



Addendum to Subcontract

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Contractor: _____

Project: _____ Date: _____

The undersigned Subcontractor accepts the terms of the proposed subcontract attached SUBJECT TO the Contractor's agreement to the modifications set forth in this Addendum, as well as those changes incorporated within the subcontract by interlineation or deletion. Anything to the contrary notwithstanding, this Addendum shall take precedence over any inconsistent provisions of the subcontract or other contract documents. Contractor's acceptance shall be evidenced by Contractor's signature or by first permitting Subcontractor to commence work on the project.

1. The Scope of Work shall include only the work set forth in the attached Subcontractor's proposal or description of work, which proposal or description is expressly incorporated and made a part of the Subcontract Documents between the Contractor and the Subcontractor.
2. Subcontractor shall have the benefit with respect to the Contractor of all the same rights, remedies and redress that the Contractor has with respect to the Owner. No terms and conditions or other document that Contractor includes by reference in the Subcontract shall be binding on the Subcontractor unless a copy of any such terms and conditions or document has been furnished to the Subcontractor prior to execution of the Subcontract unless expressly accepted in a writing signed by the Subcontractor.
3. Subcontractor shall be provided, upon written request, with the legal description of the property, the name, address and representative of the Owner, and evidence of adequate owner project financing. The Contractor shall promptly notify Subcontractor of material changes in the Owner's identity or financial arrangements. Subcontractor shall not be obligated to commence or continue Subcontract Work unless adequate assurance of payment is received.



4. Notwithstanding any higher standard stated elsewhere, Subcontractor's work shall be executed in substantial compliance with the Subcontract Documents in a good and workmanlike manner and free of defect not inherent in the type of work. Contractor may reject Subcontract Work only for demonstrated non-compliance with the Subcontract Documents and only if the Architect/Engineer concurs that the Subcontract Work is unacceptable.
5. Subcontractor's obligations to examine documents, project site, and materials and work furnished by others is limited to the obligation to bring to the attention of the Contractor any defects or deficiencies that a person in the trade of the Subcontractor would discover by reasonable sight inspection. No testing beyond reasonable sight inspection shall be required. Subcontractor is entitled to rely on the accuracy and completeness of the plans and specifications provided to the Subcontractor.
6. Any design services provided by the Subcontractor or its Designer will be reviewed by the Architect/Engineer responsible for the overall project to assure that the design will be acceptable when integrated with the entire work. Contractor, Owner and Architect are entitled to rely on the accuracy and completeness of the designers hired by Subcontractor only if all design criteria are furnished to the Subcontractor by the Contractor, Owner and Architect.
7. The project schedule and any modification shall allow Subcontractor a reasonable time to complete Subcontractor's Work in an efficient manner considering the contract completion date or times set forth in the Subcontract Documents. Subcontractor shall be entitled to an equitable adjustment in the price of the work, including but not limited to any increased costs of labor, including overtime, or materials, resulting from any change of schedule, acceleration, out of sequence work or delay caused by others for whom Subcontractor is not responsible. Subcontractor shall not be required to commence or continue work unless sufficient areas are ready to ensure continuous work.
8. Subcontractor's entitlement to adjustments in the subcontract time or price for changes in the work shall not be contingent upon or limited to the amount that the Contractor receives from the Owner. Under no circumstances does the Subcontractor waive its right to payment for extra work performed by the Subcontractor pursuant to instructions from the Contractor.
9. Contractor shall not withhold from Subcontractor as retainage a percentage that is higher than the percentage held by Owner on Subcontractor's Work. Final payment, including release of retainage, shall be due within 30 days after substantial completion of Subcontractor's work, less the reasonable value of uncompleted work.



