<DATE>

COMPANY NAME
ADDRESS
CITY, STATE ZIP

SC #:
JOB # / NAME:

PHONE #: PROJECT MGR:
FAX #: PROJECT MGR PHONE #:

Enclosed is your Subcontract Agreement with Ghilotti Construction Company, Inc. for the above-referenced project. Please SIGN & RETURN BOTH COPIES of the Agreement, along with any required documents as indicated below, to the corporate office at 246 Ghilotti Avenue, Santa Rosa, CA 95407 Attn: Contract Administrator within 5 working days of receipt or prior to performing any work, on or off site.

Herein you will find the following documents; *those marked "Required" need to be returned in order for your subcontract to be processed*:

	Required	**Not Required**
Subcontract (2 originals)	☒	☐
Addendum A or A1 - Insurance Certificates	☒	☐
Addendum B – GCC Payment Policy (for your use)	☒	☐
Addendum C – GCC Safety Addendum	☒	☐
Addendum D – Union Terms & Conditions	☒	☐
Performance & Payment Bonds – see GCC Subcontract Section 11	☒	☐
Certified Payroll / Fringe Benefits Statement – see GCC Subcontract Section 3.02c *(Submit directly to Project Administrator on job)*	☒	☐
CSLB Pocket License (copy)	☒	☐
Federal Aid / ARRA Letter	☒	☐

Your subcontract will not be fully-executed until all required documents are received; nor will any payments be released. Proceeding with work prior to receipt of a fully-executed contract will mean subcontractor has agreed to all terms and conditions of subcontract agreement without modification. Please do not modify subcontract without prior approval. All subsequent correspondence should be directed to the project manager. Please see GCC's website www.ghilotti.com for electronic versions of these documents.

Sincerely,
LAURA V. HIDALGO
CONTRACT ADMINISTRATOR

SUBCONTRACT AGREEMENT

JOB NO:	**COMPANY NAME**
	ADDRESS
SUBCONTRACT NO:	**CITY, STATE ZIP**
VENDOR CODE:	**PHONE: PHONE #**
	FAX: FAX #

This agreement, made this date of **<INSERT DATE>** by and between **COMPANY NAME**; hereinafter called the Subcontractor, and **GHILOTTI CONSTRUCTION COMPANY** (GCC) 246 Ghilotti Avenue, Santa Rosa, California 95407, hereinafter called the Contractor, WITNESSETH:

SECTION 1. The Subcontractor agrees to furnish all necessary materials, labor, tools, equipment and supplies necessary to perform and to perform all work set forth in "Section 2" hereof in the construction of **<INSERT PROJECT NAME AND OWNER NAME>**; hereinafter referred to as the Owner(s), in accordance with the terms and provisions of the Contract between the Owner and the Contractor, including all the General and Special Conditions, Drawings and Specifications and other Documents forming, or by reference made, a part of the Contract between the Contractor and the Owner, (the "Construction Documents"), all of which shall be considered part of this Subcontract by reference thereto, and the Subcontractor agrees to be bound to the Contractor and the Owner by the terms and provisions thereof. All drawings of the Subcontractor must be submitted for approval of the Owner's Representative through the Contractor's Office.

SECTION 2. It is agreed that the materials to be furnished and/or work to be done by the Subcontractor are as follows:

COST CODE	DESCRIPTION	QUANTITY	UNIT COST	EXTENSION

Note: SUBCONTRACTOR'S quotation dated _____ is hereby made a part of this subcontract agreement.
In the event of a conflict between Subcontractor's proposal language and GCC's subcontract language, GCC's subcontract language will prevail. Inconsistent bid terms and conditions shall be void.

TOTAL _____

A. All work to be complete and in place in accordance with applicable plans, specifications and addenda.

1. **CERTIFICATES OF INSURANCE AND ADDITIONAL INSURED ENDORSEMENTS REQUIRED AS PER ADDENDUM "A" (OR ADDENDUM "A1", IF APPLICABLE TO SCOPE), WHICH IS HEREBY INCORPORATED INTO THIS AGREEMENT.**

2. **GCC SUBCONTRACTOR PAYMENT POLICY (ADDENDUM "B") IS AGREED TO BY SIGNING THIS SUBCONTRACT.**

3. **COMPLIANCE WITH GHILOTTI CONSTRUCTION COMPANY SAFETY ADDENDUM (ADDENDUM "C").**

REGARDLESS OF THE PROVISIONS IN THE CONTRACT BETWEEN THE CONTRACTOR AND THE OWNER, THE SUBCONTRACTOR SHALL FURNISH AND PAY FOR ALL LAYOUT, BACKING, TESTING,

SCAFFOLDING AND PLANKING, HOISTING OF MEN AND MATERIALS, AND TEMPORARY HEAT, POWER AND LIGHTS REQUIRED FOR WORK TO BE PERFORMED UNDER THIS SUBCONTRACT.

All subcontractors performing work for GCC must maintain valid City Business Licenses; Permits, and Business Tax Certificates as required by owner. Copies of said documents will be provided to GCC upon request.

When the Subcontractor does not install material furnished under this Subcontract, such material as is not installed is to be delivered F.O.B.

SECTION 3. Price. The Contractor agrees to pay the Subcontractor for furnishing the materials and performing the work, as specified herein, the sum of: **<INSERT CONTRACT AWARD AMOUNT – WRITTEN IN NUMBERS AND WORDS>;** subject to additions and deductions for changes agreed upon or determined as hereinafter provided.

3.01. Payment Schedule**.** Contractor agrees to pay to Subcontractor in monthly progress payments of ninety percent (90%) of labor and materials which have been incorporated into the Project as provided the Contract Documents, with funds received by Contractor from Owner for work performed by Subcontractor as reflected in Contractor's applications for payment. Subcontractor's progress and final payments shall be made ten (I0) days after receipt of payment from the Owner by Contractor and receipt from Subcontractor by Contractor all of the documents required by this Agreement to complete the Subcontractor's Application for Payment. Final payment to Subcontractor shall be made ten (10) days after the entire work required by the prime contract has been fully completed in conformity with the Contract Documents and has been delivered to and accepted by Owner, Architect, and Contractor, with funds received by Contractor from Owner in final payment for work under the prime contract. Contractor, at its option, may make any payment due hereunder by check made payable jointly to Subcontractor and any of its subcontractors, suppliers and/or materialmen who have performed work or furnished materials under this Agreement. Any payment made hereunder prior to completion and acceptance of the work, as referred to above, shall not be construed as evidence of acceptance or acknowledgement of completion of any part of Subcontractor's work.

3.01 (a) If owner or other responsible party delays making payment to Contractor from which payment to Subcontractor is to be made, Contractor and its sureties shall have a Reasonable Time to make payment to Subcontractor. "Reasonable Time" shall be determined according to the relevant circumstances, but in no event shall be less than the time Contractor, Contractor's sureties, and Subcontractor require to pursue to conclusion their legal remedies against Owner or other responsible party to obtain payment, including (but not limited to) mechanics' lien remedies and collection of a final judgment. During said Reasonable Time, Contractor is not obligated to pay any of the Subcontractor's late charges, interest charges, attorney's fees and costs, or collection fees and expenses. If the Subcontractor asserts a claim which involves, in whole or in part, acts or omissions which are determined by Contractor to the responsibility of the Owner or another party, including but not limited to claims for failure to pay, an extension of time, delay damages, or extra work, Contractor will present the Subcontractor's claim to the Owner or other responsible party. The Subcontractor shall cooperate fully with the Contractor in all steps taken in connection with prosecuting such a claim and shall hold harmless and reimburse the Contractor for all expense, including legal expense, incurred by Contractor which arise out of Contractor's submission of Subcontractor's claim to Owner or other responsible party. Subcontractor shall be bound by any determination, adjudication or award in any action or proceeding, including Subcontractor's entitlement to recover all or a portion of the Subcontractor's attorney's fees and cost, resolving such a claim. If a progress and/or final payment from Owner or other responsible parties for the work is not received by GCC, through no fault of Subcontractor, Contractor will make payment to Subcontractor after Contractor has been afforded the Reasonable Time (as defined in this Section) to obtain payment from Owner or other responsible parties as provided in this section. Nothing in this Section shall be interpreted to require the Subcontractor to waive its right to pursue its mechanic's lien and stop notice remedies at its expense, nor waive the Subcontractor's right to payment from Contractor after Contractor as completed all legal remedies against the Owner or other responsible parties, less the Subcontractor's equitable share of the Contractor's expenses incurred in pursuing the recovery of the funds due Subcontractor from the Owner or other responsible parties, including but not limited to Contractor's attorney's fees and costs, consultant and expert fees and costs, court costs, interest costs, and all costs and expenses incurred by Contractor pursuing the legal remedies against the Owner and other responsible parties.

