



Date: Enter Date

ATTN.: Enter Contact Name
Enter Company Name
Enter Company Address
Enter Company City, State and Zip

RE: Master Subcontract Agreement

Dear Enter Contact Name:

We have enclosed a copy of our Master Subcontract Agreement (the “MSA”) for your company’s review and signature. The purpose of the MSA is twofold: (1) it places your company on our Approved Subcontractors List for all future work with Bay Cities Paving and Grading, Inc.; and (2) it will serve as the Master Agreement for all projects on which Bay Cities Paving and Grading, Inc. engages your company. Use of the MSA will diminish the administrative and legal burden of having both parties negotiate and execute a new, separate agreement for each project. A simple two-page Work Authorization Form will be executed for each project on which Bay Cities Paving and Grading, Inc. engages your company.

Please note that we will not accept any changes to the terms and conditions contained in the MSA. Instead, any changes to the terms and conditions of the MSA can be accomplished through the Work Authorization Form on a project-by-project basis. If you have any requested revisions, please make them in a separate letter. We will respond to your requested revisions to the terms and conditions of the MSA for each project at the time that your company and Bay Cities Paving & Grading, Inc. negotiate a Work Authorization Form for a particular project. Any agreed upon changes will be added as an addendum to the MSA or the Work Authorization as appropriate. However, we cannot always accommodate requests to change the terms and conditions of the MSA, even on a project basis. Please note also that your company cannot begin work on a Bay Cities Paving & Grading, Inc. project without an MSA executed by a duly authorized representative of your company and Bay Cities Paving & Grading, Inc..

PERFORMANCE OF WORK BY SUBCONTRACTOR ON ANY PROJECT OF BAY CITIES PAVING & GRADING, INC. PRIOR TO BAY CITIES PAVING & GRADING, INC. RECEIVING A FULLY EXECUTED CONTRACT CONSTITUTES ACCEPTANCE OF ALL TERMS AND CONDITIONS OF THE MASTER SUBCONTRACT AGREEMENT.

In order to expedite the contracting process, we further request that you do the following:

1. Please provide a Certificate of Insurance and Additional Insured Endorsement as stated in Section VII and as presented in Exhibit A of the MSA, which should show coverage for “All California Operations” and/or “All Operations Under the Master Subcontract Agreement” as dated.
2. Please return the signed original MSA and insurance certificate(s) to my attention as soon as possible.
3. If you would like a copy of the fully executed MSA please provide your email address below:

_____.

We welcome the opportunity to include you on our Approved Subcontractors List and look forward to a successful business relationship. If you have any questions, please contact the undersigned. If you have any questions or concerns, please contact Shawna Olgin, Contract & Risk Manager at solgin@baycities.us.

Sincerely,

Shawna K Olgin
Contract & Risk Manager



MASTER SUBCONTRACT AGREEMENT

A. PURPOSE, SCOPE AND APPLICABILITY. CONTRACTOR and SUBCONTRACTOR are entering into this Agreement with the intent and understanding that it will serve as a master agreement for all projects for which CONTRACTOR engages SUBCONTRACTOR, unless the parties expressly agree to the contrary in a separate writing. The Work Authorization Form (“WAF”) will include terms, conditions, information and descriptions applicable to the specific project on which SUBCONTRACTOR is to perform work.

SUBCONTRACTOR shall be deemed to have accepted a WAF incorporating the terms and conditions contained in this AGREEMENT in the following situations: (1) CONTRACTOR and SUBCONTRACTOR sign a WAF for the work described in SUBCONTRACTOR’s proposal; or (2) following SUBCONTRACTOR’s submittal of a proposal for work to CONTRACTOR, CONTRACTOR communicates its acceptance of the proposal in writing during the term in which this Agreement is in operation and SUBCONTRACTOR’s proposal does not contain any inclusions or exclusions that amend the terms and conditions contained in this AGREEMENT; or (3) following the acceptance of SUBCONTRACTOR’s proposal by CONTRACTOR, SUBCONTRACTOR commences performance of the WORK (defined below) at the project to which SUBCONTRACTOR’s proposal relates without a signed WAF. The terms and conditions of SUBCONTRACTOR’s proposal shall not in any way modify, amend, add or subtract from the terms and conditions contained in this AGREEMENT, and the terms and conditions contained in this AGREEMENT shall supersede and prevail over any additional or different terms and conditions contained in SUBCONTRACTOR’s proposal.

The CONTRACT DOCUMENTS for any project for which a WAF relates are incorporated by reference in any WAF governed by this Agreement without any further act or reference, and SUBCONTRACTOR acknowledges and agrees that the work performed by it will be performed in accordance with such CONTRACT DOCUMENTS. The CONTRACT DOCUMENTS include, but are not limited to the specifications, plans and other relevant documents for the project, including the contract between OWNER and CONTRACTOR (the “PRIME CONTRACT”) and any other documents enumerated therein, including conditions of the contract (general, supplementary and other conditions), drawings, specifications, manuals, supplements, schedules, addenda, bulletins, RFI responses, and modifications issued subsequent to the execution of the PRIME CONTRACT, whether before or after the execution of this AGREEMENT (collectively, the “CONTRACT DOCUMENTS”). In the event that CONTRACTOR’s contract is with the PRIME CONTRACTOR instead of the OWNER, then the term “PRIME CONTRACT” shall refer to and include not only all of the documents comprising the agreement between the PRIME CONTRACTOR and the OWNER, as well as all of the documents comprising of CONTRACTOR’S own contract in connection with the PROJECT. Where, in the CONTRACT DOCUMENTS, reference is made to CONTRACTOR, and the work or specifications therein pertains to SUBCONTRACTOR's trade, craft, or type of work, then such work or specifications shall be interpreted to apply to SUBCONTRACTOR instead of CONTRACTOR (hereinafter the “Work”). In addition to any other rights and remedies, and without limiting the same, CONTRACTOR shall have the same rights and privileges against SUBCONTRACTOR herein as OWNER has against CONTRACTOR under the terms of the CONTRACT DOCUMENTS and any agreements between OWNER and CONTRACTOR. In the event of any actual conflict, inconsistency or ambiguity between the terms and provisions of the WAF, on the one hand, and this AGREEMENT or the CONTRACT DOCUMENTS, on the other hand, the WAF shall take precedence. However, wherever possible the documents will be construed to avoid such a conflict.

Anything mentioned in the specifications and not shown on the plans or drawings or shown on the plans and drawings and not mentioned in the specifications, shall be deemed shown and mentioned in both. For purposes of the provision below, the "Project" refers to the project for which a WAF has been issued and consists of the entire construction to be completed by CONTRACTOR, as well as all work to be performed by SUBCONTRACTOR. The term "day" shall mean calendar day unless otherwise specifically designated. The term "CONTRACT PRICE" shall mean the price for completion of all of SUBCONTRACTOR's work with regard to a particular project for which a WAF has been issued.

CONTRACTOR has entered into this AGREEMENT with SUBCONTRACTOR with the understanding that SUBCONTRACTOR is an expert for the work defined in the WAF and CONTRACTOR in doing so is relying upon SUBCONTRACTOR’S expertise to perform the total scope of work.

