



KBR Federal Services, LLC

70 NE Loop 410, Suite 315
San Antonio, TX 78216

CONTRACT: «SubcontractNumber»

COST CODE: «CostCode»

STANDARD SUBCONTRACT AGREEMENT

Contract Date:	«ContractDate»	Project:	«JobName»
Subcontractor:	«Subcontractor»	Contract No.:	«ContractNumber»
Address:	«SubStreetAddress»	Project No.:	«JobNumber»
City/State/Zip:	«SubCityStateZip»	Phase:	«PhaseOfWork»
Phone:	«SubPhone»	Job Location:	«JobStreetAddress»
Fax:	«SubFax»		«JobCityStateZip»
Contact Name:	«SubContactPerson»	Owner:	«Owner»
E-Mail:	«Email»	Architect:	«Architect»
Federal Tax ID No.:	«FederalIDNo»	Civil Engineer:	«CivilEngr»
Subcontractor License No.:	«StateLicNo»	Structural Engineer:	«StructEngr»
Defense Priority Rating:	«DefPriorityRating»	MEP Engineer:	«MEPEngr»

This agreement ("Subcontract") is made between Contractor and Subcontractor for the performance of the Work described herein. Subcontractor acknowledges receipt of an executed copy of this Subcontract and copies of all the Contract Documents referenced below. Subcontractor has read, understands and agrees to be bound to the terms of this Subcontract, the Contract Documents, and any special or supplemental general conditions attached hereto.

1. **CONTRACT DOCUMENTS.** The Contract Documents are set forth below and are incorporated herein as if fully written in this Subcontract: Subcontract; the General Contract between Owner and Contractor and any attachments thereto including, without limitation, any General, Supplemental or Special Conditions and other Addenda to date; Exhibit "A" Scope of Work Product; Exhibit "B" Drawings, Specifications and other Design Documents; Exhibit "C" Certified List of Material Suppliers and Second Tier Subs; Exhibit "D" Application for Payment Form; Exhibit "E" Forms of Claim Waivers; Exhibit "F" Initial Baseline Schedule; Exhibit "G" Subcontractor Safety Requirements; Exhibit "H" Statement and Acknowledgement Form (SF1413), Exhibit "I" Equal Employment Opportunity Certification, Exhibit "J" Small Business Concerns Certification, Exhibit "K" Special Conditions; Other attachments hereto identified herein and all addenda to or revisions of any of the foregoing issued after the date of this Subcontract.
2. **SUBCONTRACTOR'S WORK.** Subcontractor shall perform all work set forth in the Contract Documents required for the successful completion of the Scope of Work identified in Exhibit "A" attached hereto (the "Work"). Subcontractor shall furnish, install and pay for, without limitation, all necessary labor, material, tools, equipment, insurance, freight and other items required to successfully complete its Scope of Work in strict accordance with the Contract Documents and any applicable codes, ordinances, statutes, regulations, or other legal duty, as well as in accordance with all terms, covenants, and conditions of the contract between Contractor and Owner. Subcontractor shall also furnish all other work incidental thereto to ensure that Subcontractor's Work is complete and functional for its intended purpose, including but not limited to supervision, quality control, testing, safety, personnel safety equipment, layout, field measurements, submittals, hoisting, scaffolding, task lighting, dumpsters, protection of installed work, protection of the work of others, and water for tradesmen. To the extent the provisions of the contract between Contractor and Owner relate, directly or indirectly, to Subcontractor's Work and otherwise do not conflict with any provision in this Subcontract, Subcontractor agrees that such provisions are fully incorporated herein as if completely written herein except that the word "Contractor" shall be substituted for the word "Owner", and the word "Subcontractor" shall be substituted for the word "Contractor" in the prime contract. All obligations and representations placed on Contractor under its contract with Owner shall apply to and be binding upon Subcontractor to the extent they relate in any way to Subcontractor's Work or its general obligations under this Subcontract. However, to the extent of any conflicting obligations, the provisions contained herein shall control. To the extent of any conflict between the requirements of any of the foregoing, Subcontractor shall perform the more extensive or expansive of the requirements. Subcontractor hereby represents and

acknowledges that it has reviewed and inspected all the Subcontract and the Contract Documents and has investigated and satisfied itself as to the conditions affecting Subcontractor's Work including, but not restricted to, those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads, and uncertainties of weather, river stages, tides or similar physical conditions of the Project and the type of equipment and facilities needed to perform Subcontractor's Work. Any failure by Subcontractor to acquaint itself with the available information will not relieve it from responsibility for estimating properly the difficulty or cost of successfully performing Subcontractor's Work and will not relieve it from responsibility for performing Subcontractor's Work. Contractor assumes no responsibility for any conclusions or interpretations made by Subcontractor on the basis of any information made available by the Owner or Contractor, unless incorporated into the Contract Documents.

- 2.1 All materials, supplies, tools, equipment, labor, permits, licenses, insurance and taxes necessary for performance of the work in a good and workmanlike manner are to be provided by the Subcontractor, unless otherwise specifically stated in the subcontract.
 - 2.2 All work performed and materials provided are to be inspected by the Subcontractor and are subject to inspection and rejection by both the Contractor and the Owner's Contracting Officer (and that authority's appointed Inspector or Quality Assurance Representative). Subcontractor is responsible for its own quality control. When the Subcontractor considers the Work, or a designated portion thereof, to be substantially complete after having performed its own inspection, Contractor shall prepare and submit to Subcontractor a list of items to be completed or corrected. Subcontractor shall commence work on said list within two (2) days (or less if so directed) after receipt of same and shall work continuously to complete and/or correct all items on said list so as to render Subcontractor's Work, or designated portion thereof, within seven (7) days (or less if so directed). After all contractor items are corrected, the Work will be subject to the inspection of the Owner. All items identified by the Owner to be corrected or completed will be performed as provided above for correction of Contractor identified items. If the work required by said list is not initiated and/or completed within the time, period provided above, such work may be performed by Contractor and all cost incurred shall be charged to Subcontractor's account and, at Contractor's option, shall be deducted from the Contract Price as provided in paragraph 3.3.2.
3. SUBCONTRACT AMOUNT. Contractor agrees to pay Subcontractor for the successful and complete performance of Subcontractor's Work the sum of: «ContractAmtAlpha» («ContractAmtNumeric») and to make payments on account thereof as follows:

Within thirty (30) days after execution of this Subcontract or "Notice to Proceed", whichever is later, and prior to submission of the first requisition of payment, Subcontractor shall submit to Contractor an accurate cost breakdown [Schedule of Values] that coincides with the project schedule of activities as shown in attached schedule [Exhibit "F"]. After the schedule of values is mutually agreed to, the schedule of values shall be used for evaluating future requests for payment.

- 3.1 The Subcontractor shall submit for approval to the Contractor a schedule of values allocated to the various parts of the Work of this Subcontract, aggregating the Subcontract Sum, made out in such detail as the Contractor may direct or as required by the Owner, and supported by such evidence as the Contractor may direct. The schedule of values must reasonably relate to the actual costs of the work. In applying for payment, the Subcontractor shall submit payment requests based upon its approved schedule of values for the Government approved percentages of completion for each activity. This schedule of values may be revised during performance by the Contractor, if the Contractor determines it is unbalanced or unreasonable as to the remaining work. The Contractor can object to this schedule at any time the Contractor believes that the schedule of values does not reasonably allocate values to the remaining work. Subcontractor will then submit within seven (7) days a revised schedule for the Contractor's approval. In the absence of an approved schedule (or revised schedule) of values for the Subcontractor, the Contractor will determine an interim schedule of values.
- 3.2 On or before the 20th day of each month, Subcontractor shall submit to the KBR project office a requisition for payment in the form set out in Exhibit "D", to Contractor covering the value of the Work completed by Subcontractor to Owner's and Contractor's satisfaction to that date, from which amount shall be deducted (a) a ten percent (10%) retainage (unless Subcontractor has provided a payment and performance bond), (b) all previous payments, (c) all previous retainage amounts, and (d) all other charges for material or services furnished by Contractor on Subcontractor's behalf. Request for payment received after the 20th day of each month will be processed with the following months pay request. The Contractor shall pay the Subcontractor each progress payment within seven calendar days after the Contractor receives payment from the Owner for the Subcontractor's work unless there are discovered to be inaccuracies in the Subcontractor's application for payment or there are backcharges or other amounts owed to Contractor by Subcontractor. In any event, no obligation of Contractor to pay Subcontractor arises unless or until Contractor receives payment from Owner. Subcontractor hereby expressly conditions its right to payment from Contractor upon the precondition of Contractor first receiving

payment from Owner; and by this, Subcontractor accepts the risk of the Owner delaying or not making payment to Contractor with Subcontractor having no damages claim against Contractor for delayed payments by Owner -- unless Subcontractor establishes that Contractor's nonreceipt of a progress payment from the Owner is due solely to the fault of Contractor itself and 60 days has passed since Contractor submitted the payment application to Owner. Subcontractor recognizes that there can be a delay in payment by Owner and that it has adequate resources to perform even when Owner delays in a payment. Subcontractor acknowledges that late submission of any requisition for payment causes damage to Contractor. Subcontractor shall, along with any pay requisition, submit a Partial or Final Release and Waiver of Lien, as appropriate, in a form shown by Exhibit "E" from itself and anyone providing labor or material by, through or under Subcontractor. Subcontractor agrees to payment based on the percentages of completion approved by the Owner's representative and the approved Subcontractor's schedule of values.

- 3.3 The Contractor has the right to withhold payment from later work, when previously paid for work has not been completed or completed in accordance with the contract requirements, until the work paid for has been properly performed. Such withholding shall be considered an agreed reduction in Subcontract price by both parties until such time as there is a final resolution of the withholding by correction/completion of the work, agreement, or arbitration.
- 3.4 The Subcontractor agrees to promptly pay within seven (7) days of receipt all sub-subcontractors, suppliers, and workmen for all work covered by the payment. Failure to do so will result in the withholding of future payments until satisfactory evidence of payment is received. Such withholding shall be considered an agreed reduction in Subcontract price by both parties until such time as there is proof of payment furnished Contractor, or final resolution of the withholding by agreement or arbitration. The Contractor has the right to demand and to receive partial releases from all sub-subcontractors, suppliers, equipment lessors, and workmen, as well as from the Subcontractor for all past payments prior to making any future payment.
- 3.5 Prior to beginning performance and within five days of issuing a purchase order or entering into a written or oral Subcontract after performance has begun, Subcontractor will furnish Contractor in writing a list or updated list of all sub-subcontractors and suppliers, whether or not they are paid in full. A failure to timely furnish an accurate, up-to-date list or amended list is a material breach of the Subcontract.
- 3.6 Contractor shall have the right to withhold amounts from payments otherwise due to Subcontractor that are withheld by Owner from Contractor for potential liquidated damages if Contractor determines Subcontractor is liable for such delay. Such withholding shall be considered an agreed reduction in Subcontract price by both parties until such time as the Owner no longer holds the liquidated damages or there is a final resolution of the withholding by agreement or arbitration.
- 3.7 All provisions of the Contract, including Contract Clauses, Special Clauses and General Requirements are part of this contract. Special attention is called to the provision of the Davis Bacon Wage Act, the Buy American Act, and all of the quality control and safety measures. No payment will be made for material or installation lacking approved submittals or when payroll reports or other required paperwork are past due. No payment will be made for material that does not comply with the Buy American Act.
- 3.8 Final payment of all remaining monies, including retainage, shall be paid to Subcontractor within thirty (30) days after completion, but only after completion, of all of the following conditions precedent:
 - a. Final acceptance of the Project by Owner;
 - b. Receipt by Contractor of its final payment from Owner;
 - c. Final acceptance of Subcontractor's Work by Contractor, Owner, Architect and Engineer, if any;
 - d. Furnishing Contractor of (i) Final Lien Release and Waiver from Subcontractor in the form attached as Exhibit "E" or such other form as Contractor may require, (ii) Final Lien Releases and Waivers in the form attached as Exhibit "E", or such other form as Contractor may require, to Contractor from all sub-subcontractors or suppliers providing labor or material through or under Subcontractor, and (iii) other evidence satisfactory to Contractor that all labor and material accounts incurred by Subcontractor have been paid in full or will be paid in full with such final payment prior to Subcontractor retaining any monies from the final payment, and;
 - e. Furnishing Contractor of all As-Built Plans, warranties, guaranties, instruction manuals, spare parts, extra material, and other items as required under the Contract Documents.
 - f. Consent of Surety to final payment, if required;
 - g. Owner approval that all of required close-out procedures have been performed; and
 - h. Other data required by the Contractor or Owner, such as receipts, releases and waivers of liens to the extent and in such forms as may be designated by the Contractor or Owner.
 - i. All test reports and/or certificates.

