ELEVEN WESTERN BUILDERS, INC.
CA LIC. #439908

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

THIS SUBCONTRACT AGREEMENT (Agreement) is made as of , between ELEVEN WESTERN BUILDERS INC., a California Corporation (Contractor) whose license number is 439908 , and (Subcontractor) whose license number is_____, who agree as follows:

1. PRIME CONTRACT. Contractor has previously entered into a contract, referred to as the "Prime Contract", dated , with (Owner) for the construction of the (Project), which contract includes the work to be done under this Agreement. The parties to this contract hereby agree to incorporate the terms and conditions of the Prime Contract herein by this reference, with the same force and effect as if it was set forth in full. Subcontractor and its subcontractors are bound by all terms of the Prime Contract as they relate in any way, directly or in directly, to the work covered by this Agreement. Subcontractor agrees to be bound to Contractor in the same manner and to the same extent as Contractor is bound to Owner under the Prime Contract, except to the extent the terms of the Prime Contract conflict with the terms of the Agreement, in which case the Agreement will supersede the Prime Contract. Upon written request by Subcontractor, Contractor shall provide to Subcontractor, at Subcontractor's expense, one digital copy of all portions of the Prime Contract in the Contractor's possession. Subcontractor shall not be excused from performance of its work because it does not have such documents. Upon written request by its subcontractors and suppliers, Subcontractor similarly shall make one digital copy of applicable portions of the subcontract documents available to its subcontractors and suppliers . Nothing shall prohibit Subcontractor from obtaining a copy of the executed Prime Contract from Contractor at any time after the Agreement is executed. Nothing in the Agreement shall be construed to create a contractual relationship between persons or entities other than Contractor and Subcontractor.

2. SCOPE OF WORK. The labor and materials to be furnished and the work to be done by Subcontractor under this Agreement are as follows: as noted plans and specs. as per the contract documents, plans and specifications in accordance with the project schedule and fully in compliance with all codes, ordinances and governing authorities. (hereinafter the (work).

3. REVIEW OF CONTRACT DOCUMENTS. Subcontractor acknowledges that by entering into the Agreement, it has examined and studied the Agreement and the documents enumerated in the Agreement, including, without limitations, the Prime Contract, the plans and specifications, shop drawings, exhibits and any amendments to any of them (the "Contract Documents") and fully understands the Work to be performed by it under the Contract Documents, and is not relying on representations by Contractor. Where reference in the Contract Documents is made to Contractor, and the work or specifications therein pertains or is applicable to Subcontractor's Work, then such work or specification shall be interpreted to apply to Subcontractor instead of Contractor, and Subcontractor shall owe to Contractor, Contractor's obligations to Owner under the Contract Documents. In the event Subcontractor finds an error, conflict, violation of Law, as defined below, or other discrepancy in or between the Contract Documents, Subcontractor shall immediately call it to Contractor's attention in writing via a Request for Information. If Subcontractor negligently fails to report an error, conflict, violation of Law or other discrepancy in the Contract Documents promptly after discovery and incurs additional cost as a result, such additional cost, and the cost of correcting the failure or any other loss or damage caused by such failure shall be at Subcontractor's sole cost and expense. Subcontractor acknowledges that it can complete the Work within the Contract Time and in compliance with the Progress Schedule. One set of plans and specifications in digital format will be furnished to Subcontractor without cost. Additional sets may be procured at rates established by Owner, to be available at Contractor's office.

ELEVEN WESTERN BUILDERS, INC.
CA LIC. #439908

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

4. SITE INVESTIGATION. Subcontractor acknowledges that it has made an independent investigation of the Project site, and of all conditions which might affect the Progress Schedule and Contract Price. The Contract Price as set forth in the Agreement includes payment for all Work and anticipates all such conditions. Any information furnished to Subcontractor by Contractor about job conditions is for the convenience of Subcontractor only, and Contractor does not warrant that the conditions are as so indicated. Unless Contractor expressly certifies information respecting the site of the project as correct and accurate, any information respecting the site of the project shall be deemed to have been furnished to Subcontractor without warranty or representation either as to its completeness or accuracy and Contractor shall have no liability therefor so long as such information was furnished to Subcontractor in good faith.

5. PERFORMANCE OF WORK. Subcontractor shall furnish all supervision, materials, supplies, and equipment, except as otherwise provided, and perform all labor required for the completion of the Work in accordance with all provisions of the Contract Documents, and to the satisfaction of Owner and Contractor. Prior to commencement of any construction, Subcontractor agrees to provide Contractor, in writing, the name of one or more "designated foreman" who must physically be present at any and all times that the Subcontractor is working on-site at the Project. Subcontractor expressly warrants that all work shall be executed in a sound and workmanlike manner in conformance with applicable federal, state, county, city and local laws, statutes, ordinances, codes, rules, regulations, injunctions, orders, decrees, judgments, licenses, permits and other requirements (collectively, the "Law"). Subcontractor further warrants that all work shall be executed to the highest standards within the industry and all materials used by Subcontractor to complete the work are merchantable, free from any patent or latent defect, fit for their intended use, and equal in quality to the best of their kind. Upon request by Contractor, and with-in forty-eight (48) hours of said request, Subcontractor shall provide the Contractor written certification that all materials procured by the Subcontractor for the Project, and/or delivered to the Project for use by the Subcontractor, strictly conform to all requirements contained within the Contract Documents and the Law. Further, Subcontractor agrees to provide Contractor a reasonable opportunity to inspect the Work, to include photo-documentation, at any time during the construction of the Project.

6. COMPENSATION. Contractor, for the full, complete, and faithful performance of this Agreement, agrees to pay Subcontractor as full compensation.

7. SCHEDULE OF WORK. Subcontractor may provide Contractor with scheduling information it proposes for the Work. If the information is provided ten (10) days before Contractor is required to submit the schedule to Owner or to proceed with the work, Contractor will consult with Subcontractor regarding such information and, if possible, incorporate the same into the schedule to Owner. Contractor shall prepare the schedule for performance of the Work (Progress Schedule) and may revise and update the Progress Schedule as work progresses. It shall be Subcontractors obligation to conform to the Progress Schedule, as updated by Contractor.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

8. **COMPLETION.** Time is of the essence in this Agreement. Subcontractor agrees to commence the Work to be performed hereunder within forty-eight (48) hours of receipt of Notice to Commence from Contractor, and to complete the Work to be performed hereunder in accordance with the Progress Schedule, which shall be subject to modifications by Contractor throughout the course of the Work, which schedule, including all subsequent modifications thereto, is incorporated herein by this reference and made a part hereof. Subcontractor shall employ sufficient crews and work sufficient hours or shifts so as not to hinder or delay the actual progress of Contractor or other subcontractors and, in any event, shall complete the several portions and whole of the Work at such times as will enable Contractor to fully comply with the terms of the Prime Contract. In agreeing to complete this Work in accordance with the Progress Schedule and any subsequent modifications thereto, Subcontractor has taken into consideration and made allowances for all delays or hindrances which may be reasonably incurred in its performance hereunder, whether growing out of delays in securing materials or workers, minor changes, alterations or otherwise. Subcontractor shall further participate in all Pre-Construction Meetings and Inspections, Initial Phase/First Work-in-Place Inspections, and Follow-up/Daily Inspections reasonably requested by Contractor. Subcontractor shall coordinate the Work to be done hereunder with that of Contractor, other Subcontractors and other Contractors in a manner that will facilitate the efficient completion of the entire work. Contractor shall have complete control of the premises on which the work hereunder is to be performed and shall have the right to decide the time and order in which the various portions of the work shall be done and priority of the work of other Subcontractors and all matters concerning the timely, orderly conduct of the work of the Subcontractor.

