of the Subcontractor or any entity for which it is legally responsible or vicariously liable; regardless whether the claim is presented by an employee of Subcontractor. Such indemnity obligation shall not be in derogation or limitation of any other obligation or liability of the Subcontractor or the rights of the Contractor contained in this Subcontract or otherwise. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under any workers' compensation acts, disability benefits acts or other employee benefits acts. This indemnification shall be in addition to any indemnity liability imposed by the Contract Documents, and shall survive the completion of the Work or the termination of the Subcontract.

Subcontractor's assumption of liability is independent from, and not limited in any manner by, the Subcontractor's insurance coverage obtained pursuant to Section 22.

Claims arising out of or resulting from, or alleged to arise out of or resulting from, the performance of Subcontractor's Work under the Subcontract and/or any Work Order to which Subcontractor's obligation to indemnify and defend Contractor hereunder include but are in no way limited to:

- (a) Personal injury, including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Subcontractor, Owner, Contractor, or any other subcontractor or supplier, and/or damage to property of anyone (including loss of use thereof), caused or alleged to be caused in whole or in part by any negligent or intentional act or omission of Subcontractor or anyone directly or indirectly employed by Subcontractor or anyone for whose acts Subcontractor may be liable.



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Failure of Contractor to enforce in a timely manner any of the provisions of Section 22 shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Subcontract. Any exceptions to the provisions of Section 22 must be delineated in the Contract Documents.

(23) Indemnification/ Risk of Loss/ Subcontractor Liability.

23.1.1 Subcontractor hereby assumes the entire responsibility and liability for all Work, supervision, labor and materials provided under any Work Order issued pursuant to this Subcontract, whether or not erected in place, and for all plant, scaffolding, tools, equipment, supplies and other things provided by Subcontractor until final acceptance of the entirety of the Work by Owner. In the event of any loss, damage or destruction thereof from any cause, Subcontractor shall be liable therefor, and shall repair, rebuild and make good said loss, damage or destruction at Subcontractor's cost, subject only to the extent that any net proceeds are payable under any builder's risk property insurance that may be maintained by Owner or Contractor, if any.

Subcontractor shall be liable to Contractor for all costs Contractor incurs as a result of any failure of Subcontractor, or any of its suppliers or subcontractors of any tier, to perform.

To the fullest extent permitted by law, the Subcontractor shall indemnify, defend, and hold harmless the Contractor, Owner and their respective officers, directors, employees and agents ("Indemnified Parties") from and against all claims, damages, demands, losses, expenses, fines, causes of action, suits or other liabilities (including all costs of reasonable attorneys' fees, consequential damages, and punitive damages), arising out of or resulting from, or alleged to arise out of or result from, the performance of Subcontractor's Work under the Subcontract and/or any Work Order; but only to the extent attributable to the negligence, act or omission of the Subcontractor or any entity for which it is legally responsible or vicariously liable; regardless whether the claim is presented by an employee of Subcontractor. Such indemnity obligation shall not be in derogation or limitation of any other obligation or liability of the Subcontractor or the rights of the Contractor contained in this Subcontract or otherwise. This indemnification shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Subcontractor under any workers' compensation acts, disability benefits acts or other employee benefits acts. This indemnification shall be in addition to any indemnity liability imposed by the Contract Documents, and shall survive the completion of the Work or the termination of the Subcontract.

Subcontractor's assumption of liability is independent from, and not limited in any manner by, the Subcontractor's insurance coverage obtained pursuant to Section 22.

Claims arising out of or resulting from, or alleged to arise out of or resulting from, the performance of Subcontractor's Work under the Subcontract and/or any Work Order to which Subcontractor's obligation to indemnify and defend Contractor hereunder include but are in no way limited to:

- (a) Personal injury, including, but not limited to bodily injury, emotional injury, sickness or disease, or death to persons, including, but not limited to, any employees or agents of Subcontractor, Owner, Contractor, or any other subcontractor or supplier, and/or damage to property of anyone (including loss of use thereof), caused or alleged to be caused in whole or in part by any negligent or intentional act or omission of Subcontractor or anyone directly or indirectly employed by Subcontractor or anyone for whose acts Subcontractor may be liable.