- 3.9 No payment to Subcontractor, monthly or final, shall operate as an approval of Subcontractor's Work, or materials, or any part thereof, or a waiver of Subcontractor's obligation to remedy improper Work or satisfy warranty obligations or other responsibilities under this Subcontract. In the event that the Subcontractor has not been paid for 90 days after Contractor's invoice for Subcontractor's work has been submitted and the delay in payment is not related in part to Subcontractor's work, then Contractor shall pay within seven (7) days. If payment to Contractor is withheld because of any objection to Subcontractor's Work, Subcontractor shall immediately remedy such objection to the satisfaction of the Owner and Architect prior to receipt of any monies from Contractor. Subcontractor expressly waives its right to receive payment unless and until Contractor receives payment from Owner and further acknowledges that Contractor would not subcontract with Subcontractor for this Project in the absence of such waiver. Payments otherwise due Subcontractor may also be withheld from any payment for: (a) bond claims or written notification of potential bond claims by sub-subcontractors, suppliers or laborers; (b) claims made or written notification of potential claims from sub-subcontractors, suppliers or laborers; (c) reasonable evidence that Subcontractor cannot complete its obligations under this Subcontract for the balance unpaid to Subcontractor; (d) defective Work not remedied; and (e) when Subcontractor: (i) causes damage or losses to the Project or Contractor, (ii) fails to perform its work timely, or (iii) otherwise fails to perform its obligations under this Subcontract. If said causes are not removed or remedied, at Contractor's sole discretion as to removal or credit, within forty-eight (48) hours of written notice from Contractor to Subcontractor, Contractor may rectify the cause at Subcontractor's expense and withhold from monies due or to become due or otherwise recover such amount from Subcontractor, if the balance due Subcontractor under this Subcontract is insufficient to rectify the cause. In the event of any breach by Subcontractor, the occurrence of items (a) – (e) above, or upon Contractor's good faith belief that Subcontractor may have insufficient funds to properly complete its work, joint checks may be issued to Subcontractor and its suppliers or sub-subcontractors. Subcontractor expressly waives any rights it may have under any law requiring that funds retained out of any payments due will be paid or segregated into any escrow or separate account for the benefit of Subcontractor or its sub-subcontractors or suppliers. Subcontractor grants Contractor a first security interest in and right of set-off to any amounts due or to become due Subcontractor to secure Subcontractor's performance of its obligations to Contractor, whether under this Subcontract or otherwise.
- 3.10 Acceptance of final payment shall constitute a release of all claims against Contractor and its surety arising under, or in relation to, this Subcontract, other than those claims Subcontractor specifically reserves in written notice to Contractor identifying itself in its heading with the words "Final Release". Subcontractor accepts the consideration set forth in this Subcontract as full compensation for all work performed and materials delivered.
- 3.11 Subcontractor covenants and agrees that any money received by it for the performance of its Work shall first be used solely for the benefit of its sub-subcontractors and suppliers providing labor or material for the Project. All payments from Contractor to Subcontractor shall immediately become trust funds for the benefit of such persons, and shall not be used or diverted by Subcontractor for any other purpose until such persons have been paid in full.
4. LIENS AND CLAIMS. Subcontractor will promptly pay all costs and expenses incurred in the performance of this Subcontract as they become due and shall furnish evidence satisfactory to Contractor as requested by Contractor. Subcontractor shall keep the Project, buildings, (including the property upon which it is situated as well as any other personal or real property against which a lien or claim is filed), and performance and payment bonds, free from all liens and claims filed by Subcontractor or any other person providing, or claiming to provide, labor or material by, through or under Subcontractor. If Subcontractor fails to remove a lien or bond claim by bonding or otherwise discharging it within forty-eight (48) hours of written notice from Contractor, Contractor may, in addition to its other rights and remedies, retain monies due or which may become due Subcontractor in an amount sufficient to pay the lien or bond claimant, remove the claim, and repay itself out of the proceeds due Subcontractor for all costs associated with removing the claim, including but not limited to Contractor's attorneys' fees. Should monies due Subcontractor be insufficient to reimburse Contractor for these costs, Subcontractor shall remain obligated to reimburse Contractor any cost difference.
- 4.1 Liquidated damages for delay provided for in the Contract shall be assessed against the Subcontractor only to the extent the Owner assesses them against the Contractor and then to the extent delay is caused by the Subcontractor, the Subcontractor's employees and agents, Subcontractor's suppliers or any person or entity for whose acts the Subcontractor may be liable. In the event that the cause of the delay cannot be determined with certainty the Contractor may, at its discretion, apportion liquidated damages among all of the Subcontractors and itself. Such liquidated damages are separate and in addition to Contractor's own damages for Subcontractor's delays.
5. TIME FOR PERFORMANCE. Time is of the essence of the Subcontract. Subcontractor, in signing this Subcontract, agrees that it has taken into consideration all hindrances and delays, including reasonably anticipatable weather, incident

to its Work, and agrees that the time allocated for its performance is sufficient. Subcontractor shall commence its Work when directed and as scheduled by Contractor, and diligently prosecute and coordinate its Work with other work being performed on the Project by others, so that the completion of the entire Project in the time specified in the Contract Documents shall not be delayed by Subcontractor. Subcontractor's Work must be completed in sufficient time to allow all other work on the Project to be completed in accordance with the Initial Baseline Schedule, as subsequently modified by Contractor. Subcontractor recognizes and acknowledges that Contractor may modify the Initial Baseline Schedule as the Work progresses, and Subcontractor shall continually keep itself updated as to job conditions to ensure that its Work shall be performed as directed by Contractor and in the durations scheduled by Contractor. The Subcontractor shall cooperate with the Contractor in scheduling and performing the contract work to avoid conflicts or interference in the Contractor's work and other Subcontractors' work and shall expedite submission of submittals to the Contractor for timely submittal to the Owner. The Subcontractor shall be responsible for performing in accordance with the Contractor's construction schedule, as revised during the job. If Subcontractor falls behind schedule, based on the latest CPM schedule update, Subcontractor shall, at its sole expense and without additional compensation, work extra hours, weekends, or add additional labor to catch up and maintain the schedule established by Contractor. Should Subcontractor fail to do so, Contractor may add labor or retain third parties, and/or accelerate the work of others as necessary, and backcharge Subcontractor for all costs incurred in doing so. **SUBCONTRACTOR SHALL INDEMNIFY AND HOLD CONTRACTOR HARMLESS FOR ANY DAMAGES, COSTS, LEGAL FEES, OR EXPENSES INCURRED BY CONTRACTOR (INCLUDING LIQUIDATED DAMAGES ASSESSED BY OWNER) DUE TO SUBCONTRACTOR'S FAILURE TO PERFORM ITS WORK IN A TIMELY MANNER.** In the event Subcontractor is delayed by the sole or partial fault of Contractor or Owner or for any reason whatsoever other than Subcontractor's breach of its obligations, Subcontractor's sole remedy is an extension of time for performance of its Work. Subcontractor expressly waives any damages arising out of any delay unless Contractor pursues and recovers Subcontractor's delay damages from Owner. Contractor has no obligation to pursue Owner for delay damages, if any, sustained or claimed by Contractor or Subcontractor.

- 5.1 Subcontractor shall prosecute the work undertaken in a prompt and diligent manner whenever such work, or any part of it, becomes available, or at such other time or times as the Contractor may direct, so as to promote the general progress of the entire construction, and shall not, by delay or otherwise, interfere with or hinder the work of Contractor or any other Subcontractors. Contractor must perform in accordance with the last CPM schedule update and in the most effective manner for the benefit of the overall project and has no right to perform in the most efficient manner for Subcontractor. If Contractor deems it necessary in order to keep up with the latest schedule update, Subcontractor, at its own expense and on demand of Contractor, shall provide additional work forces, overtime, and additional shifts, and shall expedite the furnishing of materials so as for Subcontractor to meet the progress schedule. Any materials that are to be furnished by Subcontractor, hereunder, shall be furnished in sufficient time and quantity to enable Subcontractor and Contractor to perform and complete their respective work within the time required.
6. **WARRANTY.** All labor, material, and equipment furnished under this Subcontract is warranted and guaranteed by Subcontractor: (a) to satisfy all requirements of the Contract Documents; (b) to be sufficient for the purposes intended; (c) to be merchantable; (d) to be new; and (e) to be installed in a good and workmanlike manner free from defects. The foregoing warranties shall extend for the time period required by the Contract Document, but in no event less than one (1) year from the date of final acceptance by Owner of all work on the Project under the Contract Documents if the Contract Documents are silent as to when the warranty starts. These warranties are in addition to, and not in lieu of, all implied warranties that may exist under the law.
7. **DEFECTIVE WORK.** Subcontractor warrants and guarantees that it shall perform all Work in a good and workmanlike manner, in conformity with the obligations of this Subcontract, and in conformity with all applicable laws, building codes, specifications, and manufacturer's standards and recommendations. The Subcontractor agrees that the Owner and Prime Contractor will have the authority to reject Work, which does not strictly conform to the Prime Contract. The Owner's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Prime Contract. For a period of one year after final acceptance of the Work by order or such other longer period as provided in the Contract Documents, Subcontractor shall promptly restore or repair any defective Work or material that does not meet the obligations of this Subcontract. If Subcontractor fails to do so, Contractor may have such work performed and Subcontractor shall pay the reasonable costs thereof. Subcontractor shall promptly make good by replacement or correction, at its sole expense, any defective Work, any defect in materials or workmanship, or any Work or material which does not meet the requirements of this Subcontract, including the restoration of any Work of Contractor or other Subcontractors that has been affected thereby. Subcontractor agrees to perform the Work under this Subcontract in such a manner that it will not injure, damage or delay any other work performed by Contractor or other Subcontractors and further agrees to pay Contractor for any damage that may be caused to such other Work by Subcontractor. Subcontractor

further agrees that if it shall cause any stains, blemishes, imperfection, marks or damage of any sort whatsoever, whether to its Work or to the work of Contractor or other Subcontractors, it will immediately remedy the damage so caused to the satisfaction of Contractor. Subcontractor acknowledges that its work under Paragraphs 6 and 7 may be performed after the Project is being occupied or otherwise utilized by the Owner, the Owner's tenants, or others. Before and during the performance of its work under Paragraphs 6 and 7, Subcontractor shall coordinate with Contractor, Owner, Owner's tenants, or others occupying or utilizing the Project, and shall be responsible for performing such work in a manner and time that will not interfere with the current usage of the Project, even if such accommodation requires that the Subcontractor's work is performed on weekend, after business hours, or even after the time periods set for in Paragraphs 6 or 7 have otherwise expired.