B. SUBCONTRACTOR'S OBLIGATIONS. SUBCONTRACTOR acknowledges and agrees that in addition to the other obligations under this Agreement, the Contract Documents, and applicable law:



- (1) **Prosecution of the Work:** SUBCONTRACTOR shall at all times supply adequate tools, appliances and equipment, a sufficient number of properly skilled workers, and a sufficient amount of materials and supplies of proper quality to efficiently and promptly prosecute said Work and it shall timely and promptly pay for all such materials and equipment and shall pay all workers each week and obtain and furnish CONTRACTOR weekly with two (2) copies of certified payroll upon request.
- (2) **Supervision:** SUBCONTRACTOR shall personally supervise the Work or have a competent foreperson or superintendent satisfactory to CONTRACTOR on site at all times during SUBCONTRACTOR's performance with authority to act for and on behalf SUBCONTRACTOR.
- (3) **Compliance with direction and continued performance:** In the event of a dispute, SUBCONTRACTOR shall comply with CONTRACTOR's written directives and shall continue its performance, in accordance with Section R.
- (4) **Submittals and data:** SUBCONTRACTOR shall submit copies of submittal data as required in the Contract Documents. SUBCONTRACTOR shall refer to the applicable sections of the Contract Documents for requirements concerning submittals, including the number of submittals to be provided. Submittals shall reference the project title, number and applicable specification sections. If Vendor submits on something different from the Contract Documents, it shall be responsible for any deviation from the original plans and specifications despite the approved submittal, unless clearly spelled out as follows: "*Please Note: This Submittal is a deviation from the original Plans and Specifications*" and approved by OWNER in writing. All submittals must be submitted to CONTRACTOR within twenty (20) working days of receipt of a WAF, unless an earlier date is stated herein or in the Contract Documents.
- (5) **Scheduling and other information:** SUBCONTRACTOR at Contractor's request and at the time specified in such request shall submit to CONTRACTOR progress, procurement and labor-hour completion schedules, satisfactory in form and content to Contractor, and upon CONTRACTOR's acceptance of the schedules shall prosecute the work in accordance therewith.
- (6) **Permits, licenses and inspections:** Unless otherwise provided in a WAF, SUBCONTRACTOR agrees to ~~shall~~ obtain and pay for all permits, licenses, and inspections necessary by or related to its Work, including DIR registration on State and local public works projects.
- (7) **Layout:** SUBCONTRACTOR shall lay out and shall be strictly responsible for the accuracy of SUBCONTRACTOR's Work. SUBCONTRACTOR shall exercise prudence so that actual final conditions and details shall result in perfect alignment of finished surfaces as required by the Contract Documents.
- (8) **Scope:** SUBCONTRACTOR shall provide all labor, equipment, materials, and services needed to perform the Work and obligations referred to in this Agreement, including anything reasonably required or inferable in order (i) to furnish a complete, code-compliant and functional installation and finished work product and (ii) to comply with the requirements of this Agreement and applicable law.
- (9) **A+B Contracts:** On Caltrans A+B projects, or on other projects where the direct CONTRACTOR's bid proposal to the OWNER includes not only price(s), but also durations and/or dates for performance, SUBCONTRACTOR agrees that at no additional cost it shall conform to the CONTRACTOR's baseline schedule and all revisions thereto, and the activities and durations therein, which the CONTRACTOR has designated in order to meet milestones, completion dates and durations based on the direct CONTRACTOR's bid, notwithstanding that the OWNER's solicitation for bid proposals may have permitted the submission of a bid proposal that includes completion or milestone dates and/or greater durations.

C. PAYMENT. CONTRACTOR will pay SUBCONTRACTOR for the satisfactory performance of the Work listed in the WAF required by the Work Authorization Form, plus authorized changes, those amounts set forth in the WAF and any change orders thereto for the specific items or tasks set forth therein.

CONTRACTOR agrees to pay SUBCONTRACTOR monthly progress payments for Work that has been actually and satisfactorily completed by SUBCONTRACTOR, for labor, equipment, services and materials that have been placed in

Current as of 02/2025



position, as reflected in CONTRACTOR's application for payment and as approved by OWNER. The amounts to be paid shall be calculated by taking the prices for the Work for which payment shall be owed and multiplying by a percentage that shall be identified in the Work Authorization Form, with the balance to be withheld as retention. The percentage to be utilized in the foregoing calculation shall be ninety percent (90%) unless otherwise stated in the Work Authorization Form or required by applicable law. Payment shall be made within seven (7) days after CONTRACTOR's receipt of payment for such Work, provided all other conditions hereof have been satisfied and there are no grounds for withholding. SUBCONTRACTOR as a condition to payment agrees to provide waivers and releases for itself and its SUBCONTRACTORS and suppliers regardless of tier, as well as other evidence of payment to such persons, in a form satisfactory to CONTRACTOR, including without limitation, payroll affidavits, receipts, vouchers or other documentation, demonstrating that SUBCONTRACTOR has paid for all labor, equipment, materials, services, taxes or other charges in any way relating to SUBCONTRACTOR's Work and obligations in connection with this Project. If SUBCONTRACTOR is a Disadvantage Business Enterprise (DBE) or contracts with lower-tier SUBCONTRACTORS who are DBE's, then SUBCONTRACTOR agrees to provide, within three (3) business days of CONTRACTOR's request, all documents required by the CONTRACT DOCUMENTS or OWNER, to show the DBE is performing a Commercially Useful Function (CUF). These documents to show CUF, include, but are not limited to proof of ownership or lease and rental agreements for equipment, tax records, employee rosters, certified payroll records and inventory rosters.

Final payment to SUBCONTRACTOR shall be made ten (10) days after the entire work required by the Prime Contract has been fully completed, with funds received by CONTRACTOR in final payment for work under the Prime Contract. CONTRACTOR, at its option, may make payments by joint check. Payment shall not constitute acceptance or acknowledgement of completion regarding any part of SUBCONTRACTOR's Work. Payments made to SUBCONTRACTOR shall be deemed to be held in trust for the benefit of CONTRACTOR and of all persons who furnished labor, equipment, and materials for or on behalf of SUBCONTRACTOR, as well as for the benefit of trust funds and apprenticeship programs for such sums that may be owed in connection with the Project. Unless otherwise stated, prices include all taxes, including without limitation, any amounts owed as a result of increase or changes in taxes that take effect during the course of the Project.

Notwithstanding any other term of this Agreement, CONTRACTOR shall be permitted a reasonable period of time to pursue remedies and collect from OWNER or other persons for progress payments, final payments or other payments on account of SUBCONTRACTOR's Work or claims, before payment shall become due to SUBCONTRACTOR. What is a "reasonable time" shall be decided based upon all relevant circumstances but shall in no event exceed a duration which would be permitted under applicable law.

As a cumulative remedy, CONTRACTOR may withhold and/or retroactively nullify all or part of any payment to the extent necessary to protect CONTRACTOR from: (1) loss from defective Work not remedied; (2) claims that have been asserted or are reasonably likely to be asserted; (3) failure of SUBCONTRACTOR to make payments to creditors; (4) damage to CONTRACTOR or another person; (5) penalties assessed against CONTRACTOR or SUBCONTRACTOR for failure of SUBCONTRACTOR to comply with laws or requirements; and (6) any other ground for withholding payment allowed by law, this Agreement or the Contract Documents.