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- (b) Penalties imposed on account of the violation of any law, order, citation, rule regulation, standard, ordinance or statute, caused by the action or inaction of Subcontractor.
- (c) Infringement of any parent rights which may be brought against the Contractor or Owner arising out of Subcontractor's work.
- (d) Claims and liens for labor performed or materials used or furnished to be used on the job, including all incidental or consequential damages resulting to Contractor or Owner from such claims or liens.
- (e) Failure of Subcontractor to comply with any the provision of this Subcontract or the Contract Documents.
- (f) Any violation or infraction by Subcontractor of any law, order, citation, rule regulation, standard, ordinance or statute in any way relating to the occupational health or safety of employees, including, but not limited to, the use of Contractor's or other's equipment, hoist, elevators or scaffolds.

Subcontractor's indemnification and defense obligations outlined in provisions (a) through (f) above shall extend to Claims occurring after this Agreement is terminated as well as while it is in force, and shall continue until it is finally adjudicated that any and all actions against the Indemnified Parties for such matters which are indemnified hereunder are fully and finally barred by applicable Laws.

23.1.2 Subcontractor shall:

- (a) At Subcontractor's own cost, expense and risk, defend all Claims as defined in Section 23.1.1 that may be brought or instituted by third persons, including, but not limited to governmental agencies or employees of Subcontractor, against Contractor or Owner their agents or employees or any of them;
- (b) Pay and satisfy any judgment or decree that may be rendered against Contractor or Owner or their agents or employees, or any of them, arising out of any such Claim; and/or
- (c) Reimburse Contractor Owner or their agents or employees for any judgment or decree and any and all expenses, attorneys' fees and costs incurred by any of them in connection herewith or in enforcing the indemnity granted in Section 23.1.1.

23.3. Risk of Loss

All work covered by this Subcontract done at the Project or in preparing or delivering materials or equipment, or any or all of them, to the Project shall be at the risk of Subcontractor exclusively until the completed work is accepted by Contractor.

23.4 Subcontractor's Liability

Subcontractor shall be responsible and liable to Contractor for all costs, disbursements, expenses, including attorney's fees, incurred by Contractor as a result of Subcontractor's breach or threatened breach of any



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term of condition of this Subcontract.

23.5 No Limitation of Liability

The indemnities and obligations set forth in this Section 23 shall not be limited by the insurance requirements set forth in Section 22.

(24) Owner Relationship

Subcontractor shall not interfere with Contractor's relationship with the Owner, and shall not communicate directly with the Owner without Contractor's consent. Subcontractor will not enter any other contract relating to the Project without Contractor's written consent.

(25) Contractor's Right to Terminate Subcontract

If Subcontractor files a petition for relief under the bankruptcy laws, or if an involuntary petition is filed against the Subcontractor, or if Subcontractor makes a general assignment for the benefit of its creditors, or its receiver is insolvent because of Subcontractor's insolvency, or if Subcontractor becomes insolvent, or if Subcontractor refuses or fails, except in cases for which extension of time is provided, to supply enough properly skilled workmen or proper materials, or if Subcontractor fails to make prompt payment for materials of labor, or disregards Laws, ordinances, or the instructions of the Contractor or otherwise violates any provision of this Subcontract, the Contractor may without prejudice to any other right or remedy and after giving Subcontractor forty-eight (48) hours written notice, terminate the employment of Subcontractor and take possession of the Project and complete the Work by whatever method Contractor may deem expedient. In such case Subcontractor shall not be entitled to receive any further payment until the Work is completed. If the balance of the Subcontract price exceeds the expense of completing the work, the damages incurred by Contractor, including all consequential damages, and Contractor's costs and attorneys' fees and such excess shall be paid to Subcontractor.

If Contractor terminates Subcontractor's right to proceed with the Work, pursuant to this Section, or exercises any other remedy available to Contractor, it is specifically agreed that Contractor may take possession of the Project and of any and all drawings, submittals, materials, tools, equipment, and appliances of Subcontractor at the Project, or Subcontractor's warehouse or other facilities for the purposes of completing the Work, and for such purpose, this Subcontract shall be construed as an assignment by Subcontractor to Contractor of said drawings, submittals, materials, tools, equipment and appliances. Such taking over shall not constitute or be construed as a waiver by Contractor of any action, cause of action, claim or demand Contractor may have against Subcontractor as a result of Subcontractor's default. In the event Contractor exercises its rights to terminate Subcontractor, Contractor may employ any other person or entity to finish the Work and provide the materials therefor. The remedies provided in this Subcontract shall be cumulative to all other remedies that Contractor may have against Subcontractor under the Subcontract, or in law or in equity, including but not limited to, the right to recover any other damages the Contractor may incur because of the default by Subcontractor. It is expressly agreed that a waiver of a breach of any terms or conditions contained in the Subcontract shall not be construed as a waiver of any subsequent breach.