8. INDEMNITY: TO THE FULLEST EXTENT PERMITTED BY LAW, SUBCONTRACTOR SHALL INDEMNIFY AND HOLD HARMLESS CONTRACTOR AND OWNER, TOGETHER WITH THEIR AGENTS, SERVANTS, EMPLOYEES, REPRESENTATIVES, OFFICERS, DIRECTORS, SURETIES AND ATTORNEYS, FROM AND AGAINST ANY AND ALL CLAIMS, DAMAGES, LOSSES, EXPENSES, ATTORNEYS' FEES, AND CAUSES OF ACTION ARISING OUT OF OR RESULTING FROM THE FAILURE OF SUBCONTRACTOR TO PERFORM ITS CONTRACTUAL OBLIGATIONS OR SATISFY ANY STATUTORY OR COMMON LAW DUTIES. THIS INDEMNIFICATION OBLIGATION SHALL INCLUDE, BUT NOT BE LIMITED TO: (i) ALL CLAIMS BY OWNER OR OTHERS AGAINST CONTRACTOR BASED ON ANY DEFECTS, IMPROPER PERFORMANCE OF SUBCONTRACTOR'S WORK OR DELAYS OF OTHERS BY SUBCONTRACTORS, (ii) ALL CLAIMS, DAMAGE, LOSSES, EXPENSES, ATTORNEYS' FEES AND CAUSES OF ACTION ATTRIBUTABLE, IN WHOLE OR IN PART, TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, INCLUDING LOSS OF USE RESULTING THEREFROM, TO THE EXTENT CAUSED, IN WHOLE OR IN PART, BY ANY BREACH OF WARRANTY, FAILURE TO PERFORM THE REQUIREMENTS OF THE CONTRACT DOCUMENTS, OR NEGLIGENT OR INTENTIONAL ACT OR OMISSION OF SUBCONTRACTOR OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY SUBCONTRACTOR OR ANYONE FOR WHOSE ACTS SUBCONTRACTOR IS LIABLE. SUBCONTRACTOR'S INDEMNITY OBLIGATIONS SHALL REMAIN IN FULL FORCE AND EFFECT REGARDLESS OF WHETHER (a) THE CLAIMS, DAMAGES, LOSSES, EXPENSES, ATTORNEYS' FEES, OR CAUSES OF ACTION ARE CAUSED IN PART, BY THE NEGLIGENCE OF CONTRACTOR OR OWNER. OR THE CLAIM RELATES TO A CLAIM UNDER SUBCONTRACTOR'S WORKERS COMPENSATION POLICY. SUBCONTRACTOR'S OBLIGATION TO INDEMNIFY SHALL NOT BE CONSTRUED TO NEGATE, ABRIDGE OR OTHERWISE REDUCE ANY OTHER RIGHT OR OBLIGATION OF CONTRIBUTION OR INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO ANY PARTY OR PERSON IN ANY OTHER PROVISION OF THIS SUBCONTRACT OR UNDER THE LAW. IN THE EVENT OF ANY INDEMNIFIED CLAIM AGAINST CONTRACTOR BY ANY THIRD PERSON, CONTRACTOR RESERVES THE RIGHT TO CHOOSE LEGAL COUNSEL AND DIRECT THE DEFENSE OF SUCH CLAIM AT SUBCONTRACTOR'S SOLE COST AND EXPENSE.
9. DEFAULT/TERMINATION. If, in the opinion of Contractor, Subcontractor shall at any time: (a) refuse, fail or neglect to prosecute its Work with promptness or diligence or otherwise cause any stoppage, delay or interference with the Work of the Contractor or any other Subcontractors on the Project; (b) refuse, fail or neglect in any respect to prosecute its Work according to Contractor's then current schedule; (c) refuse, fail or neglect to provide sufficient properly skilled workers, adequate supervision or materials of proper quality; (d) refuse, fail or neglect to comply with any provision of this Subcontract or the Contract Documents; (e) file for relief under the Bankruptcy Act or be placed into receivership; or (f) fails to immediately rectify any unsafe condition or work procedure, then in any of the foregoing events Contractor, in its sole discretion and after providing Subcontractor forty-eight (48) hours written notice, may: (i) provide such materials, workmen, tools, equipment, and/or supervision as shall be deemed necessary by Contractor to prosecute the Work with due diligence, and to deduct the cost thereof from any money due or thereafter to become due to Subcontractor; and (ii) enter upon the Subcontractor's premises, take possession of all materials, tools and other equipment of any kind whatsoever necessary for completing Subcontractor's Work, terminate Subcontractor's Work under this Subcontract, and employ all persons and material necessary to complete the Work in a timely manner. If Contractor elects to take such actions as described in (i) or (ii) or both (i) and (ii) above, Subcontractor shall not be entitled to receive any further payment under this Subcontract until such default is cured by Subcontractor and Contractor has been fully reimbursed. If the unpaid balance of monies otherwise due under this Subcontract exceeds the monies spent by Contractor to cure Subcontractor's default or complete Subcontractor's Work, Subcontractor shall receive the difference, so long as (a) Subcontractor has otherwise satisfied all other conditions to payment under this Subcontract, and (b) the time period for Subcontractor's warranty obligations has expired. If the monies spent by Contractor exceed the unpaid balance of monies otherwise due, Subcontractor shall immediately pay Contractor the difference. In the event Contractor terminates Subcontractor under this Paragraph, Subcontractor agrees that all of its purchase orders or sub-subcontracts shall, upon written election by Contractor, be automatically assigned to Contractor.

Contractor also reserves the right to terminate this Subcontract for convenience. In the event of any termination for convenience, Subcontractor shall be reimbursed, as its sole and exclusive remedy and subject to any other limitations on payment as provided herein, for: (a) its actual costs incurred to date up to the amount representing percentage or work completed or Subcontractor's approved Schedule of Values; however, if Subcontractor would have incurred a loss, if Subcontractor had completed all its Work, then an adjustment shall be made as described in FAR 49.203; (b) a percentage of the profit it would have made if all its work was completed by Subcontractor, in an amount equal to the percentage amount of total work actually completed to date; however, if Subcontractor would have incurred a loss, if Subcontractor had completed all its Work, then an adjustment shall be made as described in FAR 49.203; and (c) all proven reasonable demobilization costs. Subcontractor expressly waives any consequential damages of any type or nature whatsoever and any anticipatory profits in the event of termination by the Contractor whether by improper termination for default or for convenience. Notwithstanding anything contrary to the foregoing, Subcontractor's warranty obligations shall survive and shall not be affected or modified by any default by Subcontractor or termination of this Subcontract for cause.

10. INSURANCE. Subcontractor shall, in a manner satisfactory to Contractor, maintain at its own expense policies of insurance of the types and in the amounts not less than those stipulated below. At the time this Subcontract is executed and returned to Contractor in the form of a contract modification, and prior to commencement of any work, Subcontractor shall provide proof that it has satisfied all requirements for satisfying such obligations.

10.1 Workers Compensation and Employer's Liability

- 10.1.1 Coverage "A" - Statutory requirements in states where operating, to include all areas involved in operations covered by this Subcontract.
- 10.1.2 Coverage "B" Employer's Liability, bodily injury by accident, \$500,000 each accident; bodily injury by disease, \$500,000 each employee; and bodily injury by disease \$500,000 policy limit.
- 10.1.3 Policy to include standard "Broad Form Other States" endorsement.

10.2 Commercial General Liability

- 10.2.1 Commercial General Liability form, including Premises/Operations, Elevators and Escalators, Independent Contractors, Products/Completed Operations, Personal Injury, Broad Form Property Damage (including Completed Operations), and coverage for explosion, collapse and underground hazards. If Exhibit "A" Scope of Work is for residential construction, the Commercial General Liability policy must not contain any exclusion for the residential construction exposure in this Agreement. Residential construction is defined as (including but limited to) military housing, dormitories, nursing homes, multi-family, garden apartments, town homes, and condominiums.
- 10.2.2 Contractual Liability: Blanket basis insuring the liability assumed under this Subcontract.
- 10.2.3 Limits of Liability: \$1,000,000 each occurrence for Bodily Injury and Property Damage; \$2,000,000 general aggregate; \$2,000,000 for products/completed operations aggregate.

10.3 Business Automobile Policy

- 10.3.1 Business Automobile Policy form, including coverage for all Owned, Non-Owned and Hired Vehicles.
- 10.3.2 Limits of Liability: \$1,000,000 combined single limit for Bodily Injury and Property Damage.

Check box for Professional Liability Insurance (If box is checked, Section 10.4 Insurance is required)

10.4 Professional Liability Insurance \$1,000,000 each occurrence or equivalent
Subject to a \$1,000,000 policy aggregate.

This policy shall provide coverage for the negligent acts, errors and omissions of the Professional, any agent, servant or employee of the Professional while acting in their professional capacity for liability or damage that:

- 10.4.1 is caused by or results from:
 - a) defects in plans, designs, or specification prepared, approved, or used by the Professional; or
 - b) negligence of the Professional in the rendition or conduct of professional duties called for or arising out of the contract documents and the plans, designs or specifications that are a part of the contract documents; and
- 10.4.2 arises from:
 - a) personal injury or death;
 - b) property injury; or any other expense that arises from personal injury, death or property injury;
 - c) work that has to be replaced, corrected, or changed and any delays relating thereto.

- 10.5 Umbrella Liability: Such liability shall provide coverage with limits not less than \$4,000,000 each occurrence for Bodily Injury and Property Damage; \$4,000,000 general aggregate, in excess of the coverage's listed in Paragraphs 10.1.2, 10.2, and 10.3 above.
- 10.6 Subcontractor shall cause the policies referenced in Paragraphs 10.1, 10.2, 10.3, and 10.5 to be duly and properly endorsed by Subcontractor's insurance underwriters as follows:
1. To provide that Owner and Contractor are endorsed as additional insured for work in progress as well as after substantial completion except for Worker's Compensation and Employer's Liability listed in Paragraph 10.1. The policies must contain additional insured language with equivalent or better protection than CG 20 10 and CG 20 37.
 2. To provide that the insurances will be primary, and that Owner's and Contractor's insurances shall be secondary and non-contributing at all times.
 3. To provide contractual liability coverage for all liability assumed under the terms of this Subcontract.
 4. To provide a full waiver of subrogation rights against Owner and Contractor for Workers Compensation.
 5. To provide thirty (30) days prior written notice of cancellation or material change in coverage to Owner and Contractor for any insurance coverages provided by Subcontractor.
- 10.7 Subcontractor shall include provisions identical to Paragraphs 8 and 10 herein in each of its contracts with sub-subcontractors and suppliers, with each sub-subcontractor and supplier agreeing to indemnify and insure Subcontractor, Contractor and Owner to the same extent as required of Subcontractor in this Subcontract. Without limiting Subcontractor's other obligations to this Agreement, in the event an individual hired or retained by a sub-subcontractor or other person performing work within Subcontractor's scope of Work is injured, and the person or entity retaining the services of such injured individual has not carried worker's compensation insurance for such injured individual, then in such event Subcontractor agrees that the injured individual will be deemed an employee of Subcontractor for statutory, contractual and common law purposes.
- 10.8 At the time this Subcontract is executed and returned to Contractor, and prior to the commencement of any Work, Subcontractor shall submit certificates of insurance complying with this Subcontract and showing that Subcontractor and each of its sub-subcontractors and suppliers have obtained the insurance coverages required herein. The Certificate of Insurance must be written on the standard ACORD form and have the words "endeavor to" and "But, failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents or representatives" stricken and/or removed. If such certificate is not so provided, Contractor may procure, at Subcontractor's sole expense, the required insurance coverages. Subcontractor shall also be responsible for payment of its proportional share of any deductible for any loss covered by any insurance or builders risk policies provided by others for the Project.
- 10.9 Subcontractor, on behalf of itself and its insurers, agrees to waive any and all rights of subrogation which it or its insurers have or may have against Owner or Contractor, and their agents, representatives, employees, officers, directors, sureties, and insurers, for any loss or expense which is required to be covered under any policy of insurance pursuant to this Subcontract.
- 10.10 The above insurance coverages shall be maintained throughout the term of this Subcontract and for a two (2) year period after substantial completion of the Project. Subcontractor's insurance carrier's shall be acceptable to Contractor and licensed or admitted to conduct business in the state where the Project is located and carry an A.M. Best Key rating of at least A-VIII or better.
11. ASSIGNMENT. Subcontractor shall not let, assign, transfer or delegate this Subcontract or any portion or interest therein without the prior written consent of Contractor in the form of a contract modification, which consent may be withheld at Contractor's sole discretion.
12. BONDS AND FINANCIAL ASSURANCES. Subcontractor, at Contractor's option, shall provide payment and performance bonds in an amount equal to the Subcontract Amount from a surety acceptable to Contractor and authorized to do business in the State where the Project is located. Subcontractor will provide the surety invoice to Contractor and Contractor shall issue a change order for the performance and payment bonds equal to the value of the surety invoice. Contractor may also require Subcontractor to provide other reasonable financial assurances of sufficient funds to perform and pay all workers, sub-subcontractors, and suppliers, equipment lessors, etc. at any point, before, during or after the performance of the Work hereunder. In the event Subcontractor is unable to provide reasonable financial assurance sufficient to establish that it has the financial capability to perform its obligations hereunder, Contractor may elect and/or require, at Contractor's sole election, any of the following (i) the posting of a Letter of Credit or other financial guarantees in an amount, at Contractor's sole discretion, sufficient to complete the Work, or (ii) terminate this Subcontract with no further payment to Subcontractor, complete Subcontractor's Work, and thereafter recover any

monies paid in excess of the Subcontract balance from Subcontractor. No election by Contractor shall affect or limit Subcontractor's obligations to Contractor as otherwise provided in this Subcontract.