9. **FORCE MAJEUERE.** "Force Majeure" means any of the following events, provided such event materially and adversely affects Subcontractor's obligations under the Agreement and could not have been avoided or prevented by due diligence and use of reasonable efforts by Subcontractor: earthquake, epidemic, blockade, rebellion, war, terrorism, riot, act of sabotage or civil commotion, industry-wide labor strike which has a material adverse impact on the Work, spill of hazardous substances by other than Subcontractor at the Project, discovery at the Project of any species listed as "threatened" or "endangered" under the Federal or State Endangered Species Act, and/or fire . In case of a Force Majeure event that delays Subcontractor's performance of the Work, Subcontractor's remedy shall be limited to an extension of time to complete the required Work and actual, documented costs for demobilization/mobilization that are approved by Contractor and Owner, and neither Owner nor Contractor shall be liable for damages, whether ordinary, incidental or consequential, including lost profits and overhead, as a result of any said delay.

10. **REIMBURSEMENT FOR DAMAGES OR COST**. Subcontractor shall reimburse Contractor for any damages or costs incurred by reason of Subcontractor's failure to prosecute the Work in accordance with the Progress Schedule, including any liquidated damages assessed by Owner pursuant to Prime Contract, except for delays arising out of a Force Majeure event.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

11. **PROGRESS OF WORK**. If, in the judgment of Contractor, the work of Subcontractor is not proceeding in accordance with the Progress Schedule, or Subcontractor has breached any provision of this Agreement, Contractor may, after giving forty-eight (48) hours' notice to Subcontractor of the same, proceed to have the work done in the manner most expedient to Contractor including, but not limited to, the supplementation of Subcontractor's work force, the termination and replacement of Subcontractor's work force, or both, as Contractor deems appropriate, and charge the cost, including any incidental expenses and those additional costs set out in this Agreement, to Subcontractor. Contractor shall be entitled to take possession of and use any materials, tools, equipment, plans, permits and diagrams on the job site or intended for the work and use the same for the performance of the work. Subcontractor waives any claim, demand or cause of action, against Contractor for the loss of use, misuse, abuse, or conversion of the tools, materials, equipment, plans, permits, or diagrams, taken or used by Contractor in accordance with this Section. In the event Contractor is required to complete the Work of Subcontractor in accordance with the provisions of this Agreement, Subcontractor agrees to reimburse Contractor for all costs and expenses plus an additional twenty percent (20%) of costs and expenses as overhead.

12. **DELIVERY OF WARRANTIES.** Upon the billing of seventy-five percent (75%) completion of the Work, Subcontractor shall deliver all necessary warranties and guarantees associated with the Work as required under this Agreement and at law. In the event that Subcontractor's Work is supplemented or terminated pursuant this Agreement, Contractor shall have the right to obtain any and all warranties and guarantees associated with Subcontractor's Work as necessary to complete the Prime Agreement and Subcontractor shall be fully responsible for any costs and expense incurred by the Contractor in obtaining said warranties and guarantees.

13. **PERMITS.** Subcontractor shall obtain and pay for all permits, passes, clearances, licenses, franchises, and other instruments and processes required in the performance of the Work.

14. **PAYMENT AND PERFORMANCE BOND**. Subcontractor shall furnish N/A percent (N/A %) payment and performance bond acceptable to Contractor prior to performing any work under this Agreement.

• AK Lic.# 129976 • AZ Lic.# 193772 • HI Lic.# CT-34956 • WA Lic.# 601-239-224 • OR Lic.# 64207
• UT Lic.# 5609466-5501 • NV Lic.# 55994 • MO Cert.# F00591590 • ID Cert.# C184338 • TX Cert.# 801076709

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

15. INDEMNITY.

(a) Subcontractor's Performance. With the exception that this Section 15 shall in no event be construed to require indemnification by Subcontractor to a greater extent than permitted under the law of the state in which the Project is located, Subcontractor shall defend (with counsel of Contractor's choice), protect, indemnify and hold harmless Owner and Contractor, including their officers, directors, employees, affiliates parents, and subsidiaries, and each of them, ("indemnitee" or "indemnitees") of and from any and all claims, demands, causes of action, damages, costs, expenses, actual attorneys' fees, losses and/or liabilities in law or in equity, of every kind and nature whatsoever ("Claims") arising out of, relating to or in connection with Subcontractor's operations to be performed under this Agreement including, but not limited to:

(i) Personal injury claims, 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 of any act or omission of Subcontractor or anyone directly employed by Subcontractor or anyone for whose acts Subcontractor may be liable;

(ii) Property damage or injury of any kind or nature whatsoever caused by, resulting from, arising out of or occurring in connection with the execution of the Work by Subcontractor or in any other way relating to Subcontractor's performance of this Agreement, including but not limited to any loss arising from the breach of an implied warranty at law, except to the extent, if any, expressly prohibited by statute, should any claims for such damage or injury be made or asserted;

(iii) Penalties imposed on account of the violation of any law, order, citation, rule, regulation, standard, ordinance or statue, caused by the action or inaction of Subcontractor;

(iv) Infringement of any patent rights which may be brought against the Contractor or Owner arising out of Subcontractor's Work;

(v) 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;

(vi) Subcontractor's failure to fulfill the covenants set forth in each subpart of Section 27,"(Labor Relations);

(vii) Failure of Subcontractor to comply with the provisions of Section 16, (Insurance);

(viii) 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 equipment, hoists, elevators, or scaffolds.

• AK Lic.# 129976 • AZ Lic.# 193772 • HI Lic.# CT-34956 • WA Lic.# 601-239-224 • OR Lic.# 64207
• UT Lic.# 5609466-5501 • NV Lic.# 55994 • MO Cert.# F00591590 • ID Cert.# C184338 • TX Cert.# 801076709

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

Such indemnity provisions apply regardless of any active and/or passive negligent act or omission of indemnitees. Subcontractor, however, shall not be obligated under this Agreement to indemnify an indemnitee for Claims to the extent arising from the sole negligence, active negligence or willful misconduct of such indemnitee or its agents, employees or independent contractors who are directly responsible to Owner or Contractor, or to the extent the Claims are for defects in design furnished by Contractor or other contractor or subcontractor who is responsible to the Contractor, or to the extent the Claims do not arise out of the scope of work of Contractor pursuant to this Agreement.

(b) Defense of Claims. Subcontractor's defense obligation shall arise immediately upon written notice of Claims being provided to Subcontractor, and includes, without limitation, the obligation to defend indemnitee with respect to any alternative dispute resolution proceeding as well as matters related to investigation and resolution of Claims. 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 Agreement. At Subcontractor's own cost, expense and risk, Subcontractor shall:

(i) defend all Claims that may be brought or instituted by third persons, including, but not limited to, governmental agencies or employees of Subcontractor, against Indemnitees. Subcontractor shall either (i) defend the Claims with legal counsel qualified pursuant to California Rules of Professional Conduct Rule 3-110 and with no conflicts pursuant to California Rules of Professional Conduct Rule 3-310(C); or (ii) pay within 30 days of receipt of an invoice from the indemnitees a reasonably allocated share of indemnitees' defense fees and costs on an ongoing basis during the pendency of the Claims. Within thirty (30) days of receipt of tender, Subcontractor must provide written notice to the indemnitees that it will satisfy its defense obligation and its election as to how it will do so;

(ii) Pay and satisfy any judgment or decree that may be rendered against Indemnitees arising out of any such Claims; and/or

(iii) If Subcontractor fails to defend the Claim, promptly reimburse Indemnitees for any and all legal expense incurred by any of them in connection herewith or in enforcing the indemnity granted in this Section 15.