(26) Cancellation

Contractor, by written notice executed by an agent of the Contractor, shall have the right to terminate and



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cancel the Subcontract, without Subcontractor being at fault, for any cause or for its own convenience and require Subcontractor to immediately stop Work. In such event, provided Subcontractor is not then in default, Contractor shall pay Subcontractor for that Work actually performed. Contractor shall not be liable to Subcontractor for any other costs, including prospective profits or overhead on Work not performed. If the reason for the termination and cancellation of the Subcontract is due to any default or action by Owner, Architect/Engineer, or as a result of Court Order or public authority, then Contractor shall not be liable to Subcontractor for any sum greater than that which Contractor receives from Owner on behalf of Subcontractor's performance, less any costs and attorney's fees incurred by Contractor to prosecute the Subcontractor's claim.

(27) Labor Disturbances

Subcontractor shall do whatever is necessary in the prosecution of its Work to guarantee harmonious labor relations at the Project and to prevent strikes or other labor disputes. Subcontractor shall fully abide by all labor agreements and jurisdictional decisions presently in force or subsequently executed with or by Contractor. Subcontractor's failure to so act may be deemed a material breach of the Subcontract.

Contractor may terminate this Subcontract if the presence of Subcontractor on the Project results in picketing, refusal to work, or labor problems which interfere with any part of the work of the Project, even though Subcontractor may otherwise be in full compliance with this Subcontract. In the event of such termination, Subcontractor shall be entitled to receive a sum based on the Work actually performed pursuant to this Subcontract, which sum shall not include any profit or overhead of Subcontractor for the remaining Work called for by this Subcontract.

(28) Use of Contractor's Equipment

In the event that Subcontractor by rental, loan or otherwise, makes use of Contractor's or Subcontractors equipment, scaffolding or their appliances on the Project, or those of another subcontractor, Subcontractor agrees that such use, and required training, shall be at the sole risk of Subcontractor. Subcontractor shall indemnify and hold harmless Contractor against all costs claims and expenses of every nature (including attorney's fees) arising from the use thereof including, but not limited to, injury to Subcontractor's employees or property and the employees or property of others.

(29) Assignment

Subcontractor shall not voluntarily, or by operation of, law, assign, sublet or attempt to assign this Subcontract or any monies due hereunder, nor subcontract any portion thereto, without obtaining the prior written consent of Contractor.

Nothing contained herein shall prevent Contractor from assigning, pledging, hypothecating or otherwise transferring its interest in this Subcontract, now or in the future, for the purpose of obtaining or maintaining financing on the Work, or for the purpose of completing the Work. Contractor reserves the right to assign this Subcontract. Subcontractor shall be bound by the terms of this Subcontract notwithstanding the fact that this Subcontract, or a portion of it, is assigned to a third party.

(30) DBE/MBE/WBE Requirements

Subcontractor hereby certifies that it is familiar with the Federal, State or Local DBE/MBE/WBE



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Affirmative Action or federal, State or Local Business or Hiring requirements, if any, pertaining to the Project. If the Subcontractor claims status as a DBE/MBE/WBE, Subcontractor shall take all steps necessary, and shall make all necessary records available to the Contractor and the Owner, to assure that Subcontractor is in compliance with such requirements. Subcontractor agrees to undertake all the requirements of the said provisions insofar as applicable to the performance of this agreement. Further, Subcontractor agrees to include said provisions and requirements in any subcontract or purchase order it has with any other party in such a manner that said provisions will be binding upon said subcontractors or vendors of Subcontractor.

(31) Sub-subcontracts and Sub-Purchase Orders

Subcontractor hereby agrees to incorporate into any subcontracts or purchase orders it has with any other party all those provisions required by law to be incorporated therein and all those provisions of the Subcontract which affect the rights of Contractor. Subcontractor shall neither create a contractual relationship between Contractor and Subcontractor's subcontractors or suppliers, nor between Subcontractor and Owner or Architect/Engineer.