3.01 (b) If the terms of this Subcontract provide for the payment for work performed on a unit price basis, Subcontractor agrees to be bound by the Owner's measurement of the quantity of work; however, if owner does not measure for work, Subcontractor agrees to be bound by Contractor's measurement of the quantity of work.

3.01 (c) Any partial payment of payments made by the Contractor to the Subcontractor will be subject to final audit and adjustment and the Subcontractor agrees to reimburse the Contractor in the event of overpayment. The acceptance by Subcontractor of final payment shall constitute a release by the Subcontractor in favor of Contractor

and its surety of all claims against Contractor and its surety arising under or by virtue of this Subcontract other than those claims excepted with the written consent of the Contractor. Subcontractor agrees to accept the price or prices as set forth herein as full compensation for doing all work and furnishing all material contemplated and embraced in this agreement; for all loss or damage arising out of the nature of the work aforesaid or from the action of the elements or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until its acceptance by Owner; for all risks of every description connected with the work; for all expense incurred by or in consequence of the suspension or discontinuance of the work; and for faithfully completing work and the whole thereof in the manner and according to the requirements of Contractor and Owner and the instructions of the Owner's Representative in charge of said work.

3.01 (d) The Contractor may deduct from any amounts due or to become due to the Subcontractor any sum or sums owing by the Subcontractor to the Contractor; and in the event of any breach by the Subcontractor of any provision or obligation of this Subcontract, or in the event of the assertion by other parties of any claim or lien against the Contractor or Contractor's Surety or the construction site arising out of the Subcontractor's performance of this Contract, the Contractor shall have the right, but is not required, to retain out of any payments due or to become due to the Subcontractor an amount sufficient to completely protect the Contractor from any and all loss, damage or expense therefrom until the situation has been remedied or adjusted by the Subcontractor to the satisfaction of the Contractor.

3.01. (e) Contractor reserves the right to make payment by joint check or by direct check to Subcontractor's materialmen or sub-subcontractors or any person who has right of action against Contractor or Contractor's Surety under any law. Subcontractor agrees that Contractor reserves the right of determination as to what manner of payment shall be made.

3.02 Subcontractor Payment Conditions

3.02 (a). Application for Payment: Payment to Subcontractor is conditioned upon Subcontractor delivering a complete Application for Payment to Contractor as provided in this section. In order for the Application for Payment to be complete the following documents must be delivered to Contractor:

3.02 (a) (i) Progress Payments to Subcontractor will not be released until Subcontractor provides GCC the following:

a. A completed Application for Payment using the GCC Application Form.

b. The Application for Payment shall be accompanied by a fully and properly executed Conditional Lien and Stop Notice Release acceptable to GCC for the current billing period, and an Unconditional Lien and Stop Notice Release form for the prior billing period. All lien releases shall be signed by an officer of the Subcontractor's corporation, owner or partner. Conditional and unconditional lien releases in the same form are required from all the Subcontractor's vendor/material suppliers.

c. "Changed Work Documentation" (as defined in this Agreement) supporting any claim for extra work that occurred during the current payment period, (the failure to include said documentation means that Subcontractor agrees to waive all claims for payment relating to the changed work that occurred during the period covered by the Application for Payment).

d. Subcontractor delivers to GCC satisfactory documentation that:

(1) Subcontractor has satisfied all insurance requirements specified in this Agreement.
(2) Subcontractor has complied with the Safety Program.
(3) Evidence that Subcontractor's as-built drawings are current.

e. Applications for Payment must be delivered to GCC for the current billing period no later than 5:00 p.m. on the 25th day of each month. In order to be complete, the original Applications for Payment and Releases must be delivered to Contractor. Documents delivered by facsimile or email are not acceptable. If the Application for Payment is not timely delivered to Contractor then Subcontractor will not be paid until the following month provided Subcontractor satisfies all of the conditions for payment.

3.02 (a) (ii) Final Payment to Subcontractor will not be released until Subcontractor provides GCC all of the documents required for a progress payment, plus the following:

a. Either (1) the passage of five business days following the last date that any mechanic's lien can be properly recorded against the Project or real property by Subcontractor or Subcontractor's subcontractors or suppliers, or (2) submission by the Subcontractor to Contractor of properly completed unconditional waivers and releases of mechanic's lien and stop notice rights executed by the Subcontractor and its Subcontractors and suppliers of all tiers, with any additional supporting documentation reasonably requested by Contractor or the Owner, and there are no (i) liens recorded or stop notices filed against the Project or real property which have not been discharged (by bonding or otherwise), or (ii) threats of any claims or lawsuits against Contractor or the Owner for alleged failure to make payment by the Subcontractor, or (iii) failure by the Subcontractor to fulfill any indemnities provided by the Agreement.

b. All conditions for Subcontractor's payment required by the Owner's Prime Contract have been satisfied.

c. Submission by the Subcontractor to Contractor in a form satisfactory to Contractor and the Owner of an affidavit, sworn to before a Notary Public, stating that all workers and persons employed by Subcontractor connected with the Work have been paid in full, including taxes and benefits for which Contractor or the Owner or the Project might in any manner be liable.

d. Submission by the Subcontractor to Contractor in a form satisfactory to Contractor and the Owner of required written guarantees and warranties properly indexed and placed in a loose-leaf binder. Unless provided to the contrary elsewhere in the Agreement, warranties and guarantees shall commence upon making of the final payment, the date of the Notice of Completion, or Occupancy of the Project by the Owner/Tenant whichever date is later.

e. Submission by the Subcontractor to Contractor in a form satisfactory to Contractor and the Owner of a complete set of the as-built drawings for Subcontractor's work.

f. Submission by the Subcontractor to Contractor in a form satisfactory to Contractor and the Owner of a complete list of Subcontractors and principal vendors on the Project, including addresses and telephone numbers.

g. Submission by the subcontractor to the Contractor, in an indexed loose-leaf binder, of complete installation, operation and maintenance manuals, including all manufacturers' literature, of equipment and materials used in the Work.

h. Submission by the Subcontractor to the Contractor color copies of all photographs taken by Subcontractor of the project.

i. Any and all other items required pursuant to the Contract Documents.

3.02 (b). If at any time GCC at its sole discretion, shall determine that Subcontractor's financial condition has become unstable or unsatisfactory, Subcontractor shall furnish additional security satisfactory to Contractor within three days after written demand therefore is delivered to Subcontractor. If Subcontractor fails to timely furnish said additional security, Contractor shall have the option to terminate Subcontractor's right to proceed or to initiate such other action as Contractor may, at its sole discretion, deem necessary for the protection or preservation of its interest and the prevention of delay in the progress of work on the Project, including but not limited to the work to be performed by Subcontractor hereunder. In the event of such cancellation, the rights of Contractor shall be the same as if Subcontractor had willfully refused to further perform the Agreement.

3.02 (c). Subcontractor agrees to furnish, if and when required by GCC, certified payroll affidavits, receipts, vouchers, releases of claims for labor and material, and agrees to furnish same from its subcontractors, suppliers and/or materialmen performing work or furnishing materials under this Agreement, all in form satisfactory to Contractor, and it is agreed that no payment hereunder shall be made, except at Contractor's option, until and unless such documents have been furnished.