(c) Risk of Loss. All work covered by this Agreement done at the site or in preparing or delivering materials or equipment, or any or all of them, to the site shall be at the risk of Subcontractor exclusively until the completed Work is accepted by Contractor.

(d) No Limitation of Liability. The indemnities set forth in this Section 15 shall not be limited by the insurance requirements set forth in Section 16.

• AK Lic.# 129976 • AZ Lic.# 193772 • HI Lic.# CT-34956 • WA Lic.# 601-239-224 • OR Lic.# 64207
• UT Lic.# 5609466-5501 • NV Lic.# 55994 • MO Cert.# F00591590 • ID Cert.# C184338 • TX Cert.# 801076709

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

(e) Additional Indemnity Terms. The provisions of this Section 15 shall survive expiration or termination of this Agreement and shall continue until such time it is determined by final judgment that the Claims against indemnitees are fully and finally barred by any applicable statute of limitations and/or statute of repose. This Section 15 shall in no event be construed to limit indemnitees' rights and remedies in the event of a breach of this Subcontract. It is the Parties' intention and Subcontractor agrees that this Section 15 shall completely, eliminate, and preclude any right by Subcontractor to seek any contractual or equitable indemnity or contribution from indemnitees. Further, indemnitees' right to seek equitable indemnity or contribution from Subcontractor in no way shall be diminished or precluded by anything in this Subcontract.

16. INSURANCE. Subcontractor shall take out and furnish satisfactory proof, by Certificate and specific policy endorsements, that Subcontractor has procured the insurance coverage required by the Agreement with insurance carrier(s) satisfactory to Owner and Contractor and in such form as shall be satisfactory to Owner and Contractor. Such liability insurance shall protect Owner and Contractor against loss, including death by any person or persons, except as covered by Workers Compensation Insurance, resulting directly or indirectly from the performance or execution of the work specified in this Agreement or any contract thereunder. On all such policies of insurance the Owner and Contractor shall be named as Additional Insured. Subcontractor shall furnish Certificates of Insurance and policy endorsements to Contractor before commencing work hereunder. Subcontractor will maintain the following types of insurance, coverage, limits of liability, and other requirements, throughout the life of the project, including all warranty periods and the costs of this is included in the Agreement price.

(a) General Liability Insurance. Subcontractor shall maintain, and furnish a Certificate of Insurance showing evidence of, Commercial General Liability coverage on ISO Form CG0001, or its equivalent, which includes Contractual Liability covering the Subcontractors obligations under this Agreement, as well as coverage on all of Contractors equipment owned, hired or used in the performance of the work, with limits not less than:

(i) 2,000,000 General Aggregate;

(ii) 2,000,000 products - Completed Operations Aggregate;

(iii) 1,000,000 Personal Injury Liability; and

(iv) 1,000,000 each occurrence (combined single limit for bodily injury and property damage).

The above-referenced Commercial General Liability coverage shall include:

(i) A per project general aggregate endorsement;

(ii) Explosion, collapse and underground coverage; and

(iii) Subsidence/earth movement coverage.

• AK Lic.# 129976 • AZ Lic.# 193772 • HI Lic.# CT-34956 • WA Lic.# 601-239-224 • OR Lic.# 64207
• UT Lic.# 5609466-5501 • NV Lic.# 55994 • MO Cert.# F00591590 • ID Cert.# C184338 • TX Cert.# 801076709

ELEVEN WESTERN BUILDERS, INC.
CA LIC. #439908

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

The required insurance certificate, as identified above, must have the CG2010(11/85) endorsement or equivalent, attached naming the following as additional insureds:

(i) Eleven Western Builders, Inc.;

(ii) Project Owner, as identified in Section 1, above; and

(iii) Any other person or entity required by the Contractor or Owner to be named as an additional insured.

The Additional Insured Endorsement must be attached to the Certificate and state that this insurance is primary to any other insurance. Endorsements, which limit or exclude coverage, will need to be attached to the certificate.

Subcontractor shall maintain the General Liability Insurance for ten years after the substantial completion of the Project.

(b) Automobile Liability Insurance. Subcontractor shall supply a certificate of insurance showing commercial Automobile Liability Coverage, including Contractual Liability, covering all motor vehicles owned, hired or used in the performance of the work, with limits not less than:

(i) One Million Dollars each occurrence (combined single limit for bodily injury and property damage).

(c) Excess Liability Insurance, Umbrella Form. Subcontractor shall supply a Certificate of Insurance showing evidence of Umbrella or Excess liability coverage with the following limits:

- One Million Dollars each occurrence; and
- One Million Dollars aggregate.

(d) Workers Compensation and Occupational Disease Insurance. Subcontractor shall supply a Certificate of Insurance showing Workers Compensation Employees liability coverage, with limits not less than:

- One Million Dollars each/accident (bodily injury by accident);
- One Million Dollars/disease - policy limit (bodily injury by disease); and
- One Million Dollars/disease - each employee (bodily injury by disease).

A waiver of subrogation endorsement (WC 04 03 06) shall be attached in favor of Contractor and the Project Owner identified in Section 1, above.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

(e) Professional Liability. If Subcontractor is a licensed architect, engineer or designer; provides architecture, engineering or design services or retains any said services, a Certificate of Insurance shall be supplied showing errors and omissions coverage in an amount not less than One Million Dollars per occurrence.

(f) Pollution Liability. In the event that all or any portion of the Work involves inspection, testing, abatement or remediation involving or pertaining to pollution, environmental hazards or Hazardous Materials, including asbestos, mold, fungi or dry cleaner or service station materials or operations, Subcontractor shall maintain pollution liability insurance covering liabilities and losses arising out of such Work. Such insurance shall: (i) provide coverage for, at a minimum, judgments, damages, settlements, legal fees and costs, bodily injury, property damage, remediation and emergency response costs arising out of or relating to the Work and all liability assumed under this Subcontract; (ii) apply with respect to Work performed at any location and to loading, unloading, transportation and disposal of any related materials or substances; (iii) be issued on a "claims made" basis, and provide coverage for liabilities or losses arising from any claim during the period from when the Work commences until at least five (5) years after the Work is completed; (iv) provide coverage limits of at least $1,000,000 or the limit already carried by Subcontractor for similar insurance, whichever is greater; (v) have a deductible of no more than $25,000; and (vi) include Contractor and Owner as an additional insured in the manner set forth in the "Additional Insured Endorsement" section of this Exhibit. Subcontractor shall comply with all policy warranties and shall do nothing to invalidate coverage.

(g) Subcontractor is to include the provisions of Section 16 in all third party contracts, and is to require those third party contractors to furnish insurance certificates and endorsements, which evidence their compliance with that Section. Subcontractor agrees to provide Contractor with copies of third party contractor insurance certificates or otherwise verify to the Contractor that the appropriate insurance certificates have been received prior to the commencement of work under said third party contract.

(h) Subcontractor shall provide thirty (30) calendar days written notice to Contractor that a policy will be or has been canceled or non-renewed.

(i) In the event Contractor receives written notice from the insurer that the insurance of Subcontractor has been canceled, and Contractor has not received certificates verifying that Subcontractor has procured new or substitute insurance as specified herein, then it is agreed that Contractor may, but is not obligated to, procure such insurance and charge all premiums plus a reasonable sum of overhead to Subcontractors account, all of which sums may be deducted from any amounts due Subcontractor.