Prior to, and condition precedent to issuance of first payment to the Subcontractor, Subcontractor shall furnish Contractor in writing with a list of the names of its subcontractors and material suppliers proposed for the principal portions of the Work. Subcontractor shall not employ any subcontractor or material supplier to whom Contractor may have an objection. Contracts between Subcontractor and its subcontractor or its material supplier shall not conflict with the terms of this Agreement. No sub-subcontract or supply agreement entered into by Subcontractor shall relieve Subcontractor of its liabilities or obligations under this Subcontract, and Subcontractor shall be fully responsible to Contractor for the acts and omissions of its subcontractors and material suppliers and of any persons either directly or indirectly employed by them in the performance of the Work.

(32) Delay/Consequential Damages

Contractor shall not be liable to Subcontractor for damages for delay or disruption to Subcontractor's work caused by any reason. Contractor shall not be liable to Subcontractor for consequential damages (including impact to home office overhead) incurred by Subcontractor for any reason. Furthermore, Contractor shall not be liable to Subcontractor for damage to Subcontractor's work caused by another Subcontractor of Contractor.

(33) Taxes

Subcontractor shall pay any and all taxes, including sales tax, which may be due or levied against any material or labor, as well as Social Security, age, Unemployment Insurance, or Income Withholding Tax, as required by law. If requested by Contractor, Subcontractor shall present satisfactory evidence that all such tax and insurance payments have been made in full as a condition to receiving any progress or other payment under this Subcontract.

(34) Traffic Control

As it relates to the Subcontractor's own Work, it shall be the responsibility of Subcontractor to control traffic on the site pursuant to local or municipal Laws or as directed by Contractor's representative, to enforce restrictions against parking on roads within the site; and to provide necessary parking areas for all



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workmen in suitable locations as approved by Contractor.

Contractor shall have the right to tow vehicles that are improperly parked, and all towing charges will be charged to Subcontractor. Subcontractor shall keep all trucks, dozers, graders, and other equipment off concrete and road surfaces and graded sites. Subcontractor shall, under rules or regulations prescribed by Contractor, use only established roadways and such temporary roadways as may be authorized by Contractor.

(35) Cleanup, Protection and Repairs

Subcontractor shall cleanup and remove off-site all of its debris, rubbish and surplus materials as the Work progresses. Subcontractor shall keep its work area in "rake-clean" standard and broom clean on a daily basis and broom clean on a biweekly basis or more frequently as the requirements of the Project dictate and in accordance with all Laws. Subcontractor shall keep its own work protected from damage by the elements and from other damage likely to occur in the performance of the Work, and shall protect all other parts of the project performed by others from damage likely to be caused by Subcontractor's Work. Should any such damage be so caused, Subcontractor shall immediately repair the same at Subcontractor's expense and sole cost. Any default by Subcontractor in any such cleaning, protection, or repairs, may be remedied by Contractor and the cost deducted from the Subcontract price.

(36) Maintenance, Protection and Restoration of Existing Structures

Subcontractor shall be responsible for the protection of any lawn, tree, shrub, hedge, fence, wall, sidewalk, driveway, curb, gutter, sprinkling system or other feature existing on public or private property at the time of beginning, or placed there during the progress, of the Work. Subcontractor shall be responsible for replacement of same, if damaged by the Subcontractor, or damaged as a result of the Subcontractor's negligence. Where trenches are excavated in streets which are paved, oiled or otherwise improved, the pavement or surfaces thus removed shall be replaced by Subcontractor in accordance with the Contract Documents under which the streets were originally improved or with minimum standards of AHJ, whichever is greater. The cost of such replacements or restorations shall be included in the process bid for the various items of Work and no additional payment will be made thereof.

(37) Public Utilities

Unless otherwise indicated on the Contract Documents, or unless called for by Contractor, all water, gas, or irrigation lines, lighting, power or telephone conduits or wires, or sewer lines and other surface or subsurface structures or lines, whether or not known to Subcontractor at the time of execution of this Subcontract, shall be maintained by Subcontractor and shall not be disturbed, disconnected or damaged by Subcontractor during the progress of the Work. Should Subcontractor, in the performance of the Work, disturb disconnect or damage any of the above, all costs and expenses arising from such disturbance in the replacing or repair thereof, shall be borne by Subcontractor.