3.02 (d) The Subcontractor agrees and covenants that money received for the performance of this Subcontract shall be used solely for the benefit of persons and firms supplying labor, materials, supplies, tools, machines, equipment, plant or services exclusively for this project in connection with this Subcontract and having the right to assert liens or other claims against the land, improvements or funds involved in this Project or against any bond or other security posted by Contractor or Owner; that any money paid to the Subcontractor pursuant to this Subcontract shall immediately become and constitute a trust fund for the benefit of said persons and firms, and shall not in any instance be diverted by Subcontractor to any other purpose until all obligations arising hereunder have been fully discharged and all claims arising therefrom have been fully paid.

3.02 (e) No change, alteration or modification in the terms and conditions of this Subcontract or in the terms or manner of payment shall in any way exonerate or release, in whole or in part, any surety on any bond furnished by or on behalf of the Subcontractor.

SECTION 4. If at any time prior to final payment hereunder the Owner reduces the amount of retention held from the Contractor, the Contractor may, at its sole discretion, without the consent of the Subcontractor's Surety, reduce accordingly the retained percentage withheld from the Subcontractor.

SECTION 5. Changes in Scope of Work

5.01 Subcontractor shall make any and all changes in the work described in the Contract Documents and this Agreement as directed by Contractor in writing. Such change or written direction shall not invalidate this Agreement. Subcontractor shall not make any changes in the work described in the Contract Documents or in any way cause or allow that work to deviate from the Contract Documents without written direction from Contractor. If Subcontractor makes any changes in the work without written direction from Contractor, such change constitutes an agreement by Subcontractor that it will not be paid for that changed work, even if it received verbal direction from Contractor or any form of direction, written or otherwise, from Owner or any other person or entity. In addition, Subcontractor shall be liable for any and all losses, costs, expenses, damages, and liability of any nature whatsoever associated with or in any way arising out of any such change it makes without written direction from Contractor.

No change, alteration, or modification to or deviation from this Agreement, the Contract Documents, prime contract, plans, or specifications, whether made in the manner provided in this section or not, shall release or exonerate, in whole or in part, any bond or any surety on any bond given in connection with this Agreement, and no notice is required to be given to such surety of any such change, alteration, modification, or deviation.

5.02 Changed Work Documentation

Subcontractor shall submit with each monthly Application for Payment, (but in no event more than 35 days after any changed work is performed), its “Changed Work Documentation” supporting any claim for compensation or delay in performance of work arising out of any changed or extra work in sufficient detail for GCC to make an evaluation of the merits of the Subcontractor’s claim. The Subcontractor’s duty to provide “Changed Work Documentation” for work performed during the period covered by the monthly Application for Payment exists whether or not the Changed Work was authorized in writing or oral, disputed or undisputed, or fixed price or time & materials. The failure to provide the “Changed Work Documentation” during any period covered by a monthly Application for Payment, or within 35 days of performing any changed work whichever is less, results in a waiver of Subcontractor’s right to claim compensation for the changed work and/or extension of time to perform the work. “Changed Work Documentation” is defined to mean: 1) all documentation supporting the claim that Subcontractor was directed to perform changed work; 2) copies of excerpts of the plans and specifications that identify the changed work; 3) photographs depicting the changed work; 4) labor costs including time cards and payroll records; 4) material records including invoices; 5) the date, time, and person that directed the changed work; 6)any impact on the Project Schedule including any change in the schedule and any recommendation by Subcontractor to mitigate any delay; and 7) any documentation required by the Prime Contract or the Owner. Subcontractor acknowledges that the failure to provide timely “Changed Work Documentation” will prejudice GCC’s ability receive payment for the changed work and efficiently schedule the work. Consequently Subcontractor's failure to timely provide the “Changed Work Documentation”, (within each monthly Application for Payment but in no event more than 35 days of performing the changed or extra work), constitutes an agreement by Subcontractor it that it will not be paid for the changed work, nor will it be entitled to an extension of time to perform the work. Time is of the essence regarding this requirement.

Section 5.03 Disputed Change

If a dispute arises between Contractor and Subcontractor about whether particular work is a change in the work described in this Agreement, or there is a dispute as to the amount of payment or credit should be applied to the change in the work Subcontractor shall nevertheless timely perform the disputed work as specified in this section of the agreement. If Subcontractor intends to submit a claim for the disputed work, it shall give written notice to GCC before proceeding with the work. In addition, Subcontractor shall submit with each monthly Application for Payment, but in no event more than 35 days after performing the changed or extra work, its “Changed Work Documentation” supporting Subcontractor’s claim for additional compensation for the changed or extra work in sufficient detail for Contractor to make an evaluation of the merits of the Subcontractor’s claim. Subcontractor acknowledges that the failure to timely provide written notice to GCC prior to proceeding with the changed or extra work, or the failure to provide contemporaneous “Changed Work Documentation” as defined in this Agreement, will prejudice GCC’s ability

receive payment for the changed work and efficiently schedule the work resulting in additional costs, expenses, and damages incurred by Contractor (Contractor' Impact Costs). In consideration of the Contractor's Impact Costs, Subcontractor stipulates and agrees that its failure to either to give the written notice before proceeding with the work or to provide the timely "Changed Work Documentation" constitutes an agreement by Subcontractor it that it will not be paid for the changed or disputed work, nor will it be entitled to an extension of time to perform the work. Time is of the essence regarding this requirement.

A disagreement between the Contractor and the Subcontractor as to an increase or decrease in the subcontract price shall not relieve the Subcontractor from immediately proceeding with the performance of the Subcontract as modified, changed or amended.

SECTION 6. This Subcontract agreement contains all covenants, stipulations and provisions agreed upon by the parties hereto. No agent or representative of either party has authority to make, and the parties shall not be liable for, any statement, representation, promise or agreement not set forth herein.Subcontractor represents that it has carefully examined all of the documents comprising the General Contract and is familiar with the terms and conditions thereof, and has fully acquainted itself with all obstructions, subsurface and other conditions relevant to the work, the site of the work and its surroundings, and assumes the risk of any variances between the actual conditions and the conditions shown or represented in the General Contract or this Subcontract; that it has made all investigations essential to a full understanding of the difficulties which may be encountered in performing the work; and that anything in the General Contract, this Subcontract, or in any representations, statements or information made or furnished by Contractor or Owner notwithstanding, Subcontractor will complete the work for the compensation stated in this Subcontract, and assume full and complete responsibility for all conditions relating to the work, the site of the work or its surroundings and all risks in connection therewith.

SECTION 7. Recourse by GCC.

7.01 Failure of Performance.

(a). Right to Adequate Assurance. When reasonable grounds for insecurity arise with respect to Subcontractor's performance, Contractor may in writing demand adequate assurance of due performance. Subcontractor's failure to provide within 5 days of the demand such assurance of due performance as is adequate under the circumstances of the particular case is a default under this Agreement.

(b). Notice of and failure to Cure. If Subcontractor at any time refuses or neglects to supply enough properly skilled workers and proper materials, or fails to properly and diligently prosecute the work covered by this Agreement, or fails to make prompt payment to its workers, sub-subcontractors or suppliers, or becomes delinquent with respect to contributions or payments required to be made to any health and welfare, pension, vacation, apprenticeship or other employee benefit program or trust, or fails to provide adequate assurance pursuant to this Agreement, or is otherwise guilty of a material breach of a provision of this Agreement, and fails within forty-eight (48) hours after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, then Contractor, without prejudice to any rights or remedies, shall have the right to any or all of the following remedies:

i) Supply such number of workers and quantity of materials, equipment and other facilities as Contractor deems necessary for the completion of Subcontractors work, or any part thereof which Subcontractor has failed to complete or perform, and charge the cost thereof to Subcontractor, who shall be liable for the payment of same including Contractor's Fee in the amount twenty five percent (25%), and actual attorneys' fees incurred as a result of Subcontractor's failure of performance;

ii) Contract with one or more additional contractors to perform such part of Subcontractor's work as Contractor shall determine will provide the most expeditious completion of the total work and charge the cost thereof to Subcontractor; and

iii) Withhold payment of any moneys due Subcontractor pending corrective action to the extent required by and to the satisfaction of Contractor
.