10. No provision of this Subcontract shall serve to deny Subcontractor's entitlement to full payment each calendar month for properly performed work or suitably stored materials. Payments shall be due seven (7) days after payment is received or should have been received by Contractor from Owner. Interest shall become due and payable on any subcontractor billing that remains unpaid after the payment due date. The rate of interest shall be three percentage points above the prevailing prime interest rate at the largest national bank in the state where the project is located.
11. Payments received by the Contractor for Subcontract Work shall be held in trust and used solely for the benefit of Subcontractor and those for whom it is responsible.
12. Contractor shall supply all temporary site facilities and utilities without cost to the Subcontractor unless specifically agreed in writing signed by Subcontractor.
13. Contractor will not require any contract closeout procedures or any forms that have not been provided to and specifically accepted by the Subcontractor prior to signature of the Subcontract.
14. Any form or contract language wherein the Subcontractor purports to release the Contractor, Owner or Design Professional is hereby qualified by the following language whether or not the Subcontractor specifically adds the language: "This release shall apply only to work for which payment has been received in full by Subcontractor; shall not apply to retention; shall not apply to unbilled changes, to claims which have been asserted in writing or which have not yet become known to Subcontractor; and shall be conditional upon receipt of funds to Subcontractor's account."
15. Any indemnification or hold harmless obligation of the Subcontractor shall extend only to claims relating to bodily injury and property damage and then only to that part or proportion of any claim, damage, loss or defect that results from the negligence or intentional act of the indemnitor or someone for whom it is responsible. Subcontractor shall not have a duty to defend.
16. Notwithstanding any provision to the contrary, Subcontractor shall maintain the types and limitations on insurance as shown on the attached certificate of insurance. Subcontractor is not required to include Contractor, Owner or any others as additional insured or named insured, nor to waive any claims or rights of subrogation against the Contractor, Owner, or any others for losses and claims covered or paid by Subcontractor's workers compensation or general liability insurance.
17. If available, then before commencement of work the Subcontractor may be required to provide, at Contractor's expense, an Owners & Contractors Protective Liability Policy (CG 00 09) naming the Contractor, Owner and such others as Contractor may designate as



insureds, with limits of liability equal to the limits of the primary general liability policy required to be maintained by Subcontractor. All such named insureds waive all claims and rights of subrogation they may have Subcontractor for losses and claims covered by the said Owners & Contractors Protective Liability Policy, which shall provide for such waivers of subrogation by endorsement.

18. The Contractor shall, if the Owner does not, purchase and maintain all risk insurance upon the full value of the work performed and/or materials delivered to the jobsite which shall include the interest of the Subcontractor.
19. In the event of a suspension of work by the Owner or the Contractor, Contractor's liability to the Subcontractor is for payment in full for all Work performed to date of suspension and any additional costs incurred as a result of the suspension, including demobilization and remobilization, plus reasonable overhead and profit.
20. In the event of any termination by the Owner or by the Contractor which is not justified by a default of the Subcontractor, Subcontractor shall be entitled to payment from the Contractor for all costs incurred by the Subcontractor for which the Subcontractor has not received payment, including, but not limited to, reasonable overhead, profit, expenses and damages, including attorneys' fees and interest, including profit on unperformed work.
21. Notwithstanding any provision to the contrary, Subcontractor may take all steps reasonably necessary to preserve and enforce its lien and bond rights.
22. All claims, disputes, and matters arising out of or relating to this Agreement or breach thereof shall first be submitted to mediation through the American Arbitration Association and if not resolved by mediation shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association then in effect, unless the parties mutually agree otherwise at the time. The mediation and/or arbitration shall not be stayed pending resolution of any disputes between the Contractor and the Owner or other third parties.
23. Any dispute shall be governed by the law of the state where the project is located and the federal or state courts in the state where the project is located shall have exclusive jurisdiction and venue, and any arbitration shall be conducted within the state where the project is located.
24. Should either party employ an attorney to institute litigation or arbitration to enforce any provision of this Subcontract or to collect damages or debt under this Subcontract, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and expenses incurred.
25. Contractor shall make no demand for liquidated damages or actual damages for delays in excess of the amount assessed against the Contractor and paid by the Contractor for



unexcused delays actually caused by Subcontractor. Subcontractor shall not be subject to any consequential damages other than any contractually provided liquidated damages. The Contractor expressly waives all consequential damages.

26. The Subcontractor’s warranty for defective materials and workmanship shall be for a period of one year from the date of substantial completion of Subcontractor’s work unless otherwise specifically agreed to in writing signed by Subcontractor.

27. No backcharge or claim of the Contractor for services shall be valid except by an agreement in writing by the Subcontractor before the work is executed, except in the case of the Subcontractor’s failure to meet any requirement of the Subcontract. In such event, the Contractor shall notify the Subcontractor of such default, in writing, and allow the Subcontractor reasonable time to correct any deficiency before incurring any costs chargeable to the Subcontractor. No backcharge shall be valid unless billing is rendered no later than the 15th day of the month following the charge being incurred. Furthermore, any payments withheld under a claim of Subcontractor default shall be reasonably calculated to cover the anticipated liability and all remaining payment amounts not in dispute shall be promptly paid.

28. Subcontractor shall not be liable for erecting Project safety barriers unless expressly and specifically agreed to be part of the Subcontractor’s Work. Each party to the Agreement shall be liable for any safety violation fines or penalties imposed upon it, regardless of the cause of the fine or penalty.

29. Other (if applicable) insert below —

Subcontractor

Contractor

By _____

By _____

Title _____

Title _____

Date _____

Date _____