CONTRACTOR may in addition withhold from any payment or retention up to 150% of the amount of any disputed item, including without limitation, amounts CONTRACTOR believes may be necessary to withhold to protect CONTRACTOR from any potential claims which may result from SUBCONTRACTOR failing to furnish appropriate waivers and releases for itself or any lower tier SUBCONTRACTORS or suppliers. In addition, and without limiting any of its other rights and remedies CONTRACTOR shall be entitled to withhold and to set off against any amounts owed to SUBCONTRACTOR any liabilities or amounts owed to CONTRACTOR by SUBCONTRACTOR, SUBCONTRACTOR agrees to and accepts any such setoff as full payment under this Agreement and for purposes of mechanics' lien, stop payment notice and bond statutes and claims.

On public works projects with the State of California or any subdivision thereof, the time period for payment of amounts (if any) which CONTRACTOR is obligated by this Agreement to pay as retention shall be within seven (7) days after receipt of retention by CONTRACTOR, subject to CONTRACTOR's right to withhold for the grounds set forth in this Agreement or otherwise provided by law; additionally, on such state or local projects, the percentage of retention



withheld (when there are no additional reasons for withholding) shall not exceed the percentage under the Prime Contract.

In the event that applicable law in connection with a particular Project requires payment within time periods shorter than those identified in Section C, the time periods shall be shortened to conform to such requirements.

D. PERFORMANCE OF WORK. Time is of the essence. SUBCONTRACTOR shall commence work promptly on notice by CONTRACTOR and shall prosecute the same diligently, continuously and at a speed that will not cause delay in the progress of CONTRACTOR's work, or the work carried on by other SUBCONTRACTORS or OWNER. SUBCONTRACTOR shall coordinate its work with other people involved in the Project. CONTRACTOR may require SUBCONTRACTOR to prosecute in preference to other parts of the Work such part or parts as CONTRACTOR may specify. The Agreement completion time shall be as set forth in the WAF, or if no time is specified therein, in CONTRACTOR's schedule for the project that is the subject of the WAF. If SUBCONTRACTOR fails to maintain its part of the CONTRACTOR's or the Prime Contract's schedule, it shall, without additional compensation, accelerate the work as CONTRACTOR may direct.

SUBCONTRACTOR at CONTRACTOR's request and at the time specified in such request shall submit to CONTRACTOR progress, procurement, and man-hour completion schedules, satisfactory in form and content to CONTRACTOR and upon CONTRACTOR's acceptance of the schedules shall prosecute the Work in accordance therewith.

SUBCONTRACTOR shall not deviate from the plans and specifications contained in the Contract Documents, except by written change order from CONTRACTOR. SUBCONTRACTOR shall be responsible for any damage, inconvenience, or increase in costs arising directly or indirectly by SUBCONTRACTOR's failure to observe such plans and specifications. Without novation of this Agreement and any WAF, CONTRACTOR shall have the right to make changes to the plans and specifications, and after providing notification to SUBCONTRACTOR of such changes, SUBCONTRACTOR's Work shall be governed by such changes. Allowance for extra work and deductions for omissions shall be by mutual agreement between CONTRACTOR and SUBCONTRACTOR or determined in accordance with procedures specified in the Prime Contract. No changes are to be made, however, except upon a prior written change order from CONTRACTOR and CONTRACTOR shall not be held liable to SUBCONTRACTOR for any extra labor, materials, or equipment furnished without such written change order. Unless otherwise agreed, CONTRACTOR and SUBCONTRACTOR will follow the change process contained in the Prime Contract.

In the event a dispute arises between SUBCONTRACTOR and CONTRACTOR, SUBCONTRACTOR expressly agrees that it will continue to perform its work regardless of the nature of the dispute. To the greatest extent permitted by law, SUBCONTRACTOR waives any right to rescind or to suspend performance.

E. DELAYS. Any damages for delay caused by SUBCONTRACTOR shall be deducted by CONTRACTOR from the agreed price, subject to CONTRACTOR's right to terminate this Agreement for default as provided in Section 10.

CONTRACTOR shall not be liable to SUBCONTRACTOR for delay to SUBCONTRACTOR's work by any act, neglect or default of CONTRACTOR, OWNER, its architects and/or engineers, or by reason of strikes, lockouts, or on account of any acts of God, or any other cause beyond CONTRACTOR's control; but CONTRACTOR will cooperate with SUBCONTRACTOR to enforce any just claim against OWNER, its architects and/or engineers for delay.

Should SUBCONTRACTOR be delayed in its work by CONTRACTOR, then CONTRACTOR shall owe SUBCONTRACTOR therefore only an extension of time for completion equal to the delay caused and then only if a written claim for delay is made to CONTRACTOR within forty-eight (48) hours from the time of the beginning of the delay.

In the event that CONTRACTOR in its sole discretion shall seek compensation from OWNER as a result of any delay that is not caused in whole or in part by SUBCONTRACTOR, SUBCONTRACTOR shall be entitled to an equitable portion of any amount recovered by CONTRACTOR less an equitable share of the cost of pursuing said claim. As used herein, an "equitable portion" means the percentage of recovery that is directly proportional to the actual damages suffered by SUBCONTRACTOR as a result of delay not caused in whole or in part by SUBCONTRACTOR or any person or entity whose work on a Project is conducted by or through SUBCONTRACTOR. This provision shall not be construed to require CONTRACTOR to pursue any claim against OWNER or any other party. In the event that CONTRACTOR pursues claim against the OWNER on behalf of SUBCONTRACTOR, SUBCONTRACTOR shall first provide a written claim and



supporting documents to CONTRACTOR in time for CONTRACTOR to review such claim and present it to the OWNER according to the deadlines established for claims in the contract with the OWNER, and SUBCONTRACTOR shall certify such claim in writing under penalty of perjury in the State of California that the facts contained in such claim are accurate and truthful. SUBCONTRACTOR shall indemnify, defend and hold harmless CONTRACTOR and Prime Contractor (if applicable) from any and all liability and damages arising out of or related to SUBCONTRACTOR's claim that derive from California's False Claims Act.

To the greatest extent permitted by law, the remedies set forth in this Section E shall constitute SUBCONTRACTOR's exclusive remedies for delay, disruption, inefficiency, trade stacking, loss of productivity, schedule compression, interference with performance acceleration or similar issues relating to schedule or timely performance ("Delay And Disruption Claims"), regardless of cause; notwithstanding the foregoing, however, to the extent that the contract between OWNER and CONTRACTOR expressly authorizes CONTRACTOR to recover from OWNER for Delay And Disruption Claims, then SUBCONTRACTOR shall have the same rights and ability, but only to the same extent and no greater, to recover from CONTRACTOR for such Delay And Disruption Claims.

If CONTRACTOR prosecutes a claim against OWNER for delay or claims related to SUBCONTRACTOR, SUBCONTRACTOR shall cooperate fully with CONTRACTOR and shall pay costs and expenses incurred in connection therewith, including actual attorney's fees.

In the event that CONTRACTOR'S contract is with the PRIME CONTRACTOR instead of the OWNER, then SUBCONTRACTOR'S agreement to indemnify, defend and hold harmless CONTRACTOR shall also include an agreement to indemnify, defend and hold harmless the PRIME CONTRACTOR relating to claims arising from SUBCONTRACTOR'S work on the project.