(j) All insurance policies identified in Section 16 shall (I) provide that coverage afforded to Contractor is primary and any other insurance in force for Contractor will be excess and will not contribute to the primary policies; and (ii) be written by insurance companies with an A.M. Best rating of A VII and be admitted in the state in which the Project is located. Any deviation from the requirements set forth in this Section must be approved in writing by Contractor.

• AK Lic.# 129976 • AZ Lic.# 193772 • HI Lic.# CT-34956 • WA Lic.# 601-239-224 • OR Lic.# 64207
• UT Lic.# 5609466-5501 • NV Lic.# 55994 • MO Cert.# F00591590 • ID Cert.# C184338 • TX Cert.# 801076709

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

(k) All certificates and endorsements must be in the office of Contractor prior to any work being commenced on the project. Failure to supply the required insurance coverage will cause removal of the Subcontractor from the job site and withholding of any payments, and Subcontractor shall be responsible for all damages caused by any delay resulting from the removal of Subcontractor.

(l) The carrying of the insurance described above shall in no way be interpreted as relieving the Subcontractor of responsibility or liability under this Agreement or otherwise.

17. PAYMENT. In the event of a conflict between the payment terms of the Prime Contract and this Agreement, the payment terms of the Prime Contract shall govern.

(a) Applications for payment shall be submitted no later than the 20th day of the month or pursuant to the requirements of the Prime Contract and, if late, shall be carried over to the next month. Each application for payment shall contain the following: (i) a statement of the current Contract Price including approved Change Orders; (ii) the percentage of completion of the Work; (iii) the applicable retention; (iv) the net amount due for the current period (v) clearly defined invoices and billings supporting the application; (vi) lien releases for the previous payment, executed by all entities who may have mechanic's lien, stop notice or labor and material bond rights against the Project and arising out of Work performed or materials supplied under this Agreement.

(b) Partial payments for work performed under this Agreement will be made by Contractor within 10 days after being paid therefore by Owner and will equal the value of the work done by Subcontractor according to Owners estimate at applicable unit prices or percentage of total completion, whichever is applicable, less the sum of previous payments and less a percentage equal to the percentage retained by Owner; except that Contractor may withhold, offset against, or on account of subsequently discovered evidence nullify the whole or part of any payment to Subcontractor, in an amount sufficient: (a) to defend, satisfy and discharge any claim that Subcontractor (or anyone providing any of the work hereunder) has failed to make payment for labor, services, materials, equipment, taxes or other items or obligations furnished to or incurred in connection with such work or any other work on the project; (b) to remedy any defective work; (c) to complete the work if Contractor determines the unpaid balance of the contract price herein is at any time insufficient to pay for the cost of the work then unperformed herein; (d) to reimburse Contractor for any back charges incurred as a result of any act or omission by Subcontractor (or anyone providing any of the work hereunder) and to pay damage to another subcontractor; (e) to protect and secure Contractor from possible consequences of any other default or indebtedness by Subcontractor; or (f) to secure Contractor with respect to any breach or default under any other obligation (whether or not liquidated) of Subcontractor or Subcontractors affiliates, parent company or subsidiaries. To the extent Owner is delinquent in paying amounts to Contractor, Subcontractor agrees that Contractor shall be entitled to a reasonable time to exhaust all remedies available to Contractor to collect amounts due from Owner before Contractor shall be obligated to pay amounts due hereunder to Subcontractor and that the same is reasonable under the circumstances.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

(c) Prior to Contractor making its first payment to Subcontractor under this Agreement, Subcontractor shall provide all required Submittal documents (as hereinafter defined) to Contractor. In the event required Submittal documents are not received in a timely manner, Contractor shall procure all necessary Submittal documents, in which case, Subcontractor shall be required to perform the work per the Submittal documents procured by Contractor. All costs associated with the procurement of the Submittal documents by Contractor shall be deducted from amounts due to Subcontractor under this Agreement. As used herein, the term Submittal documents shall have the same meaning as defined in the project manual and/or project specifications.

(d) Contractor, at its option, may make any payment due hereunder by check made payable jointly to Subcontractor and any of its sub-subcontractors, suppliers and/or material men who have performed work or furnished materials under this Agreement.

(e) Prior to receiving final payment, Subcontractor shall provide the following to Contractor:

(i) Receipt by Contractor of all unconditional lien releases Subcontractor, sub-subcontractors and suppliers;

(ii) Receipt by Contractor of all operating and maintenance manuals;

(iii) Receipt by Contractor of all written warranties or guarantees from Subcontractor and any sub-subcontractors and suppliers; and

(iv) Receipt by Owner of closeout of all permits and any other closeout materials identified in the Contract Documents.

(f) On completion of the Prime Contract and payment therefore in full by Owner, Subcontractor will be paid the remaining amount due Subcontractor under this Agreement. All prior partial payments shall be subject to correction in the final payment.

(g) Estimates and calculations made by Owner, or Owner's architect or engineer, as to the amount of work done by Subcontractor, shall be final and binding on the parties and shall conclusively establish the amount of work done by Subcontractor. All statements for which payment is requested by Subcontractor shall be in the office of Contractor on or before the last day of the contract pay period for work done the preceding month.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

18. EXTRA WORK AND CHANGES IN WORK.

(a) Change Orders. The Work to be performed under this Agreement may be modified by changes required by the Owner, Architect, or Contractor, and Subcontractor's compensation amount set forth this Agreement shall be adjusted by written Change Order in accordance with this Agreement. Subcontractor shall be bound by any alterations, additions, or deletions made by Owner to the Prime Contract specifications or plans, or in the amount or character of the work or any part thereof, to the same extent that Contractor is bound thereby. Subcontractor is bound to the terms of the Prime Contract relating to changes, changed conditions, extra work, Owner furnished property, and disputes, and shall give to Contractor immediate written notice of any such asserted change, changed condition, extra or disputed claim, to the end that Contractor may timely comply with any notice requirements of the Prime Contract relating thereto.

(b) No Claim Without Change Order. No alterations, additions or deletions shall be made to the Work as shown or described in this Agreement except on the written order from Contractor's Project Manager and/or an officer of Contractor (a "Change Order"); and when so made, the value of the alteration, addition or deletion shall be computed and determined in accordance with this Agreement, subject to the written approval and acceptance by the Contractor, and the amount so determined shall be added or deducted from Subcontractor's compensation amount set forth in this Agreement. Subcontractor shall have no claim for additional work or changed work unless a Change Order has been executed by Contractor. Any extra work performed without such Change Order will be at Subcontractor's sole expense. If Subcontractor shall make any unauthorized change in work, or perform any unauthorized extra work which affects the scope of the work or the expense of the other trades, Subcontractor shall be liable for all costs and expenses incurred by Contractor as the result thereof.

(c) Notice of Proposed Changes. For changes in the Work that increase or decrease Subcontractor's compensation amount set forth in this Agreement or affect construction time, Subcontractor shall notify Contractor of the scope of any change in cost or time within three (3) days after receipt of the proposed change and shall submit a Change Order Request within five (5) days after receipt of the proposed change. In the event that Contractor provides Subcontractor with a Change Order to proceed with an alteration, addition, or deletion to the Work with approved pricing, Subcontractor shall promptly proceed with said work. In the event that Contractor provides Subcontractor with a Change Order to proceed with an alteration, addition, or deletion to the Work absent pricing, Subcontractor shall promptly proceed with said work and submit the actual Change Order Request within five (5) days after receipt of Contractor's written order regarding the change.