13. **DAILY REPORTS.** Subcontractor shall prepare and furnish copies of daily reports to Contractor in a format approved by the Contractor reflecting manpower and Work performed by, through or under Subcontractor each day.
14. **CLEAN UP.** Subcontractor is responsible for all of its own clean up and trash removal from the site daily in a manner acceptable to Contractor.
15. **SAFETY.** Subcontractor shall take all safety precautions set forth in the Contract Documents and as otherwise required to ensure a safe workplace. Subcontractor shall take all reasonable precautions for the safety of all its employees and other persons affected by the performance of Subcontractor's Work, safety and all Work and materials incorporated into the Project, and for the safety of all property and improvements at the construction site. Subcontractor shall attend all safety meetings, and shall conduct its own weekly safety meetings for its employees. Subcontractor shall comply with all applicable laws, ordinances, rules, regulations, statutes, and orders of any governmental agency or authority for the safety of persons or property or otherwise affecting the Work or the Project.
16. **TAXES.** Subcontractor shall pay all F.I.C.A., unemployment, social security and other employment taxes imposed upon it as an employer in connection with Subcontractor's Work. If requested by Contractor, Subcontractor will provide evidence satisfactory to Contractor that this obligation has been satisfied. Subcontractor shall also pay all local, state and federal taxes including but not limited to sales taxes, fees or assessments associated with Subcontractor's Work, and shall secure and pay for all licenses, permits, fees and approvals necessary for its Work.
17. **LEGAL FEES.** If Contractor, in its sole discretion, deems it necessary to employ legal counsel to enforce any of Subcontractor's obligations, protect Contractor or Owner from Subcontractor's failure to perform its obligations hereunder, or defend itself from invalid or partially invalid claims, Contractor shall be entitled to recover its reasonable attorneys' fees, costs and expenses. Contractor shall give Subcontractor written 24 hours notice before starting to charge for legal fees.
18. **CHANGES AND DELAYS.** This Agreement may be amended or modified only by written instrument signed by both Contractor and Subcontractor. In the absence of contrary provisions in the Owner/Contractor agreement: (a) any change involving an increase in the Subcontract Amount because of an increase in Subcontractor's scope of Work shall be priced at the actual cost of the work plus a ten (10%) percent total markup for overhead, general conditions and profit of the actual cost of the work; (b) any change involving a decrease in the Subcontract Amount due to a reduction in Subcontractor's scope of Work shall be priced at the actual cost of the work plus reduced overhead, general conditions and profit of the actual cost of the decreased work; and (c) any increase or decrease in the Subcontract Amount due to backcharges by Subcontractor for work done to remedy damages caused by Contractor or other Subcontractors shall be priced at the actual cost of work with no markup for overhead, general conditions or profit. Pricing for changes to the Work shall be submitted to the Contractor within five (5) days of notification of or request for change or identification of a Subcontractor backcharge. The Project Superintendent shall not have the authority to order, approve, or accept any alterations of any kind to Subcontractor's Work as shown or described by the Contract documents, including any work beyond the scope of this Subcontract. An extension of time will not be granted for Subcontractor's performance unless (a) Subcontractor has given Contractor's Project Manager written notice of the delay within twenty-four (24) hours of the commencement of the event causing such delay, and (b) Subcontractor is otherwise entitled to such extension pursuant to the Contract Documents. Subcontractor expressly waives any claim for monies associated with any time extension or extra work performed prior to receipt of written order signed by Contractor's Project Manager.
 - 18.1 In the event Subcontractor's performance is delayed or interfered with by acts of Owner, Subcontractor may request an extension of time for performance because of delays beyond Subcontractors control, but Contractor shall not be liable to Subcontractor for delay to Subcontract because of the act, neglect, or default of Owner (unless recovery for such delay attributed to the Owner can first be recovered from Owner) Contractor or other Subcontractors on this project, or fire or other casualty, riots, strikes or combined action of the workmen or others, acts of God, and other cause beyond Subcontractor's control, or any circumstances caused or contributed to by Subcontractor.
 - 18.2 Subcontractor shall promptly submit certifications, insurance, bonds, requests for information (RFI), shop drawings, product data, samples, substitution/ deviation/ variation requests and similar submittals required by the Prime Contract Documents or the Owner (on the required forms) and in such sequence as to not cause delay. No delays shall be warranted, and no time extensions shall be allowed, when Subcontractor drawings are not properly

prepared, or when Subcontractor by the exercise of reasonable diligence and judgment could have anticipated and avoided the delay.

19. CHOICE OF LAW AND VENUE. All disputes shall be resolved in accordance with the terms, conditions, regulations and statutes associated with the Prime Contract. With respect to application of the Prime Contract and the Federal Acquisition Regulations to this Subcontract, the following is offered by way of example and not by limitation: All changes and claims are subject to the Changes and Disputes clauses of the Prime Contract. All claims of Subcontractor involving actions or inactions of the Owner are to be carried forward against the Owner by the Subcontractor with sponsorship being afforded by the Contractor. All suspensions and delays are subject to the Suspension of Work and Liquidated Damages clauses of the Prime Contract. All invoices and payments are subject to the Payments and Inspection clauses of the Prime Contract. All terminations are subject to the Termination clauses (default and convenience) of the Prime Contract. The Subcontractor acknowledges having familiarized itself of the unique U.S. Government requirements of the Prime Contract, including those dealing with pre-bid site visits, labor, employment, safety, inspection, changes, disputes, terminations, payment, certifications, auditing, record-keeping, reporting and fraud. Subcontractor is to provide all certifications, reports and disclosures as required by the Prime Contract, the Owner's Contracting Officer and the Federal statutes and regulations. Where federal regulations and decisions do not have any application, then the laws of the State of Texas shall apply.

19.1 Any mediation or arbitration (or litigation in the event the arbitration clause is held unenforceable) shall be conducted in Houston, Texas. Venue for disputes arising out of or related to this subcontract that are not subject to binding arbitration shall be in Harris County, Texas in state court, or if otherwise permissible, Federal District Court in Harris County, Texas. For any actions to compel, resist arbitration, or to enforce an arbitrator's award, or any other action relating to the contract, exclusive venue shall be in the State Court in Harris County, Texas, or in the United States District Court for the Northern District of Texas, Harris Division. The mandatory venue provision applies to any action brought under the Miller Act against the Contractor or its Surety. Notwithstanding the foregoing, if Contractor's agreement with Owner specifically provides for a choice of law different than this Subcontract, the law selected in Contractor's agreement with Owner shall govern this Subcontract. This provision shall survive the termination of the Subcontract, whether by default or for convenience.

20. MEDIATION AND ARBITRATION. Subcontractor and Contractor understand and warrant to one another that this transaction involves interstate commerce, and that any dispute of any type or nature whatsoever between Subcontractor and Contractor (past, present or future) including, but not limited to, (a) any and all controversies, disputes or claims arising under or related to this Subcontract, the property to be improved by Subcontractor, the Project, or any dealings between the parties (excluding "consumer products" as defined in the Magnuson-Moss Warranty - Federal Trade Commission Act and regulations promulgated thereunder), (b) any controversy, dispute or claim arising by virtue of any representations, misconduct or omissions, and (c) any personal injury or property damage claim, shall first be submitted to mediation and, if not settled at mediation, to binding arbitration pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 et seq., or, if deemed inapplicable, to the similar state arbitration statute for the state where the Project is located. In deciding the disputes between the parties, the arbitrator shall enforce the terms and conditions of this Subcontract utilizing the applicable law as set forth in paragraph 19. Determination of the arbitrability of any dispute shall be made by the arbitrator, and shall be binding on both parties. Mediation shall be conducted before a mediator jointly selected by both Contractor and Subcontractor. In the event the parties cannot agree on a mediator, then the mediator shall be selected by the American Arbitration Association ("AAA") utilizing the AAA's Construction Industry Mediation Rules. Arbitration shall be conducted utilizing the AAA's Construction Industry Arbitration Rules, but shall not be administered by AAA, unless the claim(s) of both parties qualify to be handled under AAA fast track rules. The parties shall agree on a single arbitrator and, in the event they cannot agree on an arbitrator, a court of competent jurisdiction shall appoint one. Contractor and Subcontractor agree that this Mediation and Arbitration obligation shall survive the termination of this Subcontract, whether by default, breach, or for convenience. Notwithstanding anything to the contrary, (a) Contractor reserves the right to pursue and obtain injunctive or equitable relief from a court of law, (b) if a lawsuit or arbitration is brought against Contractor in a court of law and such claims involve, directly or indirectly, Subcontractor's Work, Contractor reserves the right to join Subcontractor in such arbitration or lawsuit, and (c) if any claims by Subcontractor involve, directly or indirectly, the work or obligations of other persons, Contractor reserves the right to join such other persons to its arbitration or litigation with Subcontractor.

20.1 This Article shall not be deemed a limitation of rights or remedies which the Subcontractor may have under Federal law, or under state mechanics' lien laws under applicable labor or material payment bonds, unless such rights or remedies are expressly waived by the Subcontractor and its surety. Regardless, any action against the Contractor by the Subcontractor will be by binding arbitration. Subcontractor will agree to a stay of any action against Contractor or its Surety by Subcontractor under a payment bond until final resolution of the arbitration.

action(s). Arbitration shall create no independent right to attorney's fees. Subcontractor agrees to pay its own attorney's fees for any disputes, claims, arbitration, or lawsuits, whether or not resulting in arbitration or litigation which arise or are related to the performance of this Subcontract. This covenant is independent of all covenants contained within this Subcontract, and the obligation of the parties to perform this promise shall continue even if the other party fails to perform as agreed. Paragraphs 19 and 20 shall be incorporated by Subcontractor in any Subcontract or purchase order issued in connection with performance of this Contract.

- 20.2 Subcontractor shall proceed diligently with performance of this Subcontract pending final resolution of any request for relief, claim, appeal, negotiation, mediation, arbitration or action arising under the Subcontract and to comply with any decision, instruction or order of the Owner's Contracting Officer or of Contractor. No dispute or claim, whether for breach of contract or not shall interfere with the progress of construction and Subcontractor shall proceed with its work as directed while seeking resolution as set forth herein.
- 20.3 With respect to changes or damages which are the result of the actions or inactions of the Owner, Subcontractor's sole remedy for any controversy or claim of the Subcontractor shall be to submit it to the Contractor for submission and sponsorship to the Owner for issuance of a Final Decision of the Owner's Contracting Officer in accordance with the disputes provision of the Prime Contract. For claims and damages chargeable to the Owner, Subcontractor's sole remedy shall be via submission of a Contractor-sponsored claim through Contractor to Owner for payment. It is expressly understood that as to any and all costs or damages attributable to Owner, Contractor shall only be liable to Subcontractor to the same extent Owner is liable to Contractor, but never to any greater extent that Owner is liable to Contractor. Subcontractor agrees to the exhaustion of all remedies available against Owner prior to Subcontractor initiating any action against Contractor. In the event of a statute of limitation dictates otherwise, the Contractor shall provide Subcontractor on timely demand a written tolling agreement to raising such limitations as a defense. All costs of prosecuting the Subcontractor's claim shall be the Subcontractor's proportionate obligation based on the total amount of Subcontractor's claims being pursued compared to the total claims being pursued against the Owner. Upon receipt of payment from Owner on account of Subcontractor's claim, Contractor shall forward payment to Subcontractor (including any costs, overhead, profit or interest paid by Owner separately on Subcontractor's account but excluding any costs, overhead, profit and interest paid by Owner on Contractor's account) within seven calendar days less any previously unreimbursed or unpaid costs of prosecution of the claim.
- 20.4 If a dispute involving anyone is prosecuted or defended by Contractor in association with performance on this construction project, Subcontractor agrees to make available and furnish (on an unloaded expense-reimbursement basis) all documents, statements, witnesses and other information or support that is required in order for the Contractor's interests to be protected. In the event Contractor is defending in any manner Subcontractor's actions or inactions, such information and support shall be provided without charge.
21. **SUBMITTALS.** Subcontractor shall submit to Contractor as specified in attached scope of work complete shop drawings, data, catalogue cuts and/or samples, and Material Safety Data Sheets for Subcontractor's Work as required by the Contract Documents or any state or federal laws or regulations. Subcontractor warrants that the submittals shall conform to the requirements of the Contract Documents. Approval by Contractor or Owner of any submittals shall not limit or abrogate Subcontractor's warranty that the submittals conform to the Contract Documents. Work on an approved submittal can be properly rejected at any time, if it does not conform to the contract requirements unless a deviation is explicitly stated on the submittal approval request form by Subcontractor and the work conforms to the approved deviation.
22. **CLOSEOUT DOCUMENTS.** At such time as the Contractor deems appropriate, Subcontractor shall submit all closeout documents, including but not limited to as-built drawings, operation and maintenance manuals, warranties and guaranties.
23. **PRIOR NEGOTIATIONS AND AGREEMENTS.** Any prior negotiations, bids, quotes, understandings, representations, promises, or agreements of any type or nature, excluding any bond provided by Subcontractor, if any, between Contractor and Subcontractor are hereby voided. Subcontractor warrants and represents that its sole rights and obligations are set forth in this Subcontract, and that it is not relying upon any written or verbal representation, assurance or promise of any type in entering this Subcontract.
24. **ENTRY.** All of Subcontractor's employees, Subcontractors, suppliers and material carriers shall use the gate so designated by Contractor for their use at this Project.
25. **SEVERABILITY.** In the event any one or more provisions of this agreement, or any instrument executed and delivered hereunder or pursuant hereto, shall be held invalid, illegal or unenforceable in any respect as to any person or party by any court or in any arbitration proceeding, then the validity, legality and enforceability of the remaining provisions of

this Subcontract or any other instrument executed and delivered hereunder pursuant hereto, and as to all other persons and parties affected or impaired thereby will remain unaffected and this Subcontract shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