F. TIME AND SCHEDULE. *Time is of the essence.* If CONTRACTOR prosecutes a claim against OWNER for delay or claims related to SUBCONTRACTOR, SUBCONTRACTOR shall cooperate fully with CONTRACTOR and shall pay the costs and expenses incurred in connection therewith, including actual attorney's fees.

G. CHANGES. CONTRACTOR is authorized to make changes, including deletions, additions, and other modifications. If necessary, the Subcontract Price shall be adjusted by appropriate additions or deductions, including deductions of markup, profit and overhead for deleted work, mutually agreed upon before the SUBCONTRACTOR performs the changed work. In no event shall such additions, deductions, profit or markups exceed those permitted under the Contract Documents. SUBCONTRACTOR shall supply CONTRACTOR with all documentation necessary to substantiate the amount of the addition to or deduction from the Subcontract Price or time for performance. If CONTRACTOR and SUBCONTRACTOR cannot agree on the amount of the addition or deduction in the Subcontract Price or time for performance for a change, SUBCONTRACTOR shall nonetheless timely perform the Work as changed by CONTRACTOR's written direction. SUBCONTRACTOR shall not make any changes without written direction from CONTRACTOR. If SUBCONTRACTOR makes any changes in the Work without written direction from CONTRACTOR, such change constitutes an agreement by SUBCONTRACTOR that it will not be paid for the costs associated with the change. No change shall release or exonerate, in whole or in part, any bond or any surety on any bond, and no notice to any surety is required with regard to any change or other modification of this Agreement or the Contract Documents.

SUBCONTRACTOR shall not deviate from the plans and specifications contained in the Contract Documents, except on written order from CONTRACTOR. SUBCONTRACTOR shall be responsible for any damage, inconvenience, or increase of costs arising directly or indirectly by SUBCONTRACTOR's failure to observe such plans and specifications. Without novation of this Agreement and any WAF, CONTRACTOR shall have the right to make changes to the plans and specifications, and after providing notification to SUBCONTRACTOR of such changes, SUBCONTRACTOR's Work shall be governed by such changes. Allowance for extra work and deductions for omissions shall be by mutual agreement between CONTRACTOR and SUBCONTRACTOR or determined in accordance with procedures specified in the Prime Contract. No changes are to be made, however, except upon a prior written change order from CONTRACTOR and CONTRACTOR shall not be held liable to SUBCONTRACTOR for any extra labor, materials or equipment furnished without such written change order. Unless otherwise agreed, CONTRACTOR and SUBCONTRACTOR will follow the change order process contained in the Prime Contract.



In the event a dispute arises between SUBCONTRACTOR and CONTRACTOR, SUBCONTRACTOR expressly agrees that it will continue to perform its work regardless of the nature of the dispute. To the greatest extent permitted by law, SUBCONTRACTOR waives any right to rescind or to suspend performance.

Unit prices from SUBCONTRACTOR's bid will be utilized where, in CONTRACTOR's sole discretion, CONTRACTOR deems them to be applicable to Change Order work. If not covered by unit prices, a complete breakdown of the estimated costs for changed work is to be submitted to CONTRACTOR for approval.

H. INSURANCE AND BONDING. SUBCONTRACTOR and its lower-tier SUBCONTRACTORS and suppliers shall comply with the insurance requirements and provisions of Exhibit A, which is incorporated herein. SUBCONTRACTOR, upon request, shall furnish to CONTRACTOR a performance bond and a labor and materials payment bond in amount, form and substance and with a surety or sureties satisfactory to CONTRACTOR. CONTRACTOR will pay the cost of such bond up to two percent (2%) of the total Agreement amount.

I. PROTECTION OF WORK. SUBCONTRACTOR shall protect its Work and materials. SUBCONTRACTOR assumes the risk of all loss or damage to its Work, materials and equipment until final completion and acceptance of the Project by OWNER. If SUBCONTRACTOR installs items provided by others or performs Work in areas to be constructed or prepared by others, SUBCONTRACTOR shall carefully inspect and shall accept, at the time of delivery or first access, the items so provided and the work by others. Failure to conduct an inspection or to give notice of any discrepancies or problems shall be deemed to constitute acceptance by SUBCONTRACTOR of the items or work of others. Loss or damage due to acts of SUBCONTRACTOR shall be charged to SUBCONTRACTOR. SUBCONTRACTOR is responsible for all damages or losses it causes to others or to work, equipment or property of others.

J. PROVISIONS FOR INSPECTION. SUBCONTRACTOR at all times shall furnish to CONTRACTOR, OWNER, and any representatives of them, safe and ample facilities for inspecting materials and Work at the site of construction, shops, factories, yards or any other places of business of SUBCONTRACTOR, its SUBCONTRACTORS or suppliers, wherever materials under this Agreement may be in the course of preparation, processing, manufacture, painting or treatment. SUBCONTRACTOR shall furnish to CONTRACTOR, as often as CONTRACTOR requires, full reports of the progress of the Work at any place materials may be in the course of construction, treatment or manufacture. Such reports shall show the progress of such construction, treatment and manufacture in such detail as may be required by CONTRACTOR, including but not limited to, any plans, drawings or diagrams in the course of preparation.

K. COMPLIANCE WITH LAWS AND SAFETY REQUIREMENTS. At its sole expense, SUBCONTRACTOR shall investigate and comply with, and agrees to be bound by all applicable laws and regulations, including without limitation, laws regarding licensing of CONTRACTORS, the Fair Labor Standards Act, the Americans with Disability Act, the federal Family and Medical Leave Act, federal, state and local family rights and medical leave laws, civil rights and fair employment laws, the California Labor Code, Proposition 65, laws concerning wages and benefits to be paid, and all other construction, environmental, workplace and safety laws. SUBCONTRACTOR accepts exclusive liability for compliance with such laws, including the Federal Social Security Act with respect to its employees, sales and use tax laws, and any other laws and regulations.

SUBCONTRACTOR shall also comply, at its sole expense, with all DBE, MBE, UDBE, WBE, DVBE, LBE, local hiring and similar requirements pertaining to the Project. In the event of a termination as a result of any misrepresentation of facts relating to SUBCONTRACTOR's status as a DBE, MBE, UDBE, WBE, DVBE, and/or LBE, SUBCONTRACTOR shall not be entitled to any compensation not already paid.

SUBCONTRACTOR acknowledges that it has conducted its own independent investigation of the wage rates to be paid and whether its Work will be subject to prevailing wage requirements or the requirements of the Davis-Bacon Act and that it has not relied upon any statements or representations by CONTRACTOR with respect to such matters. SUBCONTRACTOR agrees that the Subcontract Price shall be deemed to be full compensation for compliance with such laws, regulations, or requirements, including payment of all applicable wage rates, and that no additional compensation will be owed to SUBCONTRACTOR in the event that SUBCONTRACTOR is required thereunder to pay



higher wages or incur additional costs that SUBCONTRACTOR contends that it did not anticipate.