(d) Change Order Request. Subcontractor's Change Order Request shall consist of the detailed cost estimate outlining the changes in the Work and detailed documentation justifying proposed changes in time, including supporting back-up documentation as required by Contractor. This estimate shall be computed in accordance with accepted estimating procedures and in accordance with the terms of this Agreement, and the costs for labor and materials shall be in accordance with appropriate provisions of this Agreement. As far as practicable, unit prices and any other feasible formula for use in the determination of cost changes in the Work shall be used. If the subcontract is on a unit price, any quantities and amounts mentioned are approximate only and may increase or decrease at the same unit price unless the Prime Contract warrants or guarantees such quantities and amounts.

• AK Lic.# 129976 • AZ Lic.# 193772 • HI Lic.# CT-34956 • WA Lic.# 601-239-224 • OR Lic.# 64207
• UT Lic.# 5609466-5501 • NV Lic.# 55994 • MO Cert.# F00591590 • ID Cert.# C184338 • TX Cert.# 801076709

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

(e) Extra Compensation. Subcontractor waives any claim against Contractor for compensation or equitable adjustment for such claims, changed conditions, or extra work, except to the extent the claim is allowed to Contractor by Owner. Contractor will pay to Subcontractor, from any such extra compensations or equitable adjustment received from Owner with respect to subcontract work, as and when received from Owner, the actual costs of the extra labor or materials of Subcontractor allowed plus 10% (Ten Percent) for overhead and/or profit allowed, but in no event to exceed the sum received by Contractor from Owner. Further, any extra work performed without a Change Order will be at Subcontractor's sole expense.

(f) Disputed Request. If Owner, Architect, or Contractor disputes the validity or amount of a Change Order Request submitted by Subcontractor, but Contractor provides Subcontractor a Change Order to proceed with the Work pending resolution of the dispute, Subcontractor shall promptly commence such disputed work and expeditiously complete it. If the parties cannot agree on the compensation or time extensions, Subcontractor shall nevertheless proceed with such extra work, and the question of entitlement or amount of compensation and/or extensions of time shall be submitted to the process for handling disagreements over Construction Change Directives, as proscribed in the Prime Contract.

(g) Cooperation. Contractor shall cooperate with Subcontractor in submitting Change Order Requests to Owner for alterations, additions, or deletions of the Work, but this shall not be interpreted as an attempt to create any direct contractual relationship between Subcontractor and Owner or to permit Subcontractor to engage in direct negotiations with Owner. Any extra work performed without written order from Contractor, regardless of Owner's direction, will be at Subcontractor's sole expense.

(h) Work Orders from Contractor. With respect to any extra work ordered by Contractor for its own convenience and not related to a change, changed condition, or extra work under the Prime Contract, Subcontractor shall make no claim therefore unless the work shall have been fully agreed on in writing by Contractor's Project Manager and/or an officer of Contractor prior to the performance of such extra work. Any such extra work performed without such written order from Contractor's Project Manager and/or an officer of Contractor will be at Subcontractor's sole expense. For changes in the Work that increase or decrease Subcontractor's compensation amount set forth in this Agreement or affect construction time, Subcontractor shall notify Contractor of the scope of any change in cost or time within three (3) days after receipt of the proposed change and shall submit the actual Change Order Request within five (5) days after receipt of the proposed change. In all events, Subcontractor shall submit any claim it has for such extra work no later than five (5) days from commencement of its work, with time being expressly of the essence. Such claim shall set forth the extra work to be done pursuant to the Work Order, the compensation thereof, and any extension of time necessarily occasioned thereby. Contractor may order extra work without invalidating this Agreement. If the parties cannot agree on the compensation or time extensions, Subcontractor shall nevertheless proceed with such extra work, and the question of entitlement or amount of compensation and/or extensions of time shall be submitted to the dispute resolution procedures provided below in this Agreement.

(i) Cost. No change or extra work directed by Contractor shall invalidate any bond or bonds to be furnished by Subcontractor.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

19. TERMINATION OF AGREEMENT. In the event the Prime Contract is terminated prior to its completion, Subcontractor shall be entitled only to payment for the work actually completed by it on a pro-rata basis. Nothing herein contained shall require Contractor to make any claim for such additional compensation or damages in the event of termination before completion, and it is specifically agreed that the failure of Contractor to prosecute any such claim shall not entitle Subcontractor to any claim for additional compensation or damages against Contractor.

Notwithstanding the preceding paragraph, Contractor reserves the absolute right to terminate this Agreement. In the event of termination without cause, Subcontractor shall be entitled to payment only as follows:

(a) Cost of the work actually completed in conformity with this Agreement;

(b) Other costs actually incurred by Subcontractor to demobilize; plus

(c) Twenty percent (20%) of costs referred to in subparagraph a. above for overhead and profit.

There shall be deducted from such sums as provided in this Section the amount of any payments made to Subcontractor prior to the date of termination of this Agreement. Subcontractor shall not be entitled to any claim, or claim of lien, against Contractor for any additional compensation or damages in the event of such termination and payment.

Upon Notice from Contractor that either (a) Subcontractor's performance under this Subcontract is unsatisfactory; (b) Subcontractor has failed to comply fully with the terms of this Subcontract; (c), Subcontractor has failed to correct defective Work as required by the Subcontract, (d) Subcontractor has become insolvent or institutes a bankruptcy or similar proceeding; or (e) Subcontractor has failed to comply with the Law, Contractor may terminate for cause Subcontractor's right to proceed with its Work under this Subcontract. In the event of such termination for cause, Subcontractor hereby authorizes Contractor to perform and complete the Work in connection herewith. Contractor may (a) eject Subcontractor from the premises, (b) take possession of all of Subcontractor's materials, tools and equipment on the Project, and (c) secure materials and employ workers necessary to complete the Work at Subcontractor's sole cost and expense. In the event this Agreement is terminated for cause as a result of the Subcontractor failing to commence and/or satisfactorily correct any default notice, Subcontractor shall not be entitled to receive any further payment until the work undertaken by Contractor in the Prime Contract is completely finished. At that time, if the amounts earned but not paid Subcontractor before said termination exceed the expenses incurred by Contractor in finishing Subcontractors work, any excess shall be promptly paid to Subcontractor the amount by which said sum exceeds the expense; but, if such expense exceeds said amount, Subcontractor shall promptly pay Contractor the amount by which the expense exceeds said sum. The expense incurred by Contractor, as just referred to, shall include Contractors expense for furnishing materials, for finishing the work, for attorneys' fees, and any damages incurred by Contractor by reason of Subcontractors default, plus twenty percent (20%) as overhead. After receipt of a Notice of Termination, and except as otherwise directed by Contractor in the Notice of Termination, Subcontractor shall:

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

(i) Stop its Work under this Subcontract;

(ii) Place no further orders or Sub-subcontracts for materials, services or facilities;

(iii) Terminate any orders and Sub-subcontracts to the extent that they relate to the performance of the Work terminated by the Notice of Termination;

(iv) Settle any outstanding liabilities and any claims arising out of the termination of orders and Sub-subcontracts, with Contractor's Consent;

(v) If and as directed by Contractor, transfer title and deliver to Owner: (i) the fabricated and non-fabricated parts, Work in process, completed Work, and other materials, supplies, products and equipment procured as a part of, or acquired in connection with the performance of the Work terminated by the Notice of Termination, and (ii) the completed or partially completed Plans, Drawings and Specifications, including As-Built Drawings, and other information and property which, if this Subcontract had been completed, would have been required to be furnished to Contractor or Owner;

(vi) If and as directed by Contractor, use its best efforts to sell property of the types provided below;

(vii) Timely complete performance of such part of the Work as shall not have been terminated by the Notice of Termination; and

(viii) Take such action as may be necessary, or as Contractor may direct in Contractor's Discretion, for the protection and preservation of the property related to this Subcontract which is in the possession of Subcontractor and in which Owner has or may acquire an interest.