- 26. **WRITTEN NOTICE.** All written notices provided for in this Subcontract shall be deemed given if delivered in writing to a representative of the Subcontractor and the Project Manager for Construction or, if and when sent by facsimile, regular mail, or by overnight carrier to the party at the address herein, or to the surety of the party named herein. Only one such notice shall be required, and any notice given in the manner herein described shall be deemed continuous. Notices to Contractor must be given to the Project Manager assigned to the Contract with a copy to the job superintendent.
- 27. **SOILS.** In the event any of Subcontractor's Work involves, directly or indirectly, the condition of any soil or subsurface conditions at the site, Subcontractor warrants and represents that it has examined the site and all information and documents made available by Owner and waives any claim it has or might have against Contractor concerning the soil or subsurface conditions disclosed by Owner or available by a reasonable site visit. All soils and subsurface conditions shall be considered unclassified.
- 28. **EXECUTION.** This subcontract is subject to cancellation at Contractor's sole discretion unless signed by Subcontractor and returned to Contractor within 10 working days. If so canceled, Subcontractor shall be entitled to no compensation.
- 29. **SURVIVAL.** Subcontractor's obligations hereunder shall survive the termination of this Subcontract as a result of default by Subcontractor. In the event of a termination for convenience, Subcontractor's obligations hereunder shall survive the termination with the exception of its obligation to complete the remainder of Work remaining as of the date of the termination for convenience.
- 30. **SUCCESSORS AND ASSIGNS.** Subcontractor binds itself, its partners, successors, any assigns approved by Contractor, and legal representatives to the Contractor and to the partners, successors, assigns and legal representatives of the Contractor in respect to the covenants, agreements and obligations contained herein.
- 31. **WAIVER.** No waiver.

CONTRACTOR

KBR FEDERAL SERVICES, LLC

By: _____

Title: _____

Date: _____

SUBCONTRACTOR

«SUBCONTRACTOR»

By: _____

Title: _____

Witness: _____

Date: _____

Exhibit "A"
Scope of Work Product

Subcontractor is obligated to supply all labor, material and services required to perform the Work set forth below and as otherwise provided in the Contract Documents. Subcontractor's obligations shall include, without limitation, any related or incidental labor, material or services required to satisfy its obligations or any obligations reasonably inferable thereto, as well as any addenda or modifications issued subsequent to the date of this Subcontract.

IT IS UNDERSTOOD THAT

1. The following is a general description of the work included in this Subcontract. This description is for the purpose of clarification only and unless specifically excluded, does not relieve the Subcontractor from performing all work which is the intent of this Subcontract.
 - A. Division 00 – Bidding Requirements and Contract Forms, as applies to the work of this Subcontract.
 - B. Division 01 – General Requirements, as applies to the work of this Subcontract.
 - C. Sales tax is «SalesTaxAmt».
 - D. Contract drawings [Exhibit “B”]
2. The following items are specifically excluded:
3. The following clarifications and/or qualifications apply to the work on this Subcontract:

SPECIAL CONTRACT CLAUSES

1. All fees and permits associated with this scope of Work are included in the Subcontract price.
2. Surveying and layout of all applicable Work will be the responsibility of the Subcontractor. Contractor will provide building corners, setbacks and benchmark elevations only.
3. Subcontractor will take the necessary field measurements and dimensions, and prepare any necessary or required shop drawings or sketches for review by the Contractor, and will coordinate his Work with that of all other trades.
4. Subcontractor will coordinate its onsite temporary facilities locations with Contractor's Site Utilization Plan, including but not limited to: its offices, shops, tool sheds, material storage and lay-down areas. Subcontractor will provide offsite storage when required by Contractor to meet schedule requirements. Material stored without proper authorization will be moved at no additional cost, or Contractor will relocate material at Subcontractor's cost and without liability of damage. Subcontractor is responsible for all utility costs, including temporary utilities for Subcontractor's onsite facilities.
5. Subcontractor is responsible for the condition of his materials stored at the jobsite. This includes but is not limited to protection from damage caused by equipment, weather and wind.
6. The Subcontractor will provide, maintain and remove from the project site upon completion of Work all required temporary construction facilities, offices, tool trailers and utilities for these facilities, offices and trailer, gang boxes, structures for use of its employees, sheds and storage facilities.
7. Subcontractor's parking will only be allowed in the designated parking area which may be limited. Trucks will be removed as soon as materials or tools are off loaded.
8. Due to the limited access and security requirements to the building, all deliveries must be coordinated with KBR's Project Superintendent. Notice must be given 48 hours in advance. Subcontractor shall provide Contractor with a complete delivery schedule within 30 calendar days from date of this Agreement. This delivery schedule shall include each manufacturer's or supplier's name, address, contact, phone number, item or equipment being furnished, and projected delivery date. Within 60 calendar days of the date of this Agreement, this schedule shall be supplemented with written confirmations of the delivery date from each manufacturer or supplier. Contractor may directly contact any of the Subcontractor's suppliers, manufacturers, or Subcontractors with whom delivery is either not confirmed or appears likely to create problems or delays.
9. The Contractor will furnish the initial Project Drawings and Specifications to Subcontractor via a CD.

10. Once Work begins, the Subcontractor must properly and correctly submit weekly certified payrolls and Statement of Compliance forms to the Contractor within seven (7) days of the payroll period end date. Failure to provide timely submission of accurate payroll records could result in the withholding of funds due Subcontractor. Labor reported on Subcontractor's daily reports must be consistent with the certified payrolls.
11. Subcontractor shall review the worker classifications and minimum wage rates contained in the Wage Determination for the project. If the Wage Determination does not contain a worker classification that the Subcontractor believes is appropriate for the trades' classification he will employ on the jobsite, then within 15 days of execution of this Subcontract, the Subcontractor shall submit a request for a classification and wage rate determination on the appropriate form to the Contractor for submission to the Government. Whether or not the new or clarified classification is denied or approved, the Subcontractor will not be entitled to an increase in cost. Subcontractor will be required to pay including back pay, if appropriate, all wages in accordance with any wage determination determined to be appropriate for the work being performed.
12. The Contractor will maintain As-Built Drawings in the field office, in accordance with the specifications. The Subcontractor shall post all As-Built documentation relating to the Work of this Subcontract, on the Contractor's As-Built Set. Current posting of As-Built information to the Contractor's As-Built set is a requirement for monthly payment.
13. At completion of the Subcontractor's Work all As-Built information must be submitted using CADD and turned over to the Contractor on a disc or CD.
14. The Subcontractor will provide information including activity listing, predecessor and successor logic, resource loading and a Schedule of Values conforming to the activity list to enhance the Contract Baseline Schedule attached as Exhibit "F" to meet the full requirements of the specifications. Such information shall be submitted solely for information purposes and Contractor is not required to accept or use this information. In no way will the information provided by the Subcontractor change or modify the obligations or durations of this Subcontractor's Work.
15. It is understood that the Work of this Contract is subject to coordination with the ongoing activities of the existing facilities and that off-shift and weekend Work to accommodate this is anticipated and will be performed at no additional cost.
16. As applicable under the Contract Documents, the Subcontractor's Schedule of Values shall include a line item for Record Drawings in the amount of «RecordDwgValue». The Subcontractor can only bill this line item once the drawings have been submitted and approved.
17. As applicable under the Contract Documents, the Subcontractor's Schedule of Values shall include a line item for Warranty Work equal to one percent (1%) of the Subcontract Value. This money is not due to the Subcontractor until the end of the one-year warranty period. This one percent is not part of any retainage calculations.
18. The warranty period for all materials and equipment provided in this scope of Work shall begin at final acceptance of all work on the Project by the Owner, unless the Contract Documents provide otherwise.
19. The Subcontractor is to have a designated Site Safety Representative onsite at any time this Subcontractor is working. The Subcontractor's Safety Representative must be 10-hour OSHA Certified and English speaking. In addition to meeting all OSHA regulations on this Project, Subcontractor will ensure that all workers wear hard hats, safety glasses, and hard sole work boots at all times while on this Project. Subcontractor will provide, install, and maintain temporary safety controls, relative to potential safety hazards of Subcontractor's Work.
20. Subcontractor shall comply with this Contractor's Safety Plan, COE EM385-1-1 – Safety Manual and the safety requirement of the Government installation where this project is located. Subcontractor is to provide MSDS sheets to Contractor for all materials brought on site. Contractor will maintain MSDS sheets available to onsite employees.
21. Prior to commencement of each major task undertaken in the performance of the Subcontractor's Work, Subcontractor will be required to provide "Job Hazard Analysis" (Pre-task Planning - Safety Reviews). All Subcontractors' tradesmen must sign the "JHA" prior to commencing Work.
22. Subcontractor will conduct a Weekly Safety Meeting with his tradesmen. The Contractor will be provided timely copies of the sign-in sheet and meeting minutes for each meeting.
23. Subcontractor's tradesmen will attend a monthly Project Wide Safety Meeting conducted by the Contractor.
24. Subcontractor agrees to require post-accident drug testing of any and all employees onsite at the time of an accident if requested by KBR Federal Services.