(38) Supervision

Subcontractor (if Subcontractor is an individual) or Subcontractor's chief operating officer (if Subcontractor is a corporation) shall personally supervise the Work or shall have a competent, English-speaking, foreman or superintendent satisfactory to Contractor, on the Project at all times during the progress of the Work with authority to act for Subcontractor. Subcontractor shall at all times enforce strict



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discipline and good order among its employees and shall not employ in the Work any unsatisfactory employees not skilled in the Work assigned to it or anyone unsatisfactory to the Contractor. Failure of Subcontractor to provide a full-time competent, English-speaking, foreman on-site anytime the Subcontractor is executing work, will be deemed a breach of contract and may result in the withholding of pending payments as well as contract termination.

(39) Safety

Subcontractor acknowledges and represents that it has made an on-site inspection of the Premises and the work area so as to be familiar with all conditions, which may affect the safety and health of its employees as well as those of its Subcontractors. Contractor reserves the right, but not the obligation, to inspect the safety work performance of Subcontractors to ascertain their compliance with these and other applicable safety provisions. Notwithstanding the foregoing, Subcontractor, as an independent contractor, is solely responsible for controlling the manner and means by which it performs the Work pursuant to this Agreement. Unless otherwise agreed to by the parties in writing, Subcontractor shall provide all safety equipment, materials, tools, personal protection equipment, and training for use of same, necessary to perform the work in a safe, healthful and workmanlike manner. Subcontractor shall immediately report to Contractor all accidents, occupational injuries, and illness involving its employees or those of its Subcontractors, relating to the Work, or which cause any injury to a third party or which cause damage to the property of Owner, Contractor or a third party. Subcontractor shall promptly furnish to Contractor copies of any worker's compensation report of injury or illness forms filed by any of its employees or those of its Subcontractors and when requested, assist Contractor in any investigation it may conduct of any such accident, injury or illness.

Subcontractor will submit to Southway Builders copy of its companywide safety program. If noted in Attachment A of this Subcontract, a project or job specific Safety Program may also be a required submittal to Southway.

Subcontractor acknowledges that all Subcontractor and sub-subcontractor personnel are required to wear the following personal protection at all times when on site, regardless of their activity, OSHA-compliant or AHJ-compliant (whichever is more strict): hard hats, workboots, long pants, shirts with sleeves, and safety vests. Additionally, Subcontractor shall provide all ear protection as required and any other personal protection either required by Laws or AHJ. The Subcontractor acknowledges that no individual is permitted to work at elevations greater than six feet without fall protection; this specifically includes, but is not limited to, working on a roof, regardless of the work's proximity to the leading edge of the roof; where parapets do not exist, or where parapets do not meet the minimum height requirements for fall protection according to the AHJ (e.g. MOSH, OSHA, VOSH). The Subcontractor is responsible for providing their own means of fall protection, acceptable to the AHJ, when working at elevations of six feet or greater, including, but not limited to guardrails and personal fall arrest systems (PFAS); roof monitors are not an acceptable means for which to comply with Southway Builders' fall protection policy. Subcontractor further acknowledges that no individual will be permitted to work on, or enter into, the project without wearing the required personal protection. Likewise, the Subcontractor acknowledges that they are solely responsible for providing a safe work area that is compliant with all applicable codes and regulations according to the AHJ and the Subcontractor further represents that their commencement of any work at any time will be so executed in a manner that complies with the AHJ at all times. Any violations of this policy will constitute sufficient grounds for the Contractor to be fined, in accordance with the Southway Builders' violation form; furthermore, Southway Builders reserves the right to evict the violator from the site, without implications to Subcontract cost or schedule.



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It is a specific requirement that this Subcontractor submit to Southway a current Chemical Information List (CIL) for each hazardous chemical used or stored at the workplace. Additionally, Safety Data Sheets (SDS) for each chemical on the CIL must also be submitted to Southway Builders. All such CIL and SDS documentation must be per the requirements of OSHA, any state specific AHJ such as Maryland Occupational Safety and Health (MOSH), Virginia Occupation and Health (VOSH), Maryland Department of the Environment (MDE) any other applicable public authority and AHJ.

Subcontractor has the sole obligation to contact its local utility locator service (such Miss Utility (Maryland), VA811 (Virginia)), or applicable utility location service in the area in which the Work occurs, prior to the initiation of any underground work, and an all clear notice from said utility locator servie is required prior to the initiation of any such work. Subcontractor shall comply with the rules and regulations for safety promulgated by Contractor, and shall correct immediately any violations brought to Subcontractor's attention by Contractor or by governmental authorities. Subcontractor, for itself, its agents and employees, agrees to be bound by and comply with (and as to its agents and employees enforce compliance with) all requirements and provisions of the Occupational Safety and Health Act of 1970 and all applicable state and local safety codes and regulations and the Project Safety Plan. Subcontractor shall be responsible for and shall pay to Contractor all damages, costs, and expenses (including attorney's fees) incurred by Contractor as a result, either directly or indirectly of the failure of Subcontractor, its agents or employees to comply with the provisions of this paragraph.