Within three (3) days of CONTRACTOR's request and regardless of whether a project is public or private. SUBCONTRACTOR shall submit certified payroll records for itself and for any of its SUBCONTRACTORS, of any tier, as well as any additional documentation or information that may be needed to verify that SUBCONTRACTOR and all of its SUBCONTRACTORS, regardless of tier, have paid all wages, benefits, contributions, apprenticeship council payments, and/or amounts owed to unions or trust funds. SUBCONTRACTOR acknowledges that it is aware of the requirements of Labor Code Section 218.7 and 218.8 and agree to comply fully with its requirements. As a condition precedent to final payment, SUBCONTRACTOR agrees to provide an affidavit signed under penalty of perjury that it has paid all wages, fringe, or other benefit payments or contributions due to its employees or and to any labor trust fund. In accordance with the indemnity provisions of this Agreement, SUBCONTRACTOR shall defend, hold harmless, and/or indemnify CONTRACTOR and its sureties from any claim arising from the actual or alleged failure of SUBCONTRACTOR or any of its SUBCONTRACTORS, regardless of tier, to have paid all wages, benefits, contributions, apprenticeship council payments, and/or amounts owed to unions or trust funds. SUBCONTRACTOR shall incorporate the foregoing requirements into all of its subcontracts for the Project and shall likewise require all lower tier SUBCONTRACTORS to incorporate this requirement. SUBCONTRACTOR further agrees to cooperate fully in any effort by CONTRACTOR to verify compliance with labor laws and regulations, including requirements under the Davis-Bacon Act or the California Labor Code. Such cooperation shall include, without limitation, furnishing copies and originals of records and providing access to employees or witnesses for interviews and statements. In addition to and without derogation of any other rights that CONTRACTOR may enjoy, CONTRACTOR may withhold sufficient funds to protect CONTRACTOR against any claims related to labor requirements, including without limitation, requirements under the Davis-Bacon Act or the California Labor Code.

On all projects subject to state or local prevailing wage requirements, SUBCONTRACTOR shall comply with any applicable California prevailing wage laws. With respect to such projects, the provisions of California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813 and 1815 are attached and incorporated. On such projects, as a condition precedent to final payment, SUBCONTRACTOR agrees to provide an affidavit signed under penalty of perjury that complies with the terms of Labor Code Section 1775(b)(4).

Section 1720.9 of the Labor Code (AB 219) requires that any person or entity that engages in "the hauling and delivery of ready-mixed concrete" must: (1) comply with prevailing wage laws, including payment of prevailing wages and the submission of certified payroll reports; (2) register with the Department of Industrial Relations, even if the person or entity is not a licensed contractor and (3) with the submission of certified payroll reports, provide a written time record that shall be certified by each driver. SUBCONTRACTOR agrees strictly to comply with these requirements, and SUBCONTRACTOR's failure to comply shall constitute a material breach. In particular, and without limitation, SUBCONTRACTOR agrees to comply with Division 2, Part 7, Chapter 1 of the California Labor Code, Section 1720 et seq.

SUBCONTRACTOR shall comply, and shall cause any of its SUBCONTRACTORS and independent contractors (regardless of tier) to comply, with all statutes, regulations, orders, court decisions, and other laws relating to classification of individuals as employees or independent contractors, including without limitation and as applicable, Labor Code Section 2775 et seq. (AB 5) and Dynamex Operations West, Inc. v. Superior Court, 4 Cal. 5th 903 (2018).

If SUBCONTRACTOR, or its SUBCONTRACTORS and independent contractors (regardless of tier), utilize SUBCONTRACTORS who are natural persons and who are not compensated and otherwise treated as employees, SUBCONTRACTOR shall ensure that any such person qualifies as an independent contractor and (i) is hired pursuant to a written contract; (ii) is licensed by the Contractors State License Board and performs work only within the scope of that license; (iii) has a business license and has registered for business taxes, if the person is domiciled in a jurisdiction that requires such a license and/or registration; (iv) maintains a business location that is separate from the company that has hired it; (v) has authority to hire and fire other persons who provide and/or assist in providing the services in question; (vi) has financial responsibility for errors and omissions in connection with the labor or services provided, as evidenced by insurance, indemnity obligations, bonds, and/or warranties; and (vii) is customarily engaged in an independently established business of the same nature as that involved with the work performed by such person.

SUBCONTRACTOR shall fully document its compliance with applicable law relating to the classification of natural persons as independent contractors and shall cause its SUBCONTRACTORS and independent contractors (regardless of tier) to document



their compliance. At CONTRACTOR's request, Subcontractor and its SUBCONTRACTORS and independent contractors (regardless of tier) shall execute and furnish written declarations under penalty of perjury, in a form satisfactory to CONTRACTOR, that establish their compliance with applicable laws, including without limitation, those relating to the classification of natural persons as independent contractors. CONTRACTOR shall be entitled to audit whether or not there has been compliance by SUBCONTRACTOR and its SUBCONTRACTORS and independent contractors (regardless of tier) with the requirements of this Section I. Upon request, SUBCONTRACTOR shall provide documentation demonstrating compliance with laws regarding the classification of individuals as independent contractors or employees, including without limitation, copies of payroll records and checks, as well as itemized statements furnished to employees in accordance with Labor Code Section 226.

At its sole expense, SUBCONTRACTOR shall institute and maintain a reasonable and adequate safety program that fully complies with the law and shall fully cooperate with and adhere to any safety program or requirements of CONTRACTOR and/or OWNER. All personnel of SUBCONTRACTOR, its SUBCONTRACTORS and suppliers shall wear hard hats, safety vests, and any other necessary safety equipment, while visiting or working at a construction site. SUBCONTRACTOR shall provide material data sheets and other submittals or items necessary to comply with applicable laws. SUBCONTRACTOR agrees to obtain and pay for all permits, licenses and official inspections necessary for proper completion of its Work, including DIR registration on state and local public works projects.

SUBCONTRACTOR acknowledges that the EPA and California regulatory authorities, including without limitation, the State and Regional Water Quality Control Boards, have mandated certain requirements for permits under the National Pollutant Discharge Elimination System (NPDES), including Storm Water Pollution Prevention Plan (SWPPP) requirements. SUBCONTRACTOR has undertaken its own independent and thorough investigation of all such matters, including without limitation, a thorough review of all requirements under the Contract Documents and/or that are imposed by any permits that apply to the Project, and SUBCONTRACTOR warrants that it is not relying upon any statements or representations by CONTRACTOR or OWNER with respect to such matters. SUBCONTRACTOR agrees, at its sole cost, to conform to any and all requirements of any environmental, air and water pollution statutes, regulations and measures, and/or permits, including NPDES permits, and SUBCONTRACTOR also shall conform to any and all SWPPP requirements applicable to the Project. For example, on projects subject to the California Standard Specifications, such as Caltrans projects, SUBCONTRACTOR's attention is directed to **California Standard Specifications Sections 13.1.01 through 13-10.03, "Water Pollution", and Sections 14-1.01 through 14.204, "Environmental Stewardship"**, and on all projects, to any special provisions or other contract provisions concerning NPDES, Department of Fish & Game, and other permits, air and water pollution statutes, regulations, and measures, and SWPPP requirements, and SUBCONTRACTOR at its own cost agrees to comply fully therewith.