25. Variations from the Contract requirements are discouraged. In the event the Subcontractor determines that a variation is necessary, the Subcontractor shall submit the variation for approval prior to submission of the Submittal. The submission for a variation must state specifically what portion varies and why a variation is necessary at the time of submission for approval. Without such documentation, variations will not be considered. Approval of Submittals containing variations not specifically listed as variations (or deviations) does not constitute approval of those deviations.
26. The Contractors' Contract includes the requirement for Utilization of Small Business Concerns and Small Disadvantaged Business Concerns FAR 52.219-8 and a Small Business and Small Disadvantaged Business Subcontracting Plan FAR 52.219-9. Where applicable, Subcontractor shall adopt and comply with a Subcontracting Plan similar to the Contractor's approved Subcontracting Plan, a copy of which will be made available upon request. Subcontractor shall provide all periodic reports and other documentation as necessary, to show compliance.
27. The Contractor will comply with the prompt payment clause of the specifications - FAR 52-232-27. Subcontractor is required to also comply with this clause, and is required to include the clauses required by FAR 52.232-27 in each Subcontract, Purchase Order, Purchase Agreement, etc. this Subcontractor issues in reference to this project.
28. The Subcontractor is solely responsible for the Quality Control of all Work covered by this Subcontract, including procedures implementation, inspection, testing, documentation, daily QC Reports, corrective Work, etc. The Subcontractor shall designate a Quality Control Representative who is at the jobsite full-time. The Quality Control Representative will be responsible for Subcontractor's Quality Control Program, and will report to the Contractor Quality Control Manager on quality control matters. Subcontractor shall comply with Contractor Quality Control Plan and applicable requirements of the Contract specifications for Quality Control and Quality Assurance.
29. It is Contractor's goal to achieve "Zero Punchlist". In order to achieve this goal, Subcontractor is to provide all required Quality Control/Quality Assurance personnel to achieve this goal. Subcontractor is responsible for Punch listing his or her own Work and to provide Contractor copies of the Punchlist. This punchlist, in addition to any punchlist to be created by Contractor and/or Owner under the Contract Documents. Contractor will provide this service at Subcontractor's cost if not performed satisfactorily.
30. The Subcontractor certifies that to the best of his or her knowledge, they comply with FAR 52.203-0012 - Certification and Disclosure Regarding Payments to Influence Certain Federal Transactions; that he or she will include the language of this certification in all Subcontract, Purchase Order, Purchase Agreement, etc. awards at any tier; and require that all recipients of Subcontract, Purchase Order, Purchase Agreement, etc. awards in excess of \$100,000 shall certify and disclose accordingly.
31. Subcontractor to sign and return the Statement and Acknowledgement Form SF 1413 with this Subcontract. [Exhibit "H"]
32. Subcontractor shall comply with the security requirements of the Government installation where this project is located.
33. Subcontractor shall provide all scaffolding, ladders, hoisting, unloading and material handling required to complete Subcontractor's Work. Said equipment shall be inspected and kept in compliance with OSHA standards and COE Manual EM-385-1-1 standards, and any additional standards in the Contract Documents.
34. All excavation shall be in accordance with OSHA standards, and where required, will only be performed after a "Dig Permit" is received from the Government installation and any other authority authorized to grant permit or approvals to dig, where this project is located.
35. Contractor will provide a dumpster onsite (for construction installation debris only - no demolition debris, masonry or soil) for Subcontractor daily clean-up use.
36. Subcontractor will appoint a full-time, English-speaking Superintendent, who will be onsite at all times during Subcontractor's Work, and will attend Weekly and Monthly Coordination, Progress, Quality, and Safety Meetings required by the Contractor.
37. Subcontractor will provide Daily Quality Control Reports, Daily Progress Reports, and "Job Hazard Analysis" as required by Contractor and in the form approved by Contractor. These reports will be turned in no later than 10:00 AM the following workday.
38. As applicable to Subcontractor's scope of work, Subcontractor is responsible for firesafing and sealing (including security sealants as required) around all slab and wall penetrations, and will coordinate with others for timely installations involving penetrations or embeds.

39. (Not included in electrical subcontract where that sub has this responsibility.) Contractor will provide adequate (per OSHA requirements EM-385-1-1 standards) access and egress lighting. Subcontractor is responsible for providing adequate task lighting to perform his scope of Work.
40. (As Applicable - Mech, Elec. Only) Subcontractor is responsible for furnishing and installing all sleeves, block-outs, embeds and inserts, etc., for any and all required penetrations through poured-in-place concrete and CMU walls, slabs, and beams. All such penetrations must be coordinated with the penetrations of other trades and with the structural design so that the structural integrity of the building is not impaired.
41. (As Applicable - Mech, Elec. Only) Subcontractor will supply all access doors to be installed by the Contractor. The Subcontractor will also clearly mark access requirements within the ceiling systems as required. Access doors shall be supplied in adequate size and numbers to access the mechanical and plumbing Work as required by the Owner, Architect and applicable codes.
42. Contractor payment to Subcontractor for stored material, will only be made as approved and paid by the Government. Subcontractor to provide all documentation and other items necessary for Government approval of such payment.
43. Subcontractor to provide necessary traffic control to monitor access to and from site onto adjoining public streets as required by his Work.
44. At the completion of the Work, Subcontractor is to clean and protect all materials/equipment installed under this Subcontract.
45. Subcontractor is required to notify Contractor's Superintendent in writing if any substrate is unacceptable prior to proceeding with the Work.
46. Subcontractor shall be responsible for providing drinking water to its own workforce.
47. Subcontractor is responsible for general cleanup and removal of his Work by-products on a daily basis. All Work areas will be maintained in a broom clean order. Contractor will provide this service at Subcontractor's cost if not performed satisfactorily.
48. The Subcontractor acknowledges this is a Federal project, and as such it is administratively demanding and meeting intensive. The Subcontractor is obligated to meet the administrative requirements for this project and attend the required meetings. This will be done at no additional cost.
49. All required submittals of shop drawings, manufacturers' data, sample, color boards, erection drawings, equipment layouts, certifications and test reports (excluding field tests) shall be submitted complete for approval within 30 days from date of Subcontract. All plans required shall be submitted prior to construction, in accordance with the contract requirements. Operation and Maintenance Manuals will be provided as required by the contract documents.
50. Subcontractor will make good faith efforts to meet the KBR Subcontracting Plan Small Business Goals. Subcontractor agrees that all work determined to be performed by small business Subcontractors will be assigned, negotiated, administered and managed by Subcontractor for full compliance with contract requirements. Such small business subcontracts will be awarded by KBR and amount of such small business subcontracts will be deducted from this Subcontract amount.
51. Defense Priority System: All Purchase Orders in the purchasing chain (starting with Vendor and ending with Manufacturer) must contain the following information:

DPS

- The Defense Priority Rating for this project is «**DefPriorityRating**».
- Specific delivery date or dates required (e.g. January/February 2004).
- The following statement: "You are required to follow the provisions of DPS Reg. 1 and all other applicable regulations and orders of BDC in obtaining products, materials, and services needed to fill this order."
- The following certification: "Certified for use under DPS Reg. 1."
- The signature of a duly authorized official either handwritten or in the form of an authorized facsimile reproduction or in that authenticated form normal to data process transmission.

DMS

- The appropriate program identification symbol.
- The specific delivery date or dates required (e.g. January/February 2004).
- The calendar quarter in which delivery is required (e.g. 1st quarter 2004).

- The following Statement: "You are required to follow the provisions of DMS Reg. 1 and all other applicable regulations and orders of BDC in obtaining products, materials, and services needed to fill this order."
- The following certification: "Certified for use under DMS Reg. 1."
- The signature of a duly authorized official either handwritten or in the form of an authorized facsimile reproduction or in that authenticated form normal to data process transmission.

A copy of all Defense Priority System related documentation shall be provided to Contractor on a timely basis, but in no case to exceed one week from the date of execution of such documentation.

52. The Subcontractor shall give notices and comply with laws, ordinances, rules, regulations and orders of all public authorities bearing on performance of the Work of this Subcontract. The Subcontractor shall secure and pay for permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Subcontractor's Work, the furnishing of which is required of the Contractor by the Prime Contract.

53. The Subcontractor shall comply with Federal, state and local tax laws, social security acts, unemployment compensation acts and workers' or workmen's compensation acts insofar as applicable to the performance of this Subcontract.

54. SAFETY PRECAUTIONS AND PROCEDURES

54.1 The Subcontractor shall take reasonable safety precautions with respect to performance of this Subcontract, shall comply with safety measures initiated by the Contractor and with applicable laws, ordinances, rules, regulations and orders of public authorities for the safety of persons or property in accordance with the requirements of the Prime Contract and with the requirements of OSHA. The Subcontractor shall report to the Contractor immediately an injury to an employee or agent of the Subcontractor, which occurred at the site.

54.2 If hazardous substances of a type of which an employer is required by law to notify its employees are being used on the site by the Subcontractor, the Subcontractor's Subcontractors or anyone directly or indirectly employed by them, Subcontractor shall, prior to harmful exposure of any employees on the site to such substance, give written notice of the chemical composition thereof to the Contractor in sufficient detail and time to permit compliance with such laws by the Contractor, other Subcontractors and other employees on the site.

54.3 In the event the Subcontractor encounters on the site material reasonably believed to be asbestos or polychlorinated biphenyl (PCB), which has not been rendered harmless, Subcontractor shall immediately stop work in the area affected and report the condition to the Contractor in writing. The Work in the affected area shall resume in the absence of asbestos or polychlorinated biphenyl (PCB), or when it has been rendered harmless by written agreement of the Contractor and Subcontractor, or in accordance with final determination by the Owner's Contracting Officer.

55. FIRST AID AND MEDICAL CARE

55.1 The Subcontractor shall report immediately any jobsite injury of their employee or agent to the Contractor. All injuries, no matter how small, are to be reported to the job office. Failure to report injuries may result in termination. Subcontractor shall be responsible for having its own adequate first aid equipment on the jobsite.

55.2 An injured Subcontractor's employee needing a physician's attention will be transported immediately by the Subcontractor to a medical care facility as appropriate.

55.3 Subcontractor shall provide portable drinking water at each work area with throwaway paper cups for its own employees. Water kegs will be flushed prior to refilling each day, and ice will be provided as needed.

55.4 Any Subcontractor personnel requiring medical care at the expense of the Subcontractor as a result of any incident of the work at the site or otherwise related to work under this subcontract shall be required to have a blood sample taken and test report for substance abuse at the time care is administered and before release. The report shall be forwarded to the Subcontractor with a copy to the president of Contractor.

56. FIRE PREVENTION AND PROTECTION

56.1 Subcontractors shall be responsible for instructing their employees in the proper use of fire fighting equipment and combustible materials. Smoking materials shall not be permitted on the jobsite. All smoking materials must remain in the Subcontractor employee's vehicle. If these personnel have forgotten

- to leave smoking materials in their vehicle, then the smoking material shall be left at the job office to be picked up at the end of the workday. No open fires will be permitted.
- 56.2 Paints and other volatile materials shall be kept tightly closed when not in use and shall be stored in well ventilated and marked areas. Rags, mops, and other materials that might be volatile shall be disposed of daily by Subcontractor.
- 56.3 Only approved methods will be used in the storing and disposal of wastes.
- 56.4 If Subcontractor is performing any work, which could generate a spark, flame, extreme heat, or otherwise presents a risk of a fire starting, Subcontractor will provide its own fire extinguishers suitable for the nature of the work being performed.
57. SAFETY APPAREL: Hardhats and safety-toed shoes must be worn at all times by Subcontractor's employees. Any exception must have written approval from the Contractor's Superintendent and Quality Control Manager.
58. MSDS DOCUMENTATION: Subcontractors must provide sheets containing this Material Safety Data Sheet [MSDS] information to the Contractor in advance of starting work.
59. EQUIPMENT SAFETY: Subcontractor shall use safety inspected and approved equipment. Testing must comply with specifications as required and approved by the Contractor's Quality Control Manager.
60. ENVIRONMENTAL POLLUTION PREVENTION: Subcontractor, will be responsible for preventing environmental pollution caused by its work during construction of the project.
61. BUY AMERICAN ACT: Material violating the Buy American Act shall not be used without advance written approval by the Contractor and Owner. Subcontractor shall bring to contractors attention separate and prior to the submission of a submittal on any item that violates the Buy American Act.
62. TEMPORARY FACILITIES AND WORKING CONDITIONS: The Contractor shall not furnish and make available to the Subcontractor any equipment, facilities, or services unless listed below and these shall be furnished at no cost to the Subcontractor unless otherwise indicated below:
63. Subcontractor shall give diligent supervision, adequate skill, and careful attention to the work, and shall appoint a competent supervisor or foreman who shall be in attendance at the jobsite while work is being performed by Subcontractor and who shall have charge of the Work and authority to act for Subcontractor. Subcontractor shall advise Contractor in writing of the name, address, and telephone number of such person and of any change in designation. The supervisor/foreman will report to the Contractor's superintendent on a regular basis while the Work is being performed. Subcontractor is responsible for performing inspections of its work weekly and assuring proper quality. Contractor's superintendent and project manager will provide general administration of this Subcontract and the Work, but such general administration shall not relieve Subcontractor of its obligations. Contractor's superintendent or quality control person will have authority to reject any portion of the Work which does not conform to the requirements of this Subcontract; and, whenever in his opinion he considers it necessary or advisable to insure the proper implementation of the intent of this Subcontract, he will have authority to require Subcontractor to stop the Work or any portion thereof.
64. Subcontractor shall be responsible for the proper fitting of its Work with that of all other work to be performed at the Project and for the coordination of the Subcontractor's operations with all other trades Subcontractors or material suppliers engaged upon the Project. Subcontractor shall take necessary precautions to protect properly the Work of other Subcontractors from damage caused by operations under this Subcontract. Subcontractor shall cooperate with the Contractor, other Subcontractor and the Owner's own forces whose Work might interfere with the Subcontractor's Work. The Subcontractor shall be responsible for all dimensions pertaining to the fitting of its Work with all surrounding work, and shall, to the extent its Work does not conform to the Drawings, Plans and Specifications, perform all cutting, fitting, adjusting and patching necessary to make its Work fit with that of other trades.
65. Subcontractor agrees to furnish Contractor upon request an affidavit stating it has complied with the Davis-Bacon Act, Copeland Act and Buy American Act, where applicable and any other evidence requested by Contractor to ensure full and complete compliance. Subcontractor agrees that all mechanics and laborers employed or working directly upon the site of the Work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the Copeland Act(Anti-Kickback) Regulations (29 CFR, Part 3) the full amounts due at time of payment, computed at wage rates not less than those contained in the wage determination decision of the U.S. Secretary of Labor contained in the primary contract, regardless of any contractual relationship which may be alleged to exist between Contractor and Subcontractor and such laborers and mechanics. A copy of the wage determination decision shall be kept posted