20. **ASSIGNMENT.** Subcontractor may not assign this Agreement or any part hereof or any estimate or payment hereunder without Contractor's prior written consent, which may be given or withheld in Contractors sole discretion.

21. **SUBCONTRACT APPROVAL AND RENEGOTIATION.** This Agreement is subject to approval by Owner, but shall be effective in absence of specific written disapproval by Owner. This Agreement is subject to applicable current codes and statutes regarding renegotiations.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

22. PAYMENT OF WAGES.

(a) Compliance with Wage and Benefit Laws. Subcontractor shall comply with all state and federal laws governing the full and prompt payment of wages, fringe or other benefit payments or contributions due to its employee(s) or to a third party on any employee's behalf, including but not limited to compliance with California Labor Code Section 218.7, governing the payment of wages for the wage claimant's performance of labor included in the scope of Work in the Agreement. governing the payment of wages for the wage claimant's performance of labor included in the scope of Work in the agreement. Subcontractor agrees to assume, and be liable for, any and all debt owed to a wage claimant or third part on the wage claimant's behalf for such wage claimant's performance of labor for any portion of the Work (collectively, **"Wage Claimant")**, whether such wage claimant was employed by subcontractor or by an of its lower tier subcontractors.

(b) Application to Lower-Ties Subcontractors. Should Subcontractor subcontract with a lower tier subcontractor, Subcontractor shall enforce each requirement under this Section on any and all of its lower tier subcontractors who contract to perform any portion of the Work, and shall require each lower tier trade contactor to comply with and enforce these requirements in their respective subcontract agreements. Subcontractor shall expressly require the indemnity in favor of Contractor provided in Section 22(h), as part of the subcontract agreement with any such lower tier subcontractor, and Subcontractor shall require by subcontract agreement that any lower tier subcontractor provide all information required to be submitted in the application for payment including, but not limited to, the certification(s) to be delivered by lower tier subcontractor regarding the payment of wages.

(c) Liability for Non-Payment by Subcontractor or Lower Tier Subcontractors. Subcontractor agrees to assume, and be liable for, any and all debt owed to a wage claimant or third party on the wage claimant's behalf for such wage claimant's performance of labor for any portion of the Work (collectively, "***Wage Claimant***"), whether such wage claimant was employed by Subcontractor or by any of its lower tier subcontractors.

(d) Copies of Payroll Records. Subcontractor shall maintain accurate payroll records, which, at a minimum, shall contain the information set forth in subdivision (a) of California Labor Code section 226, and which are payroll records as contemplated by California Labor Code section 1174, of its employees who are providing labor on any portion of the Work ("***Payroll Records***"). Subcontractor shall also require all lower tier subcontractors to maintain accurate Payroll Records for employees who are providing labor on any portion of the Work in their respective subcontract agreements. If requested by Contractor, Subcontractor shall provide copies of Payroll Records that shall be marked or obliterated only to prevent disclosure of an individual's full social security number but shall provide the last four digits of the social security number. The Payroll Records must contain information sufficient to apprise Contractor of the payment status of the Subcontractor and its lower tier subcontractors' payment in making fringe or other benefit payments or contributions to a Wage Claimant.

(e) **Certifications**. For each application for payment, Subcontractor shall submit:

(a) a certification from Subcontractor that it has paid all wages, fringe or other benefit payment or contributions due to any Wage Claimant; and (b) a certification from each of Subcontractor's lower tier subcontractors that it has paid all wages, fringe or other benefit payment or contributions due to any Wage Claimant; in each case, for all Work covered by the Request for Payment.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

(f) Notice of Claim. In the event that Subcontractor receives notice of a claim or has knowledge of any claim by any of its employees or any Wage Claimant regarding the payment of wages for the Project, Subcontractor shall immediately notify Contractor of such claim and any information received to date by Subcontractor regarding such claim.

(g) Failure to Provide Wage Information. Should Subcontractor or any lower tier Subcontractor not provide any requested Payroll Records, any notice of claim by Subcontractor's employee or Wage Claimant, or any other information to be provided Contractor pursuant to this Section in a timely manner, then Contractor may back charge or withhold from monies owing to Subcontractor under the Agreement or otherwise, any amount reasonably believed necessary to protect it from any claims related to the foregoing, including any incurred attorney fees and costs, until Subcontractor or lower tier Subcontractor provides the requested information. Failure of Subcontractor to pay its employees shall provide a sufficient basis for a termination with cause.

(h) Indemnification and Defense for Wage Claims. To the fullest extent permitted by law, Subcontractor shall be obligated to indemnify, defend and hold harmless the Indemnitees (as defined in Section 15 of the Agreement), against any and all claims, damages, injury, loss, liability and expense, including but not limited to, attorneys' fees and expert fees incurred as a result thereof, arising out of, connected with or related in any way to any claim that is made against Contractor or any of the Indemnitees, whether directly or indirectly, alleged or actual, for unpaid wage, fringe or other benefit payment or contribution by a wage claimant or a third party on the wage claimant's behalf for such wage claimant's performance of labor for any portion of the Work, which includes, but not limited to, claims that are brought against Contractor or any of the Indemnitees for any claim, damages or loss arising out of, connected with or related in any way to Subcontractor's or any of its lower-tier subcontractor's actual or alleged failure to pay, including, but not limited to unpaid wages, attorneys' fees and expert fee, fringe or other benefit payment or contribution, interest or otherwise as may be assessed against Contractor or any of the Indemnitees (collectively, "Wage Claims"). Subcontractor's duty to defend Contractor and the Indemnitees arises immediately upon tender of the Wage Claim to Subcontractor and is entirely separate from, independent and free of Subcontractor's duty to indemnify Contractor and the Indemnitees elsewhere in this Agreement, and includes, without limitation, defense of Contractor and the Indemnitees to the fullest extent permitted by law regardless of whether the issue of Contractor's and the Indemnitees' liability has been determined and whether Contractor any Indemnitees have paid any sums, or incurred any detriment, arising out of or resulting directly or indirectly from such Wage Claims. It is the parties' intent that Contractor and the Indemnitees shall be entitled to summary adjudication of Subcontractor's duty to defend Contractor and the Indemnitees during any stage of a Wage Claim. The prevailing party in any action to enforce the indemnity provisions herein shall be entitled to recover its reasonable attorneys' fees and costs. Subcontractor shall defend Contractor and the Indemnitees at Subcontractor's sole cost and expense and with legal counsel approved by Contractor, which approval shall not be unreasonably withheld, or with legal counsel retained by Contractor should Subcontractor unreasonably delays in the provision of said defense.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

(i) Payment Bond. If requested by Contractor, Subcontractor shall furnish payment bonds in the amount of the Contract Price covering the payment of all obligations arising under this Section. . Subcontractor acknowledges that such payment bond shall not be released until the following conditions are satisfied: (1) after the one-year statute of limitations set forth under California Labor Code section 218.7 expires; and (2) any and all claims for unpaid wage, fringe or other benefit payment or contribution by a wage claimant or a third party on the wage claimant's behalf for such wage claimant's performance of labor for any portion of the Work, including any and all claims to enforce the indemnity provisions herein against Subcontractor, are fully adjudicated.