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

SUBCONTRACTOR shall comply with all provisions of "Proposition 65" (California State Drinking Water Act of 1986, California statutes) which shall include, but not be limited to, posting in a timely manner of any required notices. SUBCONTRACTOR shall not use or bring on to the Project any of the chemicals or compounds listed by the California State Attorney General from time to time under the provisions of Proposition 65 (the List) without delivering a clear written notice, at the time submittals are written, to CONTRACTOR and OWNER informing them of the dates and locations where such items shall be delivered, used, or stored. Notwithstanding anything to the contrary contained or indicated herein or in any of the Contract Documents or purchase orders or any- where else, SUBCONTRACTOR shall not incorporate into the work, or allow to be incorporated into the work, any of the items on the List without specific advanced written notice having first been delivered to CONTRACTOR prior to SUBCONTRACTOR becoming actually contractually obligated to purchase or take delivery thereof from its suppliers, and then only to the extent CONTRACTOR gives clear written approval of the uses proposed in the notice. The notice shall contain clear descriptions of the type, amount, uses, locations and content of such items incorporated into or used in said work.

L. COMPLIANCE WITH SAFETY PROGRAMS. At its sole expense, SUBCONTRACTOR shall create and maintain a safety program that will be operated by SUBCONTRACTOR that fully complies with the law and will interoperate with



CONTRACTOR'S safety program on all Projects. SUBCONTRACTOR acknowledges and agrees that it will comply with and remain in compliance with CONTRACTOR's Safety and Risk Management policies. SUBCONTRACTOR shall maintain a safety manager for all work performed under this Agreement, including any subsequent WAF.

SUBCONTRACTOR shall provide CONTRACTOR with any records showing SUBCONTRACTOR'S safety performance and insurance claims for the three years prior to the date of such request by CONTRACTOR. SUBCONTRACTOR shall report all accidents, injuries and safety violations that occur within SUBCONTRACTOR'S safety program to CONTRACTOR'S safety manager by phone or e-mail immediately after SUBCONTRACTOR is informed of any such accident, injury or safety violation.

All personnel of SUBCONTRACTOR, its SUBCONTRACTORS and suppliers are required to wear ANSI Z89.1 approved hard hats, ANSI Z87.1 approved eye protection and ANSI 107-2010 Class 2 approved Hi-Vis safety vests or clothing, and any other necessary safety garments or devices, while visiting or working on a Project, or as required by law or pursuant to the PRIME CONTRACT. To the greatest extent permitted by law, SUBCONTRACTOR agrees to defend and indemnify and hold harmless CONTRACTOR and PRIME CONTRACTOR, if CONTRACTOR is a SUBCONTRACTOR to PRIME CONTRACTOR, and any of its directors, partners, officers, employees, affiliates, subsidiaries, heirs, successors, and assigns, from any OSHA or other regulatory penalties, fines, sanctions, assessments, or claims, including any increased penalties, fines, sanctions, assessment, or claims that result from SUBCONTRACTOR's prior record or history, resulting from or related to SUBCONTRACTOR'S Work under this AGREEMENT. To the greatest extent permitted by law, the foregoing defense and indemnity obligation and hold harmless agreement shall apply notwithstanding negligence or fault on the part of the persons to be indemnified.

M. INDEMNITY AND DEFENSE OBLIGATIONS. To the greatest extent permitted by law, SUBCONTRACTOR shall defend, indemnify and hold harmless CONTRACTOR, OWNER, and OWNER's architect and engineer, and any of their respective directors, officers, agents, employees, parents, affiliates, subsidiaries, partners, and representatives, and any other persons or entities designated by any of them (collectively, the "Indemnitees") from and against all causes of action, penalties, assessments, fines, actions, proceedings, or investigations by governmental authorities, demands, liabilities, claims, damages, costs, losses and expenses, including but not limited to attorney's fees and costs ("Claims"), which arise out of or are in any way related to: (i) this Agreement; (ii) actual or alleged actions or omissions by SUBCONTRACTOR or any of its SUBCONTRACTORS, suppliers, vendors, employees, or persons for whom it is responsible, or (iii) SUBCONTRACTOR's presence at the Project site and/or its Work. SUBCONTRACTOR duty to defend Indemnitees shall apply, and SUBCONTRACTOR shall be required to furnish a defense, notwithstanding that there has not yet been a determination, adjudication or finding of liability or fault on the part of SUBCONTRACTOR or any party or person to be indemnified.

To the greatest extent permitted by law, the obligations of this Section J shall apply regardless of whether the Claims were caused in part or contributed to by Indemnitees; provided, however, obligations specified in the foregoing paragraph shall not extend: (a) to Claims that arise out of, pertain to, or relate to the active negligence or willful misconduct of CONTRACTOR, of a SUBCONTRACTOR to CONTRACTOR, a construction manager who is an Indemnitee, or any of their other agents, other servants, or other independent CONTRACTORS who are responsible to them, (b) to defects in design furnished by the Indemnitee, or (c) to the extent Claims do not arise out of the scope of work of SUBCONTRACTOR. Items (a) through (c) to the extent Claims do not arise out of the scope of work of SUBCONTRACTOR. Upon written tender by any Indemnitee, including CONTRACTOR, of a Claim, SUBCONTRACTOR shall:

- (A) Defend the Claim with counsel of its choice, who is reasonably qualified and experienced in such matters and does not have a conflict of interest in representing the tendering party, and the SUBCONTRACTOR shall maintain control of the defense for any Claim or portion of a Claim to which the defense obligation applies. If SUBCONTRACTOR elects to defend under this subparagraph (A), SUBCONTRACTOR shall provide written notice of the election to the tendering party a reasonable time period following receipt of the written tender, and in no event later than 30 days following that receipt. Subject only to the limitations set forth above, the defense provided by SUBCONTRACTOR shall be a complete defense of tendering party of all Claims or portions thereof to the extent alleged to be caused by SUBCONTRACTOR, including any vicarious liability Claims the tendering party may have resulting from SUBCONTRACTOR's scope of Work, but not including Claims resulting from the scope of Work, actions, or omissions of the tendering party, or any other party. Any vicarious liability



imposed upon the tendering party for Claims caused by SUBCONTRACTOR electing to defend under this paragraph shall be directly enforceable against SUBCONTRACTOR. SUBCONTRACTOR shall promptly provide the tendering party with all information, documentation, or evidence, if any, relating to any assertion by SUBCONTRACTOR that another party is responsible for the tendered Claim.

Pay, within 30 days of receipt of an invoice from the tendering party, no more than a reasonable allocated share of the tendering party's defense fees and costs, on an ongoing basis during the pendency of the Claim, subject to reallocation consistent with the limitations set forth above, and including any amounts reallocated upon final resolution of Claim, either by settlement or judgment. The tendering party shall allocate a share to itself to the extent a Claim is alleged to be caused by its Work, actions, or omissions, and a share to each SUBCONTRACTOR to the extent that the Claim is alleged to be caused by SUBCONTRACTOR's Work, actions, or omissions, regardless of whether the party seeking a defense from the SUBCONTRACTOR actually tenders the Claim to any particular SUBCONTRACTOR, and regardless of whether that SUBCONTRACTOR is participating in the defense. Any amounts not collected from any particular SUBCONTRACTOR may not be collected from any other SUBCONTRACTOR.