(40) Notices

Any notice required or permitted to be given hereunder shall be in writing and shall be served by facsimile and first class mail to Southway Builders, Inc., 1318 East Fort Avenue, Baltimore, Maryland 21230.

(41) Waiver of Remedies

The waiver, expressly or by implication, by Contractor of any provision of this Subcontract, at any time, shall not be deemed to constitute a future or further waiver by Contractor nor a waiver of any remedy reserved to Contractor under any provision of this Subcontract. Delay in the enforcement of any remedy in the event of a breach of any term or condition hereof, or in the exercise of any right or rights of Contractor in the event of any breach hereof by Subcontractor shall not serve as a waiver of Contractor's rights to pursue said remedies or other remedies, are cumulative and in addition to those given by law, and the expression herein of any specific right of remedy shall not be construed to limiting Contractor on exercising any other right or remedy it may have.

(42) Governing Law/Arbitration/Mediation

Regardless of the location of the project, the validity, interpretation and performance of this Subcontract shall be governed by the Laws of the State of Maryland. Any action or proceeding arising from or in connection with this Subcontract shall be commenced and maintained in a court of competent jurisdiction in the City of Baltimore and shall not be commenced or maintained in any other court. In any action commenced by Subcontractor against Contractor, Contractor's sureties, or Owner, Subcontractor hereby expressly agrees to waive its right to a trial jury. If any claim or dispute arises relating to the Subcontract or the Project, Subcontractor shall immediately make all of its books and records available to Contractor for review and audit.



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Notwithstanding anything herein to the contrary, Contractor, at its sole option, shall have the right to require Subcontractor to submit any and all claims, disputes and other matters in question between Subcontractor and Contractor and/or its sureties arising out of or related to the Subcontract or the breach thereof to arbitration in accordance with the Construction Industry Rules of the American Arbitration Association in Baltimore, Maryland.

In addition to Contractor's right to require arbitration hereunder, Contractor shall have the right to require mediation pursuant to the Construction Industry Mediation Rules of the American Arbitration Association or such other rules as the parties may mutually select.

Rescission of this Subcontract shall not impair this arbitration/mediation agreement.

All subcontractors and material suppliers to Subcontractor are bound this arbitration/mediation provision. In the event that Contractor is of the opinion that any other parties having contractual relations with Subcontractor (herein referred to as "Impleaded Parties") may in any matter whatsoever be involved in any claim arising from this Subcontract before the arbitrator(s) or mediator(s) in which Contractor is an original party, Contractor shall have the right to make such Impleaded Parties a party to an arbitration or mediation between Contractor and Subcontractor by mailing a notice to such Impleaded Parties requiring them to become parties thereto, provided such impleader is permissible under the relevant rules of the proceeding.

(43) Miscellaneous Provisions

The language in this Subcontract shall be construed according to its customary meaning within the building industry in the state of Maryland.

Captions and titles of the different Articles and Sections of this Subcontract are solely for the purpose of aiding and assisting in the location of different material in this Subcontract and are not to be considered under any circumstances as parts, provisions or interpretations of this Subcontract or to limit the full contents of same or affect the meaning, extent or interpretation thereof.

The failure of Contractor to insist upon the strict performance of any provisions of the Subcontract or to exercise any right, option or remedy hereby reserved or the existence of any recourse of performance hereunder shall not be construed as a waiver of any provision hereof or of any such right, option or remedy or as waiver for the future of any such provision, right, option or remedy or as a waiver of a subsequent breach thereof. No provision of this Subcontract shall be deemed to have been waived by Contractor unless such waiver shall be in writing signed by Contractor.

If any term or provision of this Subcontract is found invalid or unenforceable, it shall not affect the validity or enforcement of all remaining terms and provisions of the Subcontract.