- by the Contractor at the site of the Work in a prominent place where it can be easily seen by all workers. There may be withheld from Subcontractor so much of the accrued payments or advances as may be considered necessary to ensure payment of the laborers and mechanics employed by Subcontractor the full amount of wages required.
66. Working conditions shall be provided in accordance with the Prime Contract. Subcontractor shall take all reasonable precautions to see that labor employed by it on the premises of Owner shall comply with Owner's personnel and safety regulations in effect. Subcontractor agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, age, handicap, disability or national origin. Labor disputes shall not constitute grounds for work stoppage.
 67. Subcontractor shall permit all apprentices to work only under a bona fide apprenticeship program registered with a State Apprenticeship Counsel which is recognized by the Federal Committee on Apprenticeship, U.S. Department of Labor, or if no such recognized counsel exists in a state, under a program registered with the Bureau of Apprenticeship, U.S. Department of Labor.
 68. Subcontractor shall maintain all payroll records during the course of the Work and shall preserve them for a period of three years thereafter for all laborers and mechanics working at the site of the Work. Such records will contain the name and address of each employee, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid. Subcontractor shall make its employment records available for inspection upon request of Contractor, the Owner or the U.S. Department of Labor, and will permit representatives to interview employees during working hours on the job.
 69. The regulations of the U.S. Secretary of Labor applicable to contractors and Subcontractors (29 CFR, Part 3) made pursuant to the Copeland Act, as amended (40 U.S.C. 276c) and to aid in the enforcement of the Anti-Kickback Act (18 U.S.C. 874) are herein made a part of this Subcontract by reference. Subcontractor will comply with these regulations and any amendments or modifications thereto and Contractor will be responsible for the submission of affidavits required of Subcontractor. The foregoing shall apply except as the U.S. Secretary of Labor may specifically provide for reasonable limitations, variations, tolerances and exemptions.

Exhibit "B"
Drawings, Specifications and other Design Documents

The following sets forth the drawings, specifications and other design documents associated with the performance of Subcontractor's Work. This list may not be a comprehensive listing of drawings, specifications or design documents relating to Subcontractor's Scope of Work, and Subcontractor shall carefully review this list and immediately notify Contractor if other design or specification-related documents contained in the Contract Documents may involve or otherwise relate to Subcontractor's Work. Failure to list such other documents in this Exhibit "B" shall not relieve Subcontractor from performing the Scope of Work and its other obligations pursuant to this Subcontract.

DOCUMENTS ENTITLED:

- Contract No.: «ContractNumber»
- Project Name: «JobName»
- Solicitation No.: «SolicitationNo»

The documents referenced above form a physical part of this subcontract. Subcontractor shall perform the work of this Subcontract in accordance with the contract documents.

Exhibit "C"
Certified List of Material Suppliers and Second Tier Subs

Upon Contractor's request, which request may be made at any time, Subcontractor shall provide Contract with a certified list of its suppliers and sub-subcontractors of all tiers. Subcontractor shall remain obligated to supplement this list until the time period associated with its warranty obligations has expired. Suppliers and sub-subcontractors known at this time include:

This Subcontractor shall provide executed monthly waivers of lien for each of the suppliers and Subcontractors listed below as a condition of payment.

SUPPLIER / SUB-SUBCONTRACTOR	ITEM SUPPLIED	\$AMOUNT
1. _____ Address / Phone _____	_____	_____
2. _____ Address / Phone _____	_____	_____
3. _____ Address / Phone _____	_____	_____
4. _____ Address / Phone _____	_____	_____
5. _____ Address / Phone _____	_____	_____
6. _____ Address / Phone _____	_____	_____
7. _____ Address / Phone _____	_____	_____

Contractor requires 48-hour notice of any changes to this list.

«SUBCONTRACTOR»

Printed Name and Title

Signature

Date

Exhibit "D"
Application for Payment Form

See the following form provided for your use.

KBR Federal Services, LLC

70 NE Loop 410, Suite 315

San Antonio, TX 78216

SUBCONTRACTOR'S APPLICATION FOR PAYMENT

Subcontractor's Note: Application for payment must be received by the 20th of the month at the project office of KBR Federal Services, LLC for the month payments are requested. Application for payment not received by the 20th will not be processed until the following month.

Project Name: «JobName»
 Address: «JobStreetAddress»
 «JobCityStateZip»

Project Number: «JobNumber»
 Vendor Number: «VendorNumber»
 Contract Number: «SubcontractNumber»

Subcontractor: «Subcontractor»
 Address: «SubStreetAddress»
 «SubCityStateZip»

Cost Code: «CostCode»
 Application Number: _____

Application Period: _____ to _____

		Office Use Only
1.	Original Contract Amount	\$ «ContractAmtNumeric»
2.	Approved Change Order(s) _____ through _____	\$
3.	Current Subcontract Sum	\$
4.	Total Work in Place (per attached schedule)	\$
5.	Total Stored Materials (per attached schedule)	\$
6.	Total Value to Date (Line 4 + Line 5)	\$
7.	Total Retainage to Date (10% of Line 6)	\$
8.	Total Earned Less Retainage (Line 6 less Line 7)	\$
9.	Less Previous Certificates for Payment (Line 8 from prior application)	\$
10.	Current Payment Due	\$
		Gross
		Retainage
		Net

The undersigned Subcontractor certifies that to the best of Subcontractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Subcontractor for Work for which previous Certificates for Payment were issued and payments received from the Contractor, and that current payment shown is herein now due.

«Subcontractor»

By: _____ Title _____ Date: _____

KBR Federal Services, LLC

Project Manager: _____ Controls: _____

Exhibit "E"
Forms of Claim Waivers

Attached are Contractor's standard forms of partial and final claim waivers and releases. In the event the Owner/Contractor contract requires a different form, the Owner's form shall be utilized by Subcontractor.

Partial Release of Claims and Waiver of Lien

The undersigned Subcontractor has supplied labor, material, services and/or equipment to KBR Federal Services, LLC ("Contractor") pursuant to Subcontractor's contract with Contractor ("Subcontract") dated «ContractDate» in connection with the improvement of the Property located at «JobName», «JobStreetAddress», «JobCityStateZip», Project No. «ContractNumber» (the "Project"), owned by «Owner» ("Owner").

As of the ____ day of _____, 20__ (the "Effective Date"), \$_____ is due to Subcontractor for all labor, material, services and/or equipment supplied by, through or under Subcontractor for the Project from commencement of any work through the Effective Date.

Subcontractor hereby acknowledges that it has been paid in full for all materials, work, services and/or equipment furnished in connection with the performance of the Subcontract or otherwise in connection with the Project up through the effective date. For and in consideration of the receipt of \$_____, Subcontractor warrants and represents that (a) no other monies are owed it, except retainage (if any), for labor, material, services and/or equipment supplied prior to the Effective Date, (b) Subcontractor's Subcontractors and suppliers have been paid in full, or will be paid in full from these monies, for all labor, material, services and/or equipment provided by them through the Effective Date, (c) Subcontractor knows of no claims, liens or threats of claims or liens against Contractor, Owner, any surety, or the Project by any of its Subcontractors or suppliers, (d) monies previously paid will be held in trust to pay Subcontractor's Subcontractors, suppliers and laborers for this Project in full, (e) all labor, material, appliances, machinery, fixtures or furnishings provided to the Project are provided free of any mortgages, liens, security interests, or other encumbrances, and Subcontractor transfers clear title thereto, (f) Subcontractor WILL INDEMNIFY AND HOLD CONTRACTOR, OWNER, AND ANY SURETY HARMLESS FROM ANY CLAIMS, LIENS, DAMAGES, FEES OR EXPENSES OF ANY TYPE ASSERTED BY ITS SUBCONTRACTORS OR SUPPLIERS, (g) Subcontractor has not sold or factored its accounts being paid hereunder, and (h) the person signing below is authorized to bind Subcontractor as provided herein. Subcontractor expressly acknowledges that Contractor is relying on these warranties and representations in making payment, and that but for such warranties and representations Contractor would have no obligation to make such payment. In the event such warranties and representations prove false or inaccurate, Contractor will be entitled to recover all damages and attorneys' fees incurred as a result of warranties or representations that prove false or otherwise inaccurate.

In further consideration of the monies paid by Contractor to Subcontractor, Subcontractor hereby releases, waives, and discharges any mechanic's or materialmen's liens or lien rights, statutory, common law or otherwise, stop notice, notice(s) of unpaid balance and right to file lien and the like, or any rights against any payment bond, rights to pursue bond claims, or any other claims, rights, demands, or charges which Subcontractor has or may have against the Project, the Contractor, the Owner, any Surety or surety bond, as well as the officers, directors, employees, parents, affiliates or subsidiaries of Contractor or Owner, for any labor, material, services and/or equipment provided by through or under Subcontractor up to the Effective Date. Subcontractor hereby agrees that this release, waiver, and discharge may be relied upon by all third parties and shall run to the benefit of any such persons/entities and their successors and assigns. Subcontractor hereby agrees that no further labor, materials, services, and/or equipment shall be delivered or performed at said Project outside the existing scope of the Subcontract without prior written authorization from Contractor, and any such delivery or performance without such authorization is at Subcontractor's own cost.

EXECUTED THIS _____ DAY OF _____, 20_____.

[Typed name of Subcontractor]

[Signature of Subcontractor's Authorized Representative]

[Printed Name of Subcontractor's Authorized Representative]

[Title of Subcontractor's Authorized Representative]

STATE OF _____
COUNTY OF _____

Upon being duly sworn, this instrument was acknowledged as true and correct before me on the _____ day of _____, 20____ by _____ on behalf of Subcontractor.

My Commission Expires:

Notary Public

Final Release of Claims and Waiver of Lien

The undersigned Subcontractor has supplied labor, material, services and/or equipment to KBR Federal Services, LLC ("Contractor") pursuant to Subcontractor's contract with Contractor ("Subcontract") dated «ContractDate» in connection with the improvement of the Property located at «JobName», «JobStreetAddress», «JobCityStateZip», Project No. «ContractNumber» (the "Project"), owned by «Owner» ("Owner").

For and in consideration of the receipt of a Final Payment of \$_____, Subcontractor, on behalf of itself, its Subcontractors, suppliers, successors and assigns, warrants and represents that (a) no other monies are owed it or any of its Subcontractors or suppliers for labor, material, services and/or equipment supplied by, through or under Subcontractor to the Project, (b) its Subcontractors and suppliers have been paid in full for all labor, material, services and/or equipment provided by them for the improvement of the Project and have released all liens and provided final written waivers of lien rights to Subcontractor, (c) these monies will be held in trust to pay its Subcontractors, suppliers and laborers for this Project in full, (d) it knows of no claims, liens or threats of claims or liens against itself, Contractor, Owner, any surety, or the Project by any of its Subcontractors or suppliers, (e) all labor, material, services and/or equipment provided to the Project are provided free of any mortgages, liens, security interests, or other encumbrances, and Subcontractor transfers clear title thereto, (f) Subcontractor WILL INDEMNIFY AND HOLD CONTRACTOR, OWNER, AND ANY SURETY HARMLESS FROM ANY CLAIMS, LIENS, DAMAGES, FEES OR EXPENSES OF ANY TYPE ASSERTED BY ITS SUBCONTRACTORS OR SUPPLIERS no matter when they arise, (g) Subcontractor has not sold or factored its accounts being paid hereunder, and (h) the person signing below is authorized to bind Subcontractor as provided herein. Contractor is relying on these warranties and representations in making this Final Payment to Subcontractor, and that but for such warranties and representations Contractor would have no obligation to make such payment. In the event such warranties and representations prove false or inaccurate, Contractor will be entitled to recover all damages and attorneys' fees incurred as a result of any falsity or inaccuracy.