Notwithstanding any other provision of law, if SUBCONTRACTOR fails timely and adequately to perform its obligations under subparagraph (A), the party tendering the Claim shall have the right to recover from SUBCONTRACTOR for any resulting compensatory damages, consequential damages, and reasonable attorney's fees to the extent provided by Civil Code Section 2782.05. If SUBCONTRACTOR fails to timely perform its obligations under subparagraph (B), the party tendering the Claim shall have the right to recover from SUBCONTRACTOR for any resulting compensatory damages, interest on defense and indemnity costs, from the date incurred, at the rate set forth in subdivision (g) of former Civil Code Section 3260 (now recodified at Civil Code Section 8818), consequential damages, and reasonable attorney's fees to the extent provided by Civil Code Section 2782.05 incurred to recover these amounts. The party tendering the Claim shall bear the burden of proof to establish both SUBCONTRACTOR's failure to perform under either subparagraphs (A) or (B), and any resulting damages. In addition to the foregoing remedies, and without limitation or derogation of them, SUBCONTRACTOR agrees to pay liquidated damages of \$100 per each day that SUBCONTRACTOR fails to perform its obligations under either subparagraphs (A) or (B), which are intended to compensate the tendering party for loss of reputation, administrative costs, and other losses that are difficult to quantify and that are not adequately compensated under this provision and Section 2782.05 of the Civil Code. SUBCONTRACTOR agrees that the sum of \$100 per day constitutes a reasonable estimate of such damages or losses.

The obligations under this Section J are in no way limited or relieved by SUBCONTRACTOR having obtained insurance, by the Insurance or other provisions of this Agreement, and/or to the extent permitted by law, by the provisions of any workers compensation law, regulation or arrangement. In addition, the obligations of this Section J shall survive the expiration or termination of this Agreement, as well as SUBCONTRACTOR's completion of its other obligations.

Notwithstanding the foregoing or any other provision of this Agreement, if the Project in question is residential building project subject to the provisions of Section 2782(d) of the Civil Code, then Exhibit C for Residential Building Projects shall be attached to the Work Authorization Form, and with regard to any "claim of construction defect" as defined by that section, the terms of Exhibit C shall be deemed to be incorporated herein and to take precedence, Indemnity and defense obligations not affected or restricted by Civil Code Section 2782(d) or (e), such as for property damage not caused by construction defects or other matters not involving defect claims, shall not be limited, impaired, or modified by the foregoing sentence, and such indemnity and defense obligations shall remain in full force and effect.

If and only if a claim for defense or indemnity relates to a project that is governed by California Civil Code Sections 895 et seq. and CONTRACTOR is determined to be a "Builder" for purposes of California Civil Code Section 2782(d), then as to claims of construction defects ("Defect Claims") only, the foregoing indemnity is modified such that SUBCONTRACTOR is not obligated to indemnify OWNER to the extent that such Defect Claims arise out of, pertain to, or relate to the negligence of the OWNER, or the OWNER's other agents, other servants, or other independent CONTRACTORS who are directly responsible to OWNER, or for defects in design furnished by those persons, or to the extent the Defect Claims do not arise out of, pertain to, or relate to the scope of work covered by this Agreement; however, SUBCONTRACTOR shall nevertheless be obligated to defend OWNER and CONTRACTOR from any such Defect Claims, within five (5) days of obtaining knowledge of any such Defect Claims, subject to reallocation after final resolution of the claims pursuant to Civil Code Section 2782(d). Indemnity and defense obligations not affected or restricted by Civil Code Section 2782(d) or (e),



such as for property damage not caused by construction defects or other matters not involving Defect Claims, shall not be limited, impaired or modified by the foregoing sentence, and such indemnity and defense obligations shall remain in full force and effect.

N. LABOR. SUBCONTRACTOR acknowledges that CONTRACTOR is a signatory to one or more collective bargaining agreement(s), specifically *Laborers, Operating Engineers, Teamsters, Cement Masons & Carpenters*. Prior to submitting a proposal for Work, SUBCONTRACTOR shall determine if any collective bargaining agreements will be applicable to the Project for which it makes a proposal. SUBCONTRACTOR and all lower tier SUBCONTRACTORS shall perform all Work covered by CONTRACTOR's collective bargaining agreement(s) applicable to the Project under the terms of said agreement(s) and shall become signatory to the applicable agreement(s) as a condition of performing Work. In addition, SUBCONTRACTOR and its SUBCONTRACTORS, suppliers, vendors, and employees shall comply with the terms of any Project Labor Agreement or Project Stabilization Agreement that may apply to the Project. Should CONTRACTOR at its sole discretion establish a reserve gate system on the project, SUBCONTRACTOR warrants that its employees and suppliers will use the reserve gate(s) designated for their use by CONTRACTOR. SUBCONTRACTOR further agrees to perform notwithstanding the presence of pickets at gate(s) reserved for SUBCONTRACTOR's employees and suppliers. Failure to perform in accordance with this Section shall constitute a default subject to termination. The price to be paid under this Agreement shall be deemed full compensation for compliance with this Section, and no further compensation shall be afforded for such compliance.

SUBCONTRACTOR hereby expressly agrees that all of the provisions of the applicable labor agreements are incorporated into this Agreement as if they were set forth in their entirety. SUBCONTRACTOR agrees to comply with all of the terms and conditions of those labor agreements as if it were a party to said agreements including signatory status if required. SUBCONTRACTOR further agrees to pay the wage rates, make the required trust fund payments into the respective labor trust funds, and observe the hours and all other terms and conditions set forth in the respective labor agreements. SUBCONTRACTOR agrees to comply with the terms and provisions of said agreements setting forth the grievance and arbitration provisions. Furthermore, SUBCONTRACTOR agrees to comply with the terms and provisions of said agreement setting forth the jurisdiction and scope of Work therein for resolution of jurisdictional disputes. In the absence of any such procedure or if such procedure fails to promptly resolve the jurisdictional dispute, SUBCONTRACTOR agrees, at its own cost and expense and upon request by CONTRACTOR, to take any and all lawful steps to secure a binding and final determination of said jurisdictional dispute by the National Labor Relations Board.

SUBCONTRACTOR acknowledges that the terms and conditions of the labor agreements with the unions listed herein below may require that SUBCONTRACTOR comply with additional labor agreements.

SUBCONTRACTOR agrees to bind and require all of its SUBCONTRACTORS, regardless of tier, to agree to all of the requirements under this Section N.

O. LIENS. To the greatest extent permitted by law, SUBCONTRACTOR shall at all times maintain the project in a good condition, free and clear of all claims, encumbrances or liens and shall hold harmless and indemnify Contractor, Prime Contractor and OWNER from all claims, encumbrances, and liens arising out of SUBCONTRACTOR's Work, and SUBCONTRACTOR, at its own cost and expense (including attorneys' fees), shall defend all suits to establish such claims, and shall pay any such claim or lien so established. In the event that a lien or claim is made against the project or OWNER or CONTRACTOR, SUBCONTRACTOR agrees that within forty-eight (48) hours of written notice, to have such claim, lien or encumbrance removed from the job and to place with OWNER and CONTRACTOR adequate security to ensure compliance with this provision.