(c). Emergency. In the event of an emergency affecting the safety of persons or property, Contractor may proceed as above without notice.

(d). Termination for Default. If Subcontractor fails to commence and satisfactorily continue correction of a default within forty-eight (48) hours after receipt by Subcontractor of the Notice to Cure, then Contractor may terminate

Subcontractor's right to perform under this Agreement and use any materials, implements, equipment, appliances or tools furnished by or belonging to Subcontractor to complete Subcontractor's work without any further compensation to Subcontractor for such use. Contractor also may furnish those materials and equipment, and/or employ such workers or subcontractors as Contractor deems necessary to maintain the orderly progress of the work. In such case, Subcontractor shall be entitled to no further payment until the balance of Subcontractor's work has been completed. At that time, all of the costs incurred by Contractor in performing Subcontractor's work, including a markup of twenty five percent (25%) for the Contractor's Fee on such expenses, plus actual attorneys' fees as provided above, shall be deducted from any moneys due or to become due Subcontractor. Subcontractor shall be liable for the payment of any amount by which such expenses may exceed the unpaid balance of the Contract Price.

7.02 Termination for Convenience

Contractor may at any time and for any reason terminate Subcontractor's services and work at Contractors convenience. Cancellation shall be by service of written notice to Subcontractors place of business. Upon receipt of such notice, Subcontractor shall, unless the notice directs otherwise, immediately discontinue the work and placing of orders for materials, facilities and supplies in connection with the performance of this Agreement, and shall, if requested, make every reasonable effort to procure cancellation of all existing orders or contracts upon terms satisfactory to Contractor or, at the option of Contractor, give Contractor the right to assume those obligations directly, including all benefits to be derived there from. Subcontractor shall thereafter do only such work as may be necessary to preserve and protect the work already in progress and to protect material and equipment on the job site or in transit thereto. Upon such termination, Subcontractor shall be entitled to payment in accordance with the Payment Conditions contained in this Agreement only as follows: (1) the actual cost of the work completed in conformity with this Agreement; plus, (2) such other costs actually incurred by Subcontractor as are permitted by the prime contract and approved by Owner; plus (3) fifteen percent (15%) of the cost of the work referred to in item (1) above for overhead and profit. There shall be deducted from such sums as provided in this subparagraph the amount of any payments made to Subcontractor prior to the date of the termination of this Agreement. In no event shall payment due hereunder exceed the amount due for approved units of work or percentage of completion. Subcontractor shall not be entitled to any claim or claim of lien against Contractor or Owner for any additional compensation or damages in the event of such termination and payment.

7.03 Grounds for Withholding Payment

Contractor may withhold or, on account of subsequently discovered evidence, nullify the whole or part of any payment to the extent necessary to protect Contractor from loss, including costs and actual attorneys' fees, on account of (1) defective work not remedied; (2) claims filed or reasonable evidence indicating probable filing of claim; (3) failure of Subcontractor to make payments properly to its subcontractors or for material, labor or fringe benefits; (4) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (5) damage to another subcontractor; (6) penalties assessed against Contractor or Subcontractor for failure of Subcontractor to comply with state, federal or local laws and regulations; (7) the filing of presentation of any "Disputed Claim" by Subcontractor; or (7) any other ground for withholding payment allowed by state or federal law, or as otherwise provided in this Agreement. When the above matters are rectified, such amounts as then due and owing shall be paid or credited to Subcontractor.

7.04 Bankruptcy

Upon the appointment of a receiver for Subcontractor or upon Subcontractor making an assignment for the benefit of creditors, or if Subcontractor seeks protection under the Bankruptcy Code or commits any other act of insolvency, Contractor may, absent any applicable legal limitation, terminate this Agreement upon giving forty-eight (48) hours written notice, by certified mail, to Subcontractor and its surety, if any. If an order for relief is entered under the Bankruptcy Code with respect to Subcontractor, Contractor may terminate this Agreement by giving forty-eight (48) hours written notice, by certified mail, to Subcontractor, its trustee, and its surety, if any, unless Subcontractor, the surety, or the trustee: (a) promptly cures all defaults; (b) provides adequate assurance of future performance; (c) compensates Contractor for actual pecuniary loss resulting from such defaults; and (d) assumes the obligations of Subcontractor within the statutory time limits. If Subcontractor is not performing in accordance with the schedule of work at the time of entering an order for relief, or at any subsequent time, Contractor, while awaiting the decision of Subcontractor or its trustee to reject or to accept this Agreement and provide adequate assurance of its ability to perform hereunder, may avail itself of such remedies under this Section as are reasonably necessary to maintain the schedule of work. Contractor may offset against any sums due or to become due Subcontractor all costs incurred in pursuing any of the remedies provided hereunder, including, but not limited to, the Contractor's Fee of twenty five percent (25%) and actual attorneys' fees incurred as a result of Subcontractors non-performance. Subcontractor shall

be liable for the payment of any amount by which such expense may exceed the unpaid balance of the Contract Price.

SECTION 8. In the event the Subcontractor's performance of this Subcontract is delayed or interfered with by acts of the Owner, Contractor or other subcontractors, it may request an extension of time for the performance of same, as hereinafter provided, but shall not be entitled to any increase in the Subcontract price or to damages or additional compensation as a consequence of such delays. If a progress schedule is furnished by Contractor to Subcontractor, it shall be solely for Contractor's benefit; however, Subcontractor must be ready to perform at the times indicated in the progress schedule. The Contractor makes no representation that it will be ready for the Subcontractor at the times indicated in said schedule regardless of whether delays may be occasioned by circumstances within the control of the Contractor. As required by the Contractor, the Subcontractor shall submit to the Contractor progress schedules for the work subcontracted, or at the Contractor's election, cooperate in the preparation of a progress schedule.

No allowance of an extension of time, for any cause whatever, shall be claimed by the Subcontractor or be made to it, unless the Subcontractor shall have made written request upon the Contractor for such extension within forty-eight hours after the cause for such extension occurred and unless the Contractor and Subcontractor have agreed in writing upon the allowance of additional time to be made. If such extension of time is requested as aforesaid and Contractor and Subcontractor cannot agree thereupon, the Owner's Representative shall determine by certificate in writing what, if any, extension of time shall be allowed.

No allowance of an extension of time shall in any event be made to the Subcontractor for delay by the Subcontractor in preparing drawings or in securing approval of the Owner's Representative thereto when such drawings are not properly prepared or when the Subcontractor by the exercise of reasonable diligence and judgment could have anticipated and avoided the delay. If Owner, with or without cause, shall terminate the General Contract or shall stop or suspend work under the General Contract, or if Owner shall fail to pay when due any sum payable under the General Contract, Contractor may order Subcontractor to stop or suspend work hereunder, and Contractor shall be liable to Subcontractor for any such stoppage or suspension only if and to the extent that Owner shall be liable to Contractor therefor. Contractor will pay to Subcontractor the value of work that Subcontractor has completed before the work was stopped or suspended but only if and to the extent that Owner shall have paid Contractor for such work of Subcontractor.

In the event of any dispute or claim between the Contractor and the Owner which directly or indirectly involves the work required to be performed by Subcontractor under this Subcontract or in the event of any dispute or claim between Contractor and Subcontractor which directly or indirectly involves a claim against the Owner for either additional compensation or an extension of time under the Contract Documents, Subcontractor agrees to be bound to Contractor and Contractor agrees to bound to Subcontractor to the same extent that Contractor is bound to the Owner by the terms of the Contract Documents and by all decisions, findings or determinations made thereunder by the person so authorized in the Contract Documents, by an administrative agency or court of competent jurisdiction or arbitration proceeding boards whether or not Subcontractor is a party to the proceedings before said persons, board, agency or court. If any dispute or claim is prosecuted or defended by Contractor, and Subcontractor is not directly a party or litigant, Subcontractor agrees to cooperate fully with Contractor and to furnish all documents, statements, witnesses and other information required by Contractor for such purpose and shall pay or reimburse Contractor for all expenses and costs, including reasonable attorney's fees, incurred in connection therewith to the extent of the Subcontractor's interest in such claim or dispute. It is expressly understood and agreed in connection with the determination of such claims or disputes that, as to any and all work done and agreed to be done by the Subcontractor, and as to any and all materials or services furnished or agreed to be furnished by the Subcontractor, and as to any and all damages, if any, incurred by Subcontractor in connection with this project, Contractor shall never be liable to Subcontractor to any greater extent that Owner is liable to Contractor.