23. LIENS. If Subcontractor has been paid undisputed sums due, Subcontractor shall pay when due all claims for labor or material incurred by Subcontractor in the performance of this Subcontract. If any liens, attachments, or suits affecting title to real property are recorded and/or filed against the Project, the property or any portion thereof in connection with claims for labor or material incurred by Subcontractor in the performance of this Subcontract, Subcontractor shall within ten (10) Days after written demand by Contractor, cause the effect of such lien, attachment or suit to be removed from the Project, the property or any portion thereof, and Subcontractor shall indemnify, defend and hold Indemnitees and the property harmless from and against any and all liability and claims made in connection therewith, including, without limitation, any costs and expenses for attorneys' fees, bond premiums and all incidental and consequential damages resulting there from. In the event Subcontractor shall fail to promptly cause the effect of any such lien, attachment or suit to be so removed, Owner and Contractor are hereby authorized to use whatever means it may deem best to cause the lien, attachment or suit, together with its effect upon the title, to be removed, discharged, satisfied, compromised or dismissed, and the cost thereof, including attorneys` fees incurred by Owner and Contractor, shall become immediately due from Subcontractor to Owner and Contractor. Subcontractor may contest any such lien, attachment or suit, provided he shall cause the effect thereof to be removed from the Project, the property or any part thereof. Should Subcontractor fail to make any payments required under this Section, Owner or Contractor may make such payments on behalf of Subcontractor, and Subcontractor shall, on demand, reimburse Contractor for the amount actually paid, but Owner or Contractor shall not be entitled to collect any greater amount from Subcontractor than the amount actually paid under this Section plus any attorney's fees incurred as a result of Subcontractor's failure to make payments.

24. SECOND TIER SUBCONTRACTORS. Subcontractor shall not subcontract the work to be performed under this Agreement either in whole or in part without the written consent of Contractor. All subcontracts under this Agreement shall be subject to the provisions of the Prime Contract and this Agreement but shall create no contractual relationship with Contractor. All payroll regulations and requirements will apply to Subcontractors under this Agreement.

25. ENGINEERING. Subcontractor shall furnish all layout and engineering in connection with Subcontractors work, unless specifically provided for otherwise, conforming with the initial lines and grades established in the Prime Contract. Subcontractor shall be responsible for all shop drawings, submittal or samples (collectively "Shop Drawings") and As Built drawings if required under the Prime Contract. No portion of the Work requiring submission of Shop Drawings shall be commenced until such Shop Drawing has been approved, in final with Owner's consent and Contractor's consent. Any portion of the Work done prior to the Owner's and Contractor's written approval of the applicable Shop Drawing shall be at Subcontractor's sole risk. The sole purpose of Owner's and Contractor's, or their designated representative's, review shall be to verify that the Shop Drawing conforms to the design concept of the Project. Owner's and Contractor's review and approval shall not relieve Subcontractor from responsibility for any error or omission in the Shop Drawing or from responsibility for complying with any requirements of the Contract Documents.

• AK Lic.# 129976 • AZ Lic.# 193772 • HI Lic.# CT-34956 • WA Lic.# 601-239-224 • OR Lic.# 64207
• UT Lic.# 5609466-5501 • NV Lic.# 55994 • MO Cert.# F00591590 • ID Cert.# C184338 • TX Cert.# 801076709

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

26. **TEMPORARY UTILITIES.** Utilities of the nature normally mobilized by Contractor (water, power, telephone, storage space, etc.) will be made available for Subcontractors use for a nominal fee, contingent on overall job requirements and needs of others. If Contractor has facilities available for board and lodging of employees, the facilities will be made available to Subcontractors employees, when space is available, at the rate established for the project. Contractor will not, however, guarantee availability of facilities unless specifically provided for otherwise.

27. **LABOR RELATIONS.** Subcontractor shall comply with, observe, and be bound by all terms and provisions of any collective bargaining Agreements executed by Contractor or on Contractors behalf. If any portion of Subcontractors work is further subcontracted, such further Subcontractor shall be bound by and observe terms and provisions of such collective bargaining Agreements to the same extent as is required of Subcontractor. An expressed provision imposing such obligation on the further Subcontractor shall be included in any such further subcontract . Subcontractor will indemnify Contractor from and against any liability, claim, or loss, damage or cause of action resulting in any way, directly or indirectly, from its failure to comply with the requirements of this Section, under the specific terms and conditions set forth in Section 15 herein.

28. **EQUAL OPPORTUNITY.** During the performance of this Agreement, Subcontractor agrees not to discriminate against any employee because of race, color, creed, or national origin.

29. **INSOLVENCY, DEATH OR BANKRUPTCY.** In the event Subcontractor becomes insolvent, is unable to pay its obligations as they become due, or files a petition in bankruptcy this Subcontract may be terminated at the option of Contractor. Subcontractor hereby authorizes all financial institutions, materialmen and individuals to disclose to Contractor Subcontractor's financial status, credit and manner of meeting obligations. If Subcontractor is a sole proprietor, his death shall automatically terminate this Subcontract.

30. **SPECIAL PROVISIONS.** Subcontractor shall comply with all federal, state, territorial, and local codes and statutes of the area involved and shall indemnify Contractor against any claims or liens as a result of acts or omissions on the part of Subcontractor with respect to any noncompliance, under the specific terms and conditions set forth in Section 15 herein.

31. **PUBLIC PROTECTION.** Subcontractor shall provide, erect, and maintain proper warning signals, signs, lights, barricades, and fences on and along the line of the work and shall take all other necessary precautions for the protection of the work and safety of the public. Subcontractor shall indemnify Contractor from any liability for damage to the work, or for injury or damage to persons or property occurring on or about the project work area or in connection therewith, pursuant to the terms and conditions set forth in Section 15 herein.

32. **COOPERATION**. Subcontractor shall cooperate fully with other Subcontractors employed on the work and shall so plan and conduct the work to be performed as not to interfere with their operations. Contractor will not be responsible for any delays or interference resulting from the acts or operations of other Subcontractors, suppliers, or organizations.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

33. **SAFETY.** Subcontractor shall cooperate with Contractor and Owner in efforts to prevent injuries to any workers employed in carrying on operations covered by this Agreement and to adopt and place in effect any and all safety requirements of Contractor or Owner implemented at the site to promote safety and safe working conditions, including, but not limited to, the requirements set forth in Contractors written Code of Safe Practices which is hereby incorporated herein in full by this reference. Subcontractor, by signing this Agreement, hereby acknowledges receipt of the Code of Safe Practices referenced above prior to commencing its work under this Agreement. Should Subcontractor consistently fail to adhere to the requirements of that Code or any other safety requirement implemented by Contractor and Owner while working on the site, fail to maintain Subcontractors equipment in safe operating condition and/or should Subcontractors operation be characterized by abnormally frequent injuries to workers, then, at the option of Contractor, after the first such offense, may fine Subcontractor $250.00 for said first offense by back charging that fine to the contract price pursuant to this Agreement. Upon the second offense, Contractor may, at its option, fine Subcontractor up to $1,000.00, to be back charged against the contract price under that same protocol. After 3 or more violations of this provision, this Agreement, on forty-eight (48) hours written notice to Subcontractor, may be terminated as per the terms of this Agreement. Additionally, Subcontractor shall defend, indemnify and hold Owner and Contractor harmless for any safety violations, fines, levies and the like which may arise out of Subcontractors work under the terms of this Agreement.