Subject to the provisions hereof restricting assignment of this subcontract by Subcontractor, this Subcontract shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto. The invalidity of any one of the covenants, agreements, conditions and provisions of this Subcontract, or any portion thereof, shall not affect the remaining portions of this Subcontract, and this Subcontract shall be construed as if such invalid covenant, agreement, condition or provision had been inserted herein. As used in this Subcontract, the masculine, feminine or neuter gender and the singular and plural numbers, shall be deemed to include the others and are used only as matter of convenience and for reference and in no way define the scope or content of this Subcontract or the construction of any provision



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hereof, or of any document or instrument referred to herein.

(44) Oral Modifications

The Subcontract shall not be changed, modified, altered, or terminated orally. The Subcontract supersedes Subcontractor's previous written or oral quotes and/or proposals, any prior representations and oral or written agreements made by Contractor and contains the entire agreement between the parties with respect to the Project.

(45) Conditional Subcontract

The Subcontract is made conditional upon the approval of Subcontractor by Owner and Architect/Engineer, where such approval is required and the Contractor receiving a contract from its customer. However, Subcontractor is responsible to maintain and abide by all statements and quotes given to Contractor and upon which Contractor is relying.

(46) Submittals

The approval by Contractor, Owner or Architect/Engineer of any submittals of Subcontractor shall not relieve it of liability for or deviations from the Prime Contract or the Subcontract, unless specifically called to Contractor's attention, in writing, and it is then so acknowledged by Contractor in writing. Subcontractor shall cooperate with Contractor and other subcontractors whose work might interfere with Subcontractor's work, and shall participate in the preparation of coordinated drawings in areas of congestion as required by Contractor and the Contract Documents, specifically noting and advising Contractor of any such interference. Submittals shall be made in accordance with Contract Documents.

All drawings of the Subcontractor shall be submitted for approval of the Architect/Engineer through the Contractor. On all drawings submitted by Subcontractor through the Contractor for approval of the Architect/Engineer, Subcontractor shall certify that its submittal does not vary from the Contract Documents, unless specifically noted. Subcontractor has the obligation to affirmatively disclose any deviation from the Contract Documents on such drawing. Subcontractor's failure to provide the appropriate certification of non-variance shall create a conclusive presumption that Subcontractor's submittal does not vary from the Contract Documents.

All submittals shall be due from Subcontractor to Contractor within thirty (30) days from the date of issuance of the Subcontract. Failure to furnish all required submittals within thirty (30) days from the date of issuance of the Subcontract will result in withholding of payment. Subcontractor will submit all submittals electronically and will additionally submit hard copies of large-format drawings (defined as any drawings that cannot be correctly printed on 11x17 format, i.e. shop drawings). Subcontractor will submit a minimum of 3 hard copies of said drawings, and as many hard copies as is required by the Contract Documents.

(47) Wages

Certified Payroll Reports will be required and submitted pursuant to the terms of the Contract Documents. Failure to comply will result in payment being withheld until full compliance is received and approved by Contractor and AHJ. Any fines levied, or any and all costs associated with subsequent legal action, including attorneys' fees, as a result of failure to comply with payroll laws or regulations shall be the sole



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responsibility of Subcontractor. Receipt of accurate Certified Payroll Reports, for the month in which payment is due, is condition precedent for receipt of payment for that month.

(48) Immigration Legislation

Subcontractor shall comply with the provisions of the most current immigration legislation and with all subsequent amendments thereto and all rules and regulations heretofore, and hereafter promulgated by the Immigration and Naturalization Service which relate to such legislation. Subcontractor shall and hereby does indemnify and hold Contractor harmless from all loss, costs and expenses, including attorneys' fees, which Contractor may suffer or become obligated to pay by reason of or arising out of any violation by Subcontractor of any provision of the most current immigration legislation or any rule or regulation promulgated by the Immigration and Naturalization Service pursuant or relating to said legislation.

(49) Representations of Subcontractor

Subcontractor represents and certifies that:

- A. Subcontractor is financially solvent and competent to perform the Work;
- B. Subcontractor is familiar with all Federal, State, or other laws, ordinances, orders, rules and regulations, which may in any way affect the Project;
- C. Subcontractor has carefully examined all the Contract documents and the jobsite and is satisfied as to the nature and location of the Work, the character, quality and quantity of surface and subsurface materials likely to be encountered, the character or type of equipment and other facilities needed for the performance of the Work, the general and local conditions and all other materials or items which may affect the Work;
- D. Subcontractor is an independent contractor;
- E. Fair and ethical business practices will be strictly adhered to during the life of this Subcontract. During the term of this Subcontract, neither Subcontractor nor any director, partner, owner, officer or employee shall:
 - 1. File with a government office or employee, a written instrument which intentionally contains a false statement or false information;
 - 2. Intentionally falsify business records;
 - 3. Give, or offer to give, money or any other benefit to a labor official with respect to any of his or her acts, duties or decisions as a labor official;
 - 4. Give, or offer to give, money or any other benefit to a public servant with intent to influence the public servant with respect to any of his other acts, duties or decisions as a public servant; and
 - 5. Knowingly participate in the criminal activities of any organized crime group, associated with any such organized crime group participate through criminal means in any of the business affairs of Subcontractor.
- F. Is currently licensed in the type work contracted for in the state(s) the contract is prosecuted.