It is further specifically agreed by the parties hereto that no claim, dispute or controversy shall interfere with the progress and performance of work required to be performed under this Subcontract and that Subcontractor shall proceed as directed by Contractor in all instances with its work under the Subcontract and that any failure of Subcontractor to comply herewith and to proceed with its work shall automatically be deemed a breach of this Subcontract entitling Contractor to all remedies available in the event of breach.

SECTION 9. Subcontractor shall be responsible for its own work, property and/or materials until completion, final acceptance of the Contract and release of responsibility by the Owner, and shall bear the risk of any loss or damage until such acceptance. In the event of loss or damage, Subcontractor shall proceed promptly to make repairs or replacement of the damaged work, property and/or materials at its own expense, as directed by the Contractor.

Subcontractor waives all rights Subcontractor might have against Contractor for loss or damage to Subcontractor's work, property or materials.

SECTION 10. Agreement to Arbitrate Limited

(a). Intent. It is the intent that the dispute resolution procedures contained in the Prime Contract be consistently applied to all subcontractors in a consolidated proceeding in order to achieve a consistent resolution in the most efficient manner, including any award of attorney's fees and costs.

(b). Disputes under Prime Contract with Arbitration. Any dispute resolution procedure including but not limited to any agreement Arbitrate disputes between Owner, (or the Customer of the Contractor) and GCC in the prime contract shall be deemed incorporated in this Agreement, and shall apply to any disputes arising hereunder.

(c). Disputes with Other Subcontractor/Supplier with Arbitration Agreement. Any dispute resolution procedure including but not limited to any agreement to Arbitrate disputes between another subcontractor/supplier and GCC, relating to work performed by Subcontractor, but does not involve the Owner, shall be deemed incorporated in this Agreement, and shall apply to any disputes arising hereunder.

(d). If there is no agreement to arbitrate disputes between GCC and the Owner, (or the Contractor's Customer), or there is no agreement to Arbitrate disputes between another subcontractor/supplier and GCC, relating to work performed by Subcontractor, but does not involve the Owner, then the dispute will be resolved through the California Court system.

(e). Consolidated Arbitration Proceedings. To the extent not prohibited by their contracts with others, the claims and disputes of Owner, Contractor, and Subcontractor and other subcontractors, suppliers and/or material men involving a common question of fact or law shall be heard by the same arbitrator(s) in a single proceeding. In this event, it shall be the responsibility of Subcontractor to prepare and present Contractor's case, to the extent the proceedings are related to this Agreement. Should Contractor enter into arbitration with the Owner or others regarding matters relating to this Agreement, Subcontractor shall be bound by the result of the arbitration to the same degree as the Contractor.

(f). No Limitation of Rights or Remedies. This Section shall not be deemed a limitation of any rights or remedies which Subcontractor may have under any federal or state mechanics' lien laws or under any applicable labor and material payment bonds unless such rights or remedies are expressly waived by it.

(g). Limitation of Liability of Contractor in Pursuing Claim on Behalf of Subcontractor. Subject to compliance with all applicable laws, including but not limited to those relating to false claims, dispute and claim certifications, and cost and pricing data requirements, Contractors sole obligation is to present any timely-filed claims by Subcontractor to Owner and, subject to the other provisions of this Agreement, to pay to Subcontractor the proportionate part of any sums paid by the Owner to which Subcontractor is entitled.

SECTION 11. Unless waived in writing, Subcontractor shall furnish a Performance Bond in an amount equal to the full subcontract price and a Payment Bond in an amount equal to the full subcontract price. Such bonds shall be on forms furnished by Contractor and with a Surety satisfactory to Contractor. GCC will pay bond premium of up to 2% of contract value; no markup will be allowed. Regardless of whether bonds are waived at the beginning of the project, GCC reserves the right to require performance and payment bonds at any point during the course of the project.

SECTION 12. Obligation to Defend and Indemnify Claims

12.01 Claims Defined. For the purposes of the Subcontractor's obligation to Defend and Indemnify Claims, "Claims" shall be defined as all "Claims" arising out of or in connection with Subcontractor's operations to be performed under this Agreement including, but not 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 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 act or omission of Subcontractor or anyone directly or indirectly employed by Subcontractor or anyone for whose acts Subcontractor may be liable regardless of whether such personal injury or damage is caused by a party indemnified hereunder.

(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 patent 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). Subcontractor's failure to fulfill the covenants set forth in the "Labor Relations" section of this Agreement.

(f). Failure of Subcontractor to comply with the provisions set forth in the "Insurance" Section of this Agreement.

(g). 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 Contractors or others' equipment, hoists, elevators, or scaffolds.

(h). Any claim that the Subcontractor's work was defective, failed to comply with the terms and conditions of this Agreement (including but not limited to the Building Code, and Project Plans & Specifications), or delayed the completion of the Project.

(i). Any other claim arising out of, or in connection with Subcontractor's operations to be performed under this Agreement.

12.02 Subcontractor's Obligation to Defend and Indemnify Owner and Contractor from Claims

In no event shall this obligation to defend GCC and the Owner be construed to be greater than permitted under the State of California statues. Subcontractor shall defend and indemnify Owner and GCC, including their officers, agents, employees, affiliates, parents and subsidiaries, and each of them, ("Indemnitees") of and from any and all "Claims" as defined in this Section, demands, causes of action, damages, penalties, costs, expenses, actual attorneys' fees, losses or liabilities, in law or in equity, of every kind and nature whatsoever arising out of or in connection with Subcontractor's operations to be performed under this Agreement. The Obligation to Defend Claims shall extend to Claims occurring after this agreement is terminated as well as while it is in force. This indemnity provision is not intended to and shall not in any way limit the extent of any insurance coverage available to Contractor under any insurance policy purchased and maintained by Subcontractor.

12.03 Limitations

(a). Except where the Owner or Contractor is a "Residential Builder" as defined by California Civil Code §§ 911 & 2782, the Subcontractor's Obligation to Defend and Indemnify Claims applies regardless of any active and/or passive negligent act or omission of all Owner or Contractor or the Indemnitees, (note that the Owner may qualify as a Residential Builder but the Contractor is not, therefore the broader duty to defend applies to the Contractor in that instance).

(b). If the Owner or Contractor is a "Residential Builder" as defined by California Civil Code §§ 911 & 2782, (such party is herein referred to as "Residential Builder" whether the designation applies to the Owner only, the Contractor only, or both), then all provisions of this Section will apply with the sole exception that the Subcontractor is not obligated upon until "Final Resolution" of the "Residential Claims" to indemnify the Residential Builder and Indemnitees, (hereinafter referred collectively as the "Residential Builder") to the extent the Residential Claims are determined to be the result of negligence of the Residential Builder or the Residential Builder's other agents, other servants, or other independent contractors who are directly responsible to the Residential Builder, or for defects in design furnished by those persons, or to the extent the claims do not arise out of, pertain to, or relate to the scope of work in this Agreement. "Final Resolution" of the "Residential Claims" occurs at the conclusion of the claim whether by settlement, litigation, or arbitration, and in such cases involving a Residential Builder only, the Final Resolution shall be determined instead by the principles of comparative equitable indemnity. Pending Final Resolution, Subcontractor is obligated to provide a defense of the Residential Claims as provided in this Section despite allegations of Residential Builder's negligence without prejudice to adjustment at the time of Final Resolution of the Residential Claims. If any provision or term of this Section that is determined by California Law to be unenforceable, or void then only that term shall not be enforced. All remaining terms of this Section shall be enforced with the intent that the Subcontractor agrees to provide the maximum duty to defend and indemnify the Residential Builders, Indemnitees, Owner and Contractor permitted by law.