34. **GUARANTEE**. Subcontractor agrees to warrant and guarantee all subcontract workmanship and materials for such period as is required of Contractor by Owner, but not less than one year from the later of the date of occupancy or substantial completion of the Project, (the "Warranty Period") and shall deliver any required warranties or guarantees to Contractor at the completion of the Project. If, within the Warranty Period, any work by Subcontractor is found to be defective, Subcontractor shall correct it at Subcontractor's expense promptly after receipt of written notice from Contractor to do so. Subcontractor shall respond to Contractor acknowledging receipt of the warranty notice within forty-eight (48) hours of receipt of the Contractor's warranty notice. Should Subcontractor fail to correct said work within two (2) weeks of notice, Contractor may repair or replace said defect and charge Subcontractor for the reasonable amount of said repair or replacement.

Subcontractor shall be bound to Contractor to the same extent that Contractor is bound to Owner, even if longer than the Warranty Period, for any claim, liability, loss, damage, cost, cost expense, including reasonable attorneys' fees, awards, fines or judgments arising by reason of all work which is covered by this Agreement or any amendment thereto. The terms and conditions of this provision do not supplant or waive any of Contractors legal rights or remedies as against Subcontractor arising out of all work which is covered by this Agreement or any amendments thereto.

35. **CLEAN-UP.** On completion of any unit of the work, and on final completion thereof, Subcontractor shall clean up all refuse and rubbish around or alongside the site caused by Subcontractor, and remove promptly all excess materials, tools, structures, and the like, that may have been brought on the premises or erected by Subcontractor. In the event of the failure of Subcontractor to do so, Contractor, after giving reasonable notice, may clean up the premises at the cost and expense of Subcontractor. In the event of the failure of the subcontract to do so, Contractor, after giving written twenty-four (24) notice, may clean up the Project at a rate of not less than $55.00 per hour, all at the cost and expense of the Subcontractor. Notwithstanding any of the foregoing to the contrary, ON NOT LESS THAN A DAILY BASIS, Subcontractor shall clean up all refuse and rubbish around or alongside the site caused by Subcontractor.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

36. **RESPONSIBILITY FOR OTHER CRAFTS.** Subcontractor shall assume full responsibility for defective work of others, if it accepts said work, or materials, and proceeds with its phase of the work without written notification to Contractor.

37. **NOTICES.** Any notice from one party to another shall be delivered either personally, via facsimile or by United States mail, postage fully prepaid, addressed as follows:

Contractor: Eleven Western Builders, Inc. 2862 Executive Place Escondido, CA 92029-1524 Fax No. (760) 796-6360	Subcontractor: Fax No.

Any notice being delivered within the continental United States shall be deemed delivered upon (a) personal service, or (b) transmission via facsimile (with the original thereof to be immediately sent via mail, postage prepaid), or (c) forty-eight (48) hours after the time of deposit in the mail, as the case may be. In the event any party changes its address, such change of address shall be communicated to the other party in the manner set forth in this numbered paragraph.

38. **AMENDMENT.** This Agreement shall be amended only by a writing signed by the parties. If such a written amendment is entered into, such written amendment shall modify only the provisions of this Agreement specifically modified and shall be deemed to incorporate by reference, unchanged, all remaining provisions of this Agreement.

39. **ARBITRATION.** If the Prime Contract, above calls for arbitration, then any claim or dispute arising out of or relating to the Agreement or the Work shall be subject to arbitration under the terms and conditions set forth in the Prime Contract. Further, if an arbitration concerning, relating to or arising out of Subcontractors work is commenced between Owner and Contractor, Subcontractor will, on demand of Contractor, become a party to such arbitration proceedings and shall submit to any award that may be rendered therein.

Any dispute between Contractor and Subcontractor that are not subject to the dispute resolution procedure of the Prime Contract shall, at the request of any party, be determined by binding arbitration. The arbitration shall be conducted in accordance with the Federal Arbitration Act (9 U.S.C. Sections 1-16), to the exclusion of state procedural Law and any choice of Law provision in the Contract Documents, and under the Construction Industry Rules of the American Arbitration Association to the extent the AAA Construction Industry Rules do not conflict with the FAA. In the event of any conflict between the AAA Construction Industry Rules and the FAA, the FAA shall prevail. Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrators. Judgment upon the arbitration award may be entered in any court having jurisdiction. Notwithstanding the above designation that the FAA procedural provisions govern to the exclusion of state procedural Law and any choice of Law provision in the Contract Documents, the arbitrators shall apply the substantive Law of the state in which the Project is located in rendering their decision on the merits of any controversy or dispute. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including without limitation the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for relief. The arbitration shall take place in the county in which the Project is located.

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

40. **ATTORNEYS FEES.** In the event any party shall be required to commence any action or proceeding against the other party by reason of any breach or claimed breach of any provision of this Agreement, to commence any action or proceeding in any way connected with this Agreement, or to seek a judicial declaration of rights under this Agreement, the party prevailing in such action or proceeding shall be entitled to recover from the other party, or to be reimbursed, the prevailing party's actual attorneys' fees and costs including, but not limited to, expert witness fees, witness fees, and any and all other fees and costs, whether or not the proceeding or action proceeds to judgment.

41. **CONSTRUCTION.** Whenever used in this Agreement as the context requires, the singular number shall include the plural, the plural number shall include the singular, the masculine gender shall include the feminine and neuter, the feminine gender shall include the masculine and neuter, and the neuter gender shall include the masculine and feminine.

42. **CALIFORNIA CONSUMER PRIVACY ACT.** For this Section, "Company" shall mean Contractor, Owner and any entity or person that, directly or indirectly, controls, is controlled by, or is under common control with any of the foregoing entities, each of their affiliates, any entity in which any of the foregoing entities is the managing member, manager, administrative member or general partner, and any of their owners, employees, directors, officers, agents, successors and assigns. Subcontractor shall not use, retain, or disclose Company's Personal Information ("PI"), as defined in California Civil Code § 1798.140(o), or other applicable law, except to perform the specific commercial purpose set forth in the Agreement. Notwithstanding the restrictions above, so long as Subcontractor does so in compliance with all applicable laws and in a manner that maintains its Service Provider status under the California Consumer Privacy Act and regulations thereunder (as amended from time to time, "CCPA"), Subcontractor may retain, use and disclose PI to the extent necessary to maintain reasonable security and detect or prevent fraud.

43. **HEADINGS AND CAPTIONS.** The headings and captions at the beginning of various paragraphs and subparagraphs of this Agreement shall not be construed to be a substantive part of this Agreement and shall not in any way define, limit, expand or affect any provision of this Agreement.

44. **FURTHER ACTS.** Each party shall perform any further acts and sign and deliver any further documents that are reasonably necessary to carry out the provisions of this Agreement.

45. **ENTIRE AGREEMENT.** This Agreement contains the entire understanding between the parties and supersedes any prior or contemporaneous written or oral agreements between the parties. There are no representations, warranties, agreements, arrangements, or understandings, oral or written, between the parties relating to the subject matter of this Agreement.

46. **COUNTERPARTS.** This Agreement may be signed in one (1) or more counterparts, each of which shall constitute an original but all of which together shall be one (1) and the same document.

ELEVEN WESTERN BUILDERS, INC.
CA LIC. #439908

2862 EXECUTIVE PLACE
ESCONDIDO, CA 92029 - 1524
TEL: 760.796.6346
FAX: 760.796.6360
BID FAX: 760.796.6358
WWW.EWBINC.COM

Attachment A - SUBCONTRACT AGREEMENT

47. **STATE LICENSE BOARD.** 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 IS FILED WITHIN THREE 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, CALIFORNIA 95826.

Contractor:

ELEVEN WESTERN BUILDERS, INC.,

A California Corporation

By: _____

Its: _____

Subcontractor:

By: _____

Its: _____