P. DEFAULT. If SUBCONTRACTOR fails to supply sufficient qualified workers and/or proper materials, or fails to prosecute its Work diligently and properly, or fails to make prompt payment to its workers, SUBCONTRACTORS or suppliers (regardless of tier), or becomes delinquent with respect to contributions or payments to any benefit, apprenticeship or other employee program or trust, or fails to provide adequate assurances, or is otherwise guilty of a material breach of a provision of this Agreement or the law, and fails within forty-eight (48) hours after receipt of written notice to commence and continue satisfactory correction of such default with diligence and promptness, and to complete the cure of such default within the time period stated in CONTRACTOR's default notice, then CONTRACTOR, without prejudice to any rights or remedies, shall have the right to any or all of the following remedies:



1. supply such workers and quantity of materials, equipment and other facilities as CONTRACTOR deems necessary to complete SUBCONTRACTOR's Work;
2. contract with other CONTRACTORS to perform such part of SUBCONTRACTOR's Work as CONTRACTOR shall deem appropriate;
3. terminate SUBCONTRACTOR's right to perform and use any materials, equipment, or tools furnished by or belonging to SUBCONTRACTOR Work without any further compensation to SUBCONTRACTOR for such use; and
4. withhold payment of any monies due SUBCONTRACTOR pending corrective action; provided, however, that CONTRACTOR may withhold payment without giving such notice, when authorized under this Agreement and/or applicable law.

In such an event, CONTRACTOR shall be entitled to recover from SUBCONTRACTOR, backcharge against SUBCONTRACTOR, and/or set off against amounts owed to SUBCONTRACTOR, the actual direct and indirect costs that CONTRACTOR has incurred (including attorney's and/or consultant fees and litigation costs) plus markup of fifteen percent (15%) for overhead and ten percent (10%) for profit. In an emergency, CONTRACTOR may proceed as above without notice. In addition to any other remedies available, upon written notice CONTRACTOR shall be entitled to perform using its own or other forces those cleanup duties that SUBCONTRACTOR has failed to perform, to remedy safety deficiencies, or otherwise to remedy SUBCONTRACTOR's failure to have complied with requirements of this Agreement or directives by CONTRACTOR.

To secure performance by SUBCONTRACTOR and the prompt payment of any funds expended by CONTRACTOR, CONTRACTOR shall have a lien upon all materials, tools, appliances, and equipment of SUBCONTRACTOR at the Project or used in connection with SUBCONTRACTOR's Work.

Q. TERMINATION FOR CONVENIENCE. Should SUBCONTRACTOR at any time breach this Agreement or fail to prosecute the Work with promptness, diligence, professionalism, precaution and efficiency, or default in the performance of any of the requirements contained herein, CONTRACTOR may after forty-eight (48) hours written notice and time to cure, proceed as follows:

Provide such materials, supplies, equipment and labor as may be necessary to complete the Work, pay for same and deduct the amount so paid from any money then or thereafter due SUBCONTRACTOR;

Withhold payment of any sums due SUBCONTRACTOR related to or arising out of this Agreement, or any WAF;

and terminate this Agreement and any related WAFS, enter upon the premises and take possession of all the materials, supplies, tools, equipment and appliances of SUBCONTRACTOR and complete the Work or have same completed by others. In the event of such termination for default, CONTRACTOR will not be liable to SUBCONTRACTOR for any further payment under the Agreement until final payment is due and then only if and to the extent that the unpaid balance of the amount to be paid under this Agreement exceeds the expense of CONTRACTOR in finishing the Work.

SUBCONTRACTOR shall be responsible for, and CONTRACTOR shall be entitled to deduct from any amounts otherwise due SUBCONTRACTOR, an additional amount equivalent to fifteen percent (15%) of the sums incurred or paid by CONTRACTOR as a result of SUBCONTRACTOR's default, including without limitation, the costs to provide materials, supplies, labor and equipment, to pay SUBCONTRACTOR's creditors, and/or to complete SUBCONTRACTOR's Work.

If the amount expended by CONTRACTOR under this Section exceeds the unpaid balance due to SUBCONTRACTOR as stated in the applicable WAF, SUBCONTRACTOR shall pay CONTRACTOR such excess within seven (7) calendar days following the date of invoice therefore.

CONTRACTOR may terminate this Agreement for fault, if SUBCONTRACTOR at any time fails to pay for all labor, materials or supplies used by SUBCONTRACTOR in its Work when due. At CONTRACTOR's option, CONTRACTOR may pay SUBCONTRACTOR's laborers and materialmen, plus an additional amount equivalent to fifteen percent (15%) of the sums incurred or paid and charge the same to SUBCONTRACTOR. Such sum shall constitute reimbursement for



overhead, general and administrative costs.

Should SUBCONTRACTOR default in any of the provisions of this Agreement and should CONTRACTOR employ an attorney to enforce any provision hereof, or to collect damages for breach of the Agreement, or to recover on the bond mentioned in Section G above, SUBCONTRACTOR and its surety agree to pay CONTRACTOR such reasonable attorneys' fees as it may expend. As against the obligations here contained, SUBCONTRACTOR and its surety waive all rights of exoneration.

In its sole discretion and to the greatest extent permitted by law, CONTRACTOR may terminate this Agreement for convenience. In the event of termination for convenience, SUBCONTRACTOR shall be paid only for its actual out-of-pocket direct costs in connection with the project to the extent that these have not already been paid for by CONTRACTOR, plus an additional five percent (5%) for overhead and five percent (5%) for profit. SUBCONTRACTOR acknowledges and agrees that such sums for overhead and profit constitute good and valuable consideration in exchange for CONTRACTOR's right to termination for convenience. In no event shall the total amount paid to SUBCONTRACTOR after a termination for convenience (including all prior payments) exceed the price as set forth in the applicable WAFS in place at the time of termination as multiplied by the percentage of completion of SUBCONTRACTOR's Work. Upon a termination for convenience, SUBCONTRACTOR shall not be entitled to any lost profits or consequential damages, or any recovery other than that set forth previously in this Section. If CONTRACTOR is found to have terminated this Agreement improperly under any other section, then the termination shall be deemed to have been a termination for convenience under this Section, and SUBCONTRACTOR's remedies shall be limited accordingly.

R. DISPUTES. Any dispute resolution procedure in the PRIME CONTRACT shall be deemed incorporated in this Agreement and shall apply to any disputes arising hereunder that involve the OWNER, such as "pass through" claims. SUBCONTRACTOR shall cooperate in such procedures and shall participate in them when requested. Any claims not involving the OWNER shall be resolved through binding arbitration under JAMS rules in effect as of the date of the arbitration demand. Prior to filing an arbitration demand, the parties shall meet informally to attempt to resolve the dispute and, if requested by CONTRACTOR, shall participate in non-binding mediation, with each party to bear its own fees and costs. The award rendered by the arbitrator(s) shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

Notwithstanding any dispute, and to the greatest extent permitted by law, SUBCONTRACTOR agrees to continue with its performance and maintain the schedule of work pending resolution of any and all disputes, including disputes regarding payment or whether work is within SUBCONTRACTOR's scope. The foregoing sentence constitutes an advance waiver by SUBCONTRACTOR of any actual or alleged right to stop work, rescind, or abandon the Project.

SUBCONTRACTOR, and its SUBCONTRACTORS and suppliers (regardless of tier), agree upon request by CONTRACTOR to join in and