(c). Subcontractor shall not be Obligated to Defend Claims under this agreement for Claims arising from the sole negligence or willful misconduct of Residential Builder, Owner or Contractor or their agents, employees or independent contractors who are directly responsible to Residential Builder or Owner or Contractor.

(d). This indemnity provision is not intended to and shall not in any way limit the extent of any insurance coverage available to Residential Builder, Indemnitees, or Contractor under any insurance policy purchased and maintained by Subcontractor.

(e) Pending the "Final Resolution" of the "Residential Claims", Subcontractor shall immediately at its own cost, expense and risk, defend the Residential Builder, Indemnitees and Contractor from all Claims as defined in this Section, including, but not limited to, governmental agencies or employees of Subcontractor, successor owners, tenants, guests, invitees of the Owner and its successors against Contractor or Owner or their agents or employees or any of them.

12.04 OCIP & Cooperation Regarding Claims. If the project is insured by an Owner Controlled Insurance Program, (OCIP), then Subcontractor agrees at Subcontractor's sole cost to participate in and cooperate with all requirements of the OCIP. At the written request of GCC or Owner, including the procedure specified in Title 7, of Part 2, of Division 2 of the California Civil Code, or in GCC's, Prime Contractor's or Owner's alternative procedures, Subcontractor also agrees to have a representative of any applicable insurance carrier of Subcontractor participate in any proceeding. If GCC becomes a party to an action or arbitration arising in whole or in part from the Subcontractor's Work, GCC may join Subcontractor in any such action.

12.05 Procedure

(a). If any Claim arising out of or in connection with the Subcontractor's operations as defined in this Section is presented against GCC or the Owner or any of the Indemnitees defined in this Section, (the "Indemnitees"), the Indemnitees shall promptly notify Subcontractor in writing, and the Subcontractor shall defend the Indemnitees from said Claims and reimburse Indemnitees within 10 days of delivery to Subcontractor, for all costs and expenses incurred in defending the Claims, including but not limited to paying for the Indemnitees' attorney's fees and costs, expert and consultants fees and costs, litigation fees and costs, additional Architect-Engineer-Designers' fees and costs incurred in defending said Claims. Subcontractor shall promptly pay and satisfy any judgment or decree that may be rendered against the Indemnitees, or any of them, arising out of any such Claim; and/or reimburse Indemnitees for any and all legal expense incurred by any of them in connection herewith or in enforcing the Subcontractor's Obligation to Defend and Indemnify as specified in this Section. Time is of the essence.

(b). Such defense obligation shall arise immediately upon written notice of Claim being provided to Subcontractor, and includes, without limitation, the obligation to defend Indemnitee with respect to any alternative dispute resolution proceeding authorized under this Contract as well as matters related to investigation and resolution of Claims, including, without limitation, Claims brought pursuant to statute by homebuyers, successive homebuyers or homeowners associations. It is the parties' intention that any of the Indemnitees shall be entitled to obtain summary adjudication of Subcontractor's duty to defend and/or duty to indemnify the Indemnitees at any time. Payment by any Indemnitee is not a condition precedent to enforcing such Indemnitees' rights to indemnification and/or defense under this Contract.

(c). Subcontractor's defense obligation shall apply regardless of the fault or negligence of Subcontractor or Subcontractor's Agents, whether or not the Claim has any merit, and regardless of the fault, concurrent negligence (whether active or passive), any act or omission to act, or misconduct by any Indemnitee. Subcontractor's duty to defend the Indemnitees, includes without limitation, the defense of the Indemnitees against Claims for which any of the Indemnitees may be strictly liable and applies whether or not the issue of Subcontractor's liability, breach of this Contract or other obligation or fault has been finally determined and whether or not any of the Indemnities have paid any sums or incurred any detriment, arising out of or resulting directly or indirectly from Subcontractor's performance of the Work.

(d). To the extent one or more Construction Defect Claims are asserted against one or more Indemnitees giving rise to a duty to defend, Subcontractor will satisfy its defense obligation in accordance with California Civil Code § 2782(c) – (e). Within ninety (90) days after written notice of the Construction Defect Claim is provided to Subcontractor, Subcontractor must provide written notice to the Indemnitees that it will satisfy its defense obligation under this paragraph. Subcontractor must choose to satisfy its defense obligation with regard to a Construction Defect Claim by electing either of the following choices:

i) Subcontractor agrees to defend and control the defense of any Construction Defect Claim or portion thereof to which the defense obligation applies above subject to the rules and laws concerning conflicts of interest. Subcontractor shall engage and retain counsel acceptable to the Indemnitees to defend such claim. Said defense by Subcontractor shall be a full and complete defense of the Indemnitees to the extent alleged to be caused by Subcontractor, including any vicarious liability claims against the Indemnitees resulting from the Work. Subcontractor's defense obligation shall include the engagement of professionals, experts and/or consultants reasonably necessary to the provision of said full and complete defense of the Indemnitees. Accordingly, Subcontractor shall be solely responsible for all defense costs and expenses related to Subcontractor's defense of the Indemnitees including, without limitation, all attorneys' fees, court costs and all other professional, expert and/or consultants' fees and costs. In the event of a material, current, actual, or unwaivable conflict of interest, the Indemnitees do not waive, release or relinquish their right to the appointment of separate counsel; or

ii) The Indemnitees shall be entitled to select the attorney and experts engaged to defend the Indemnitees against the Construction Defect Claim and to control and make all decisions, in their sole and absolute discretion, related to said claim. Subcontractor agrees to pay, on an ongoing basis during the pendancy of the claim, a reasonable allocated share of the fees and costs incurred by the Indemnitees in defending said claim. The Indemnitees shall, in their sole discretion, determine Subcontractor's allocated share. The Indemnitees shall determine said allocation after careful consideration of the nature of the allegations, potential liability exposure, the Work, and the number of parties with allegations related to their scope of work. The Indemnitees and Subcontractor agree that share allocation at the commencement of the Construction Defect Claim may be difficult to calculate and that the methodology identified herein may be altered as necessary to achieve an allocation determination that is reasonable. Subcontractor shall pay the Indemnitees its allocated share within thirty (30) days of receipt of an invoice from the Indemnitees. Indemnitees agree to reimburse Subcontractor that portion of Subcontractor's allocated share that is not attributable to or arise out of the Work by or for Subcontractor. Such reimbursement obligation shall arise upon entry of judgment, issuance of a binding arbitration award or execution of a final settlement agreement that allocates the Indemnitees' and Subcontractor's proportionate liability ("Final Determination"). In the event of a dispute between the Indemnitees and Subcontractor arising out of Subcontractor's allocated share, such dispute shall be resolved through binding arbitration, however, such dispute may only be raised after such share has been subject to reallocation upon Final Determination. The parties may elect to retain a mutually selected arbitrator or panel of arbitrators, or conduct the arbitration in accordance with the Construction Industry Dispute Resolution Procedures of the American Arbitration Association in effect at such time. Notice of the demand for arbitration shall be filed in writing with the other party and/or with the American Arbitration Association. Unless otherwise agreed by the parties, the arbitration shall take place within thirty (30) days of the appointment of the arbitrator(s). The award rendered by the arbitrator or arbitrators shall be final, binding, and non-appealable, and judgment may be entered thereon in accordance with the applicable law of any court having jurisdiction thereof. Notwithstanding the foregoing, if the Indemnitees are bound to any alternative dispute resolution procedure with any homebuyers (or homeowners association), Subcontractor agrees to be bound by, and to participate in such other procedures, to the extent the Subcontractor's Work is an issue in such other proceeding.