At Contractor's sole discretion, Subcontractor will provide, within ten (10) days any and all of the



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following:

- A. Current Financial Statements
- B. Contact Sheet – listing all suppliers’ and sub-subcontractors’ contact information, material or equipment being purchased, and purchase order/subcontract amounts,
- C. Surety Statement or letter of credit from Surety indicating Subcontractor’s financial solvency, bonding capacity, and current status.
- D. Invoices from suppliers and sub-subcontractors
- E. Copies of purchase orders and subcontractors
- F. Waiver of lien from suppliers and sub-subcontractors

Subcontractor hereby grants Contractor rights to speak directly with all vendors and sub-subcontractors with regard to the Work, or any other work being executed by the Subcontractor.

(50) Possession Prior to Completion

Whenever it may be useful or necessary for the Contractor to do so, Contractor shall be permitted to occupy and/or use any portion of the Work which has been either partially or fully completed by the Subcontractor before final inspection and acceptance thereof by the Owner, but such use and/or occupation shall not relieve the Subcontractor of his guarantee of said Work nor his obligation to make good at his own expense any defect in materials and/or workmanship which may occur or develop prior to Contractor's release from responsibility to the Owner. Any use or occupancy does not constitute the start of any warranty period whatsoever.

(51) Equal Opportunity

Subcontractor agrees to recruit and hire all employees without regard to race, color, creed, Religion, sex, age, non-disqualifying handicap or disability, military service, ancestry or national origin and not to discriminate against any employee with regard to their employment, compensation, advancement, upgrading, promotion demotion, termination, training and transfers and to require its subcontractors and suppliers to do the same. If the Prime Contract contains any provision which prohibits discrimination on the basis of race, color, religion, sex or national origin, hereinafter referred to as Equal Opportunity, or if any law, regulation or order has any application thereto and is applicable to this Subcontract, then Subcontractor hereby agrees to comply with such provision, law, regulation or order. In the event that any such provision, law, regulation or order requires the physical attachment of specific wording to this Subcontract, then such attachments shall be considered a part of this Subcontract by reference thereto or shall be physically attached thereto as called for by the Contractor.

(52) Cost Certification

Subcontractor is NOT required to certify its costs incurred in connection with this project.

(53) Special Project Provisions

- A. Payroll Records - Subcontractor and any of its subcontractors of any tier shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day of the week and the actual per diem wages paid to each journeyman, apprentice, worker or other employee employed by them in connection with the Work.



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(54) Attachments to this Contract

Attachments to this Subcontract include the following:

- Attachment "A" Scope of Work and Statement of Price
- Attachment "B" Insurance Requirements
- Attachment "C" Listing of Contract Documents - Plans, Specifications, Addenda, Etc.
- Attachment "D" Contract Master Schedule
- Attachment "E" Federal Labor Standards Provisions, including applicable Wage Scale
- Attachment "F" Certified Payroll
- Attachment "G" Lien Waiver Template – Partial and/or Final
- Attachment "H" U.S. Department of Housing and Urban Development Office of Public Housing – Section 8 Project-Based Voucher Program and Section 3 Clause Agreements (Tables A, B, C)

- Attachment "I" Submittal Log
- Attachment "J" Application for Payment Schedule
- Attachment "K" Tax Exempt Certificate
- Attachment "L" Special Owner Documents
- Attachment "M" Workplace Fraud Agreement
- Attachment "N" Zero Tolerance Policy
- Attachment "O" Performance Bond Form
- Attachment "P" Payment Bond ConsensusDocs 261

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract and set their seals as of the _____ day of _____, 20____.

SOUTHWAY BUILDERS, INC.

By: _____(SEAL)

SUBCONTRACTOR:

By: _____(SEAL)

Printed Name & Title

Address: _____



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