In further consideration of the monies paid by Contractor, Subcontractor hereby (a) acknowledges full and final payment for services rendered, work performed, and materials and/or equipment furnished to the above Project, and (b) fully and finally releases, waives, and forever discharges any mechanic's or materialmen's liens or lien rights, statutory, common law or otherwise, stop notice, notice(s) of unpaid balance and right to file lien and the like, or any right or claim against any payment bond, rights, rights to pursue bond claims, or any claims, rights, demands or charges (contractual or otherwise) which it or any of its Subcontractors or suppliers has or may have against (i) the Project or property on which it is located, (ii) the Contractor, (iii) the Owner, (iv) any Surety or surety bond, and (v) the officers, directors, employees, parents, affiliates or subsidiaries of Contractor, Owner or any Surety for any labor, material, services and/or equipment provided by through or under Subcontractor for improvement of the Project or the property on which it is located. Subcontractor warrants and represents that no other monies are due it for (a) the construction or improvement of the Project or the property on which it is located, (b) any labor, material, services and/or equipment provided by Subcontractor, or (c) any other reason whatsoever. Subcontractor will not supply any other labor or material to the Project (excluding warranty work) without prior written authorization from Contractor after the date of this Final Release of Claims and Waiver of Lien. Subcontractor hereby agrees that this release, waiver and discharge may be relied upon by all third parties and said release, waiver and discharge shall run to the benefit of any such third parties and their successors and assigns. Any materials, services or labor delivered or performed to the Project (exclusive of warranty work) without prior written authorization from Contractor is at Subcontractor's own cost.

EXECUTED THIS _____ DAY OF _____, 20_____.

_____ [Typed name of Subcontractor]
_____ [Signature of Subcontractor's Authorized Representative]
_____ [Printed Name of Subcontractor's Authorized Representative]
_____ [Title of Subcontractor's Authorized Representative]

STATE OF _____
COUNTY OF _____

Upon being duly sworn, this instrument was acknowledged as true and correct before me on the _____ day of _____, 20____ by _____ on behalf of Subcontractor.

My Commission Expires:

Notary Public

Exhibit "F"
Initial Baseline Schedule

The Initial Baseline Schedule will be provided after it is approved by the client. Such schedule may be modified at Contractor's sole election. Subcontractor recognizes and acknowledges that the Initial Baseline Schedule may be modified as the Work progresses, and Subcontractor shall continually keep itself updated as to job conditions to ensure that its Work shall be performed as directed by Contractor and in the durations scheduled by Contractor.

Exhibit "G"

Subcontractor Safety Requirements

KBR Federal Services, LLC is committed to providing a safe and healthful workplace for all personnel. Our goal is to reduce or eliminate workplace injuries at each jobsite. To assist KBR Federal Services in accomplishing these goals, safety guidelines and requirements have been established for all Subcontractors. Each Subcontractor shall meet the following requirements before the Subcontractors work phase begins.

1. Identify and document in writing the Subcontractor jobsite Project Manager, Project Superintendent, Foreman and/or person who will be left in charge or responsible for jobsite activities. This person shall be on site at any time this Subcontractor is working.
2. Identify and document in writing the person responsible for safety related issues on the jobsite. This person must be competent in identifying existing and predictable hazards in the workplace and have the authority to take prompt and corrective measures.
3. The person or persons identified in Item #2 must have at a minimum, a 10-hour safety-training course on OSHA Construction Standards. Proof of training is required.
4. Identify and document in writing the competent person appointed where excavation and scaffolding are performed as required by the OSHA Standard. Proof of training is required.
5. Provide proof of safety training for all Subcontractor employees on potential hazards associated with the work being performed.
6. Provide KBR with a Written Safety Program and Hazard Communication Program.
7. Identify and document in writing a list of potential second, third, fourth or fifth tier Subcontractors that may perform work on the jobsite.
8. Second, third, fourth or fifth tier Subcontractors must comply with Items #2, 3, 4 and 5 before performing work on the jobsite.
9. Submit proof of workers' compensation and liability insurance coverage for each of the Subcontractors on Item #7 before work is performed.
10. Notify the KBR Project Superintendent or Project Manager when and where Subcontractors on Item #7 are going to perform work on the jobsite.
11. All Subcontractors must provide and document weekly safety meetings for its personnel. Documentation must be submitted to KBR and kept on file.
12. All Subcontractors must perform daily safety inspections for its personnel and take corrective action when violations are found.
13. All personnel must attend KBR safety meetings when notified.
14. The Subcontractor must correct all safety inspection violations found by KBR Personnel immediately with corrective actions documented and turned in to KBR.
15. KBR has a "100% HARD HAT AND EYE PROTECTION POLICY" when on the jobsite.
16. KBR has a "ZERO TOLERANCE" policy. Violators will be removed from the jobsite immediately upon request.
17. Additional requirements will be discussed and communicated by KBR personnel as needed.

Exhibit "H"
Statement and Acknowledgement Form (SF1413)

Attached is Standard Form 1413 - Statement and Acknowledgement. Please complete and execute the form.

STATEMENT AND ACKNOWLEDGEMENTOMB No. **9000-0014**
Expires: 05/31/2011

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the FAR Secretariat, (VIR), Regulatory and Federal Assistance Division, GSA, Washington, DC 20405; and to the Office of Management and Budget, Paperwork Reduction Project (9000-0014), Washington, DC 20503.

PART I – STATEMENT OF PRIME CONTRACTOR

1. PRIME CONTRACT NO. «ContractNumber»		2. DATE SUBCONTRACT AWARDED «ContractDate»		3. SUBCONTRACT NUMBER «SubcontractNumber»	
4. PRIME CONTRACTOR				5. SUBCONTRACTOR	
a. NAME KBR Federal Services, LLC		a. NAME «Subcontractor»			
b. STREET ADDRESS 70 NE Loop 410, Suite 315		b. STREET ADDRESS «SubStreetAddress»			
c. CITY San Antonio		d. STATE TX	e. ZIP CODE 78216	c. CITY «SubCity»	
				d. STATE «SubST»	
				e. ZIP CODE «SubZip»	
6. The prime contract <input checked="" type="checkbox"/> does, <input type="checkbox"/> does not contain the clause entitled "Contract Work Hours and Safety Standards Act – Overtime Compensation."					
7. The prime contractor state that under the contract shown in Item 1, a subcontract was awarded on the date shown in item 2 to the subcontractor identified in itme 5 by the following firm:					
a. NAME OF AWARDING FIRM KBR Federal Services, LLC					
b. DESCRIPTION OF WORK BY SUBCONTRACTOR «ScopeOfWork»					

8. PROJECT «JobNumber» «JobName»		9. LOCATION «JobStreetAddress» «JobCityStateZip»	
10a. NAME OF PERSON SIGNING Sid Whitehead		11. BY (<i>Signature</i>)	
10b. TITLE OF PERSON SIGNING Procurement Manager		12. DATE SIGNED	

PART II – ACKNOWLEDGEMENT OF SUBCONTRACTOR

13. The subcontractor acknowledges that the following clauses of the contract shown in Item 1 are included in this subcontract:

Contract Work Hours and Safety Standards Act – Overtime Compensation – (If included in prime contract see Block 6)	Davis-Bacon Act
Payrolls and Basic Records	Apprentices and Trainees
Withholding of Funds	Compliance with Copeland Act Regulations
Disputes Concerning Labor Standards	Subcontracts (Labor Standards)
Compliance with Davis-Bacon and Related Act Regulations	Contract Termination – Debarment
	Certification of Eligibility

12. NAME(S) OF ANY INTERMEDIATE SUBCONTRACTORS, IF ANY

A		C	
B		D	
15a. NAME OF PERSON SIGNING		16. BY (<i>Signature</i>)	
15b. TITLE OF PERSON SIGNING		17. DATE SIGNED	

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Prescribed by GSA – FAR (48 CFR) 53.222 (e)

Exhibit "I"
Equal Employment Opportunity Certification

PROJECT TITLE

«JobName»
 «JobStreetAddress»
 «JobCityStateZip»

SC/PC/PO NO.

«SubcontractNumber»

SUBCONTRACTOR/VENDOR

«Subcontractor»
 «SubStreetAddress»
 «SubCityStateZip»
 «SubPhone» ph / «SubFax» fx

AMOUNT

«ContractAmtNumeric»

TYPE OF WORK

«ScopeOfWork»

YES NO

Subcontractor has held contracts or subcontracts subject to the Equal Opportunity Clause of Executive Order 11246 as amended and FAR 52.222-0026; _____

Subcontractor has filed the Equal Employment Opportunity Information Report EEO-1 for the period ending March 31, prior; _____

Subcontractor has filed Equal Employment Opportunity Information Report EEO-1 when required. _____

Subcontractor has developed a written Affirmative Action Program. _____

Subcontractor's Equal Employment Opportunity Program has been Subject to a Government Equal Opportunity Compliance Review; _____

If so, when: _____

Seller acknowledges receipt of the notice to prospective subcontractors of requirement for certification of non-segregated facilities and certified compliance with that requirement.

The undersigned certifies that the above information is true and correct.

«Subcontractor»

BY: _____

DATE: _____

TITLE: _____

WITNESS: _____

Signature

Witness Address

Exhibit "J"
Small Business Concerns Certification

PROJECT TITLE

«JobName»
«JobStreetAddress», «JobCityStateZip»

SC/PC/PO NUMBER

«SubcontractNumber»

SUBCONTRACTOR/VENDOR

«Subcontractor»
«SubStreetAddress»
«SubCityStateZip»
«SubPhone» ph / «SubFax» fx

FEDERAL I.D. NUMBER

«FederalIDNo»

TYPE OF WORK

«ScopeOfWork»

CONTRACT AMOUNT

«ContractAmtNumeric»

NUMBER OF EMPLOYEES _____

THIS FIRM IS: _____ INDEPENDENTLY OWNED AND OPERATED

_____ AN AFFILIATE PARENT CO. _____

_____ A SUBSIDIARY ADDRESS _____

_____ A DIVISION OF _____

_____ LARGE BUSINESS (Including Non-Profit)

_____ SMALL BUSINESS (If a Small Business, please check all that apply below)

NOTE: For assistance in determining if you meet the small business size criteria, please go to www.sba.gov/size or call 1-800-U-ASK-SBA.

_____ CERTIFIED BY SBA AS A SMALL DISADVANTAGED BUSINESS
(Attach your Dynamic Small Business profile from www.ccr.gov)

_____ WOMEN-OWNED SMALL BUSINESS

_____ VETERAN-OWNED SMALL BUSINESS

_____ SERVICE DISABLED VETERAN-OWNED SMALL BUSINESS

_____ CERTIFIED BY SBA AS A HUBZONE SMALL BUSINESS
(Attach your Dynamic Small Business profile from www.ccr.gov)

_____ HISTORICALLY BLACK COLLEGE OR UNIVERSITY (HBCU/MI)

_____ NATIVE AMERICAN OWNED

The undersigned certifies that the above information is true and correct.

NOTE: *In accordance with FAR 52.219-1(c), the following penalties are set for false certification. (c) Notice. Under 15 USC 645 (d), any person who misrepresents a firm's status as a small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to sections 8(a), 8(d), 9, or 15, of the Small Business Act or any other provisions of Federal law that specifically references section 8(d) for a definition of program eligibility, shall –*

- (1) *Be punished by imposition of fine, imprisonment, or both;*
- (2) *Be subject to administrative remedies, including suspension and debarment; and*
- (3) *Be ineligible for participation in programs conducted under the authority of the Act.*

«Subcontractor»

BY: _____

Date: _____

TITLE: _____

WITNESS: _____

Signature

Witness Address

Exhibit "K"
Special Conditions