(e). Evidence of insurance procured by Subcontractor will be deemed admissible in any legal proceeding and/or arbitration for any purpose, including evidence that the parties expressly bargained for a commercially reasonable risk allocation. The indemnification obligations of Subcontractor under the Contract shall not be limited by the amounts or types of insurance (or the deductibles or self insured retention amounts of such insurance) which Subcontractor is required to carry under this Contract. The right to indemnification from Subcontractor shall be in addition to Indemnitee's separate rights under the insurance to be provided by Subcontractor under this Agreement.

12.06 Damages for Breach. Subcontractor agrees that the Indemnitees will suffer severe damages if Subcontractor breaches this Obligation to Defend and Indemnify Claims as specified in this Section. Such damages would be extremely difficult and impractical to precisely compute. Subcontractor therefore agrees that, as liquidated damages, and not as a penalty, Subcontractor will pay Indemnitees in addition to all "Out of Pocket Damages", (defined as damages, judgments, fees, costs, & losses resulting from the Subcontractor's failure to defend and indemnify Claims), Subcontractor will pay to Indemnitees an additional sum equal to hundred twenty-five percent (125%) of all "Out of Pocket Damages" suffered by the Indemnitees as liquidated damages caused by the breach of Obligation to Defend and Indemnify Claims as provided in this Section.

SECTION 13. Whenever it may be useful or necessary to the Contractor to do so, the 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 occupancy shall not relieve the Subcontractor of its guarantee of said work and materials nor of its obligation to make good, at its own expense, any defect in materials and workmanship which may occur or develop prior to Contractor's release from responsibility by the Owner. Provided, however, the Subcontractor shall not be responsible for the maintenance of such portion of the work as may be used and/or occupied by the Contractor, nor for any damage thereto that is due to or caused by the sole negligence of the Contractor during such period of use. Subcontractor agrees further that if it shall cause any stains, blemishes, imperfections, marks or damage of any work whatsoever, whether to its work or to the work of Contractor or to the work of another subcontractor, it will immediately remedy the damage so caused and to the satisfaction of Contractor. Subcontractor further agrees when so required by Contractor to do any and all cutting and patching necessary in connection with Subcontractor's portion of the work and agrees further that such cutting and patching shall match other work performed under the Contractor's Contract with Owner.

SECTION 14. It is understood and agreed that the work provided for in this Subcontract constitutes only a part of the work being performed for the Owner by the Contractor and other subcontractors. The Subcontractor, therefore, agrees to perform the work called for in this Subcontract in such a manner that it will not injure or damage any other work performed by the Contractor or any other Subcontractor, and further agrees to pay the Contractor for any damage that may be caused to such other work by the Subcontractor or by its agents or employees.

SECTION 15. The Subcontractor specifically agrees that it is, or prior to the start of work hereunder will become, an Independent Contractor and an employing unit subject, as an employer, to all applicable Unemployment Compensation Statutes and Federal and State statutes relating to payroll retention and contributions so as to relieve the Contractor of any responsibility or liability for treating Subcontractor's employees as employees of the Contractor for the purpose of keeping records, making reports and payment of Unemployment Compensation taxes or contributions or payroll contributions and retentions; and the Subcontractor agrees to indemnify and hold the Contractor harmless and reimburse it for any expense or liability incurred under said statutes in connection with employees of the Subcontractor, including a sum equal to benefits paid to those who were Subcontractor's employees, where such benefit payments are charged to the Contractor under any Merit Plan or to its individual Reserve Account pursuant to any State Unemployment Compensation statute or other statute, regulation or requirement.

The Subcontractor further agrees as regards (a) the production, purchase and sale, furnishing and delivering, pricing and use or consumption of materials, supplies and equipment, (b) the hire, tenure or conditions of employment of employees and their hours of work and rates of and the payment of their wages, and (c) the keeping of records, making of reports, and the payment, collection, and/or deduction of Federal, State and Municipal taxes and contributions, that the Subcontractor will keep and have available all necessary records and make all payments, reports, collections and deductions, and otherwise do any and all things so as to fully comply with all Federal, State and Municipal laws, ordinances and regulations in regard to any and all said matters insofar as they affect or involve the Subcontractor's performance of this Contract, all so as to fully relieve Contractor from and protect it against any and all responsibility or liability therefor or in regard thereto.

SECTION 16. The words, "Owner's Representative" as used herein refer to the person appointed by the Owner to supervise the work in behalf of the Owner.

SECTION 17. Any assignment, subletting or delegation, by operation of law or otherwise, in whole or in part, by Subcontractor of this Subcontract, of the work to be performed or of any claims arising hereunder without the prior written consent of Contractor shall be void. Contractor shall not recognize or be bound by any assignment of any right to payment earned or to be earned by performance hereunder by Subcontractor unless and until Contractor shall receive written notice that reasonably proves the assignment and identifies the rights assigned. Any assignment hereunder shall be subject to, and Contractor reserves, all rights and remedies possessed by or available to Contractor by law or under this Subcontract as against Subcontractor, its sureties and assigns, including, without limitation, rights of set-off, to retain monies, to amend or modify this Subcontract, and to assert all other defenses and claims whether or not arising under this Subcontract. The making of any assignment by Subcontractor or any consent thereto by Contractor shall in no event relieve Subcontractor, or its sureties hereunder, of any of their obligations, duties, responsibilities or liabilities.

SECTION 18. (a) Subcontractor shall comply fully with all laws, orders, citations, rules, regulations, standards and statues with respect to occupational health and safety, accident prevention, safety equipment and practices, including the accident prevention and safety program of Owner and Contractor. Subcontractor shall conduct inspections to determine that safe working conditions and equipment exist and accepts sole responsibility for

providing a safe place to work for its employees and for employees of its subcontractors and suppliers of material and equipment, for adequacy of and required use of all safety equipment and for full compliance with the aforesaid laws, orders, citations, rules, regulations, standards and statutes. (b) Subcontractor shall indemnify, defend and save harmless Owner and Contractor, their officers, agents and employees from claims, penalties, damages, liability, loss, costs, and expenses, including attorney's fees, arising from injury or death resulting therefrom, caused or alleged to have been caused by any violation or infraction by Contractor or Subcontractor of any law, order, citation, rule, regulation, standard or statute in any way relating to the occupation health or safety of employees, including but not limited to the use of Contractor's or other's equipment, hoist, elevators, or scaffolds, unless caused by the sole negligence or willful misconduct of Owner or Contractor.

SECTION 19. The Subcontractor agrees to be bound and comply with the applicable Federal Labor Standards Provisions. Subcontractor acknowledges that it has read said Provisions and is familiar with the terms thereof.

SECTION 20. The Subcontractor agrees to be bound by and comply with all applicable Fair Employment Practices Provisions and Regulations of Federal, State or other Governmental authority having jurisdiction, including the Equal Opportunities Clause as set forth in Section 303 of Executive Order 10925 of March 6, 1961, as amended by Executive Orders 11114 of June 22, 1963 and 11246 of September 24, 1965 as amended, the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 2012 and Section 503 of the Rehabilitation Act of 1973, as amended and their implementing regulations, and which by this clause are incorporated herein, (copies of which said Orders are hereto appended and by this reference made a part hereof) also including revisions or amendments thereto subsequent to the publication of said Executive Orders. Subcontractor acknowledges that it has read said Provisions and Regulations and is familiar with the terms thereof.

SECTION 21. When drawings, plans, specifications, samples or detail work shall be required by this Subcontract, or shall otherwise be required by Contractor, to be submitted by Subcontractor, whether on account of work required to be done hereunder or on account of changes in work, Subcontractor agrees promptly to supply the same to Contractor's main office. In the event any or all of said drawings, plans, specifications, samples or detail work shall be submitted by Contractor to Owner's Architect or Engineer for approval it is specifically understood that such approval shall relate solely to general conformity with the job plans and that such approval shall not be construed as any approval in detail of conformity of such drawings, plans, specifications, samples or detail work with the design drawings or the specifications of the job. In the event that any such drawings, plans, specifications, samples or detail work as submitted by Subcontractor, whether or not they shall be approved by Owner's Architect or Engineer, shall deviate from or be inconsistent with in any particular the design drawings or the specifications of the job, and in the further event that any such deviations or inconsistencies shall impose upon Contractor any expense because of delays or extra work or otherwise, Subcontractor agrees to hold Contractor harmless from and to indemnify Contractor for any such expense. It is further agreed that should any such expense be imposed upon Contractor, Contractor may, at its option, withhold from Subcontractor any payments due or to become due Subcontractor an amount sufficient fully to reimburse Contractor for any such expense. The provisions of this paragraph are in addition to and not in lieu of the remedies provided Contractor by Section 3 of this Subcontract.

SECTION 22. Contractor will set such stakes as Contractor determines to be necessary to establish the lines and grades for the completion of the work specified in Section 2. Subcontractor shall give Contractor not less than two working days' written notice in advance of the commencement of the operations of Subcontractor that require such stakes. Such stakes shall be carefully preserved by Subcontractor. If such stakes are destroyed or damaged they will be replaced at Contractor's earliest convenience. Subcontractor will be charged with the cost of such replacement if, in Contractor's judgment, the stakes were carelessly or willfully destroyed or damaged by Subcontractor's operations or were destroyed, damaged or removed by third parties during a delay in the commencement of Subcontractor's operations.

SECTION 23 Attorney’s Fees.

(a). Attorney’s Fees and Costs. Subject to the limitations set forth in this section, if the event the parties become involved in litigation or arbitration with each other arising out of this Agreement or other performance thereof in which the services of an attorney or other expert are reasonably required, the prevailing party shall be fully compensated for the cost of its participation in such proceedings, including the cost incurred for attorneys' fees and experts' fees. Unless judgment goes by default, the attorneys' fee award shall not be computed in accordance with any court schedule, but shall be such as to fully reimburse all attorneys' fees actually incurred in good faith, regardless of the size of a judgment, it being the intention of the parties to fully compensate for all attorneys' fees and experts' fees paid or incurred in good faith.

(b). Limitation regarding Payment Disputes. Subcontractor's right to recover Attorney's Fees and Costs arising out of payment dispute between Subcontractor and GCC are subject to the provisions contained in the "Payment Schedule" section of this Agreement: 1) "During said Reasonable Time, (to collect funds from Owner or other responsible party) Contractor is not obligated to pay any of the Subcontractor's late charges, interest charges, attorney's fees and costs, or collection fees and expenses". 2) "Subcontractor shall be bound by any determination, adjudication or award in any action or proceeding, including Subcontractor's entitlement to recover all or a portion of the Subcontractor's attorney's fees and cost, resolving such a claim." 3) In the case of a dispute under the prime contract dispute resolution provisions, Subcontractor shall be limited to such attorneys' fees and other costs as may be provided for under the prime contract, (if GCC is not entitled to recover from Owner its attorney's fees and costs, then neither does Subcontractor against GCC).

(c). Intent. It is the intent that the dispute resolution procedures contained in the Prime Contract be consistently applied to all subcontractors in a consolidated proceeding in order to achieve a consistent resolution in the most efficient manner, including any award of attorney's fees and costs.

SECTION 24. Written notice, where required by the terms of the Subcontract, may be accomplished by personal delivery of said notice or by use of the United States mail or any standard form of telegraphic communication. The written notice shall become effective upon the date stated therein, or, if no such date is stated, upon the expiration of the third day following the date upon which delivery is completed.

Personal delivery is complete when the notice is delivered to the Subcontractor or its representative at the project or at the office address of the Subcontractor appearing in this Subcontract. The Subcontractor shall at all times during its work on this project have a representative authorized to receive written notices present on the project site during all normal working hours. In the absence of such a representative, personal delivery is complete when the notice is delivered to any of Subcontractor's supervisors or workmen, or in their absence, left in a conspicuous place on the project site in the area of Subcontractor's work.

SECTION 25. Subcontractor, to the extent permissible under Federal and any applicable State laws, shall comply with, observe, and be bound by all the terms and provisions of any labor agreements executed by Contractor or on Contractor's behalf, specifically including the terms and provisions of any such agreements providing (a) for the assignment of work or the settlement of jurisdictional disputes (through the Rules, Regulations and Procedures of the National Joint Board for Settlement of Jurisdictional Disputes in the Building and Construction Industry or any other agreed method for the determination of work assignments or the settlement of jurisdictional disputes), (b) for the adjustment of any other disputes or grievances, (c) for hiring and union-security an (d) for the making of payments into or under health and welfare or other fringe benefit funds or plans, to the extent that the terms and provisions of such agreements can legally be applied to the work to be done hereunder. Subcontractor agrees that if any portion of such work is further subcontracted, such sub-subcontractor shall be bound by and observe the terms and provisions of such agreements to the same extent as is herein required of Subcontractor, and that an express provision imposing such obligation upon the sub-subcontractor shall be included in any such sub-subcontract. Subcontractor will indemnify, defend and save Contractor harmless from and against any liability, claim, loss, damage or cause of action resulting in any way, directly or indirectly, from his failure to comply with the requirements of this paragraph.

The wages and working conditions of Subcontractor shall be of the same standard as those of Contractor and shall be subject to Contractor's approval.

To the best knowledge and belief of the parties, this Subcontract now contains no provision that is contrary to Federal or to State law or any ruling or regulation of a Federal or State agency. Should, however, any provision of this Subcontract at any time during its term be in conflict with any such law, ruling or regulation, then such provision shall continue in effect only to the extent permitted. In the event any provision of this Subcontract is thus held inoperative, the remaining provisions of this Subcontract shall nevertheless remain in full force and effect to the extent permitted by law.

SECTION 26. Subcontractor shall perform its work as herein required so that the premises shall at all times be neat, orderly and free from debris. Upon termination or completion of its work, Subcontractor agrees to remove all unused materials and all equipment, utilities and facilities furnished by Subcontractor, to clean up all refuse and debris, and to leave the premises clean, orderly and in good condition.

SECTION 27. Waiver by Contractor of any breach hereof by Subcontractor shall not constitute a waiver of any subsequent breach of the same or any other provision hereof. If any provision of this Subcontract, or any part thereof, shall at any time be held to be invalid, in whole or in part, under any applicable Federal, State, Municipal or other law,

ruling or regulation, then such provision shall remain in effect to the extent permitted, and the remaining provisions hereof shall remain in full force and effect.

SECTION 28. Words used in this Subcontract in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural, and the plural the singular.

SECTION 29. CONTRACTORS ARE REQUIRED BY LAW TO BE LICENSED AND REGULATED BY THE CONTRACTORS' STATE LICENSE BOARD WHICH HAS JURISDICTION TO INVESTIGATE COMPLAINTS AGAINST CONTRACTORS IF A COMPLAINT REGARDING A PATENT ACT OR OMISSION IS FILED WITHIN FOUR YEARS OF THE DATE OF THE ALLEGED VIOLATION. A COMPLAINT REGARDING A LATENT ACT OR OMISSION PERTAINING TO STRUCTURAL DEFECTS MUST BE FILED WITHIN 10 YEARS OF THE DATE OF THE ALLEGED VIOLATION. ANY QUESTIONS CONCERNING A CONTRACTOR MAY BE REFERRED TO THE REGISTRAR, CONTRACTORS' STATE LICENSE BOARD, P.O. BOX 26000, SACRAMENTO, CA 95826.

IN WITNESS WHEREOF, the parties hereto have executed this Subcontract by their proper officers or duly authorized agents.

GHILOTTI CONSTRUCTION COMPANY, INC.

By:_____
Contractor - Signature

_____
Contractor – Name

_____
Title Typed/Printed

(Corporate Seal Affixed)

246 GHILOTTI AVENUE
SANTA ROSA, CA 95407
Phone: 707-585-1221
Contractor's License No: 644515

COMPANY NAME

By: _____
Contractor – Signature

_____
Contractor – Name

_____
Title Typed/Printed

(If Corporation, affix corp. seal)

ADDRESS
CITY, STATE ZIP
Phone: PHONE #
Contractor's License
No:_____
And
Expiration Date:_____

Federal Tax ID No._____
OR
Social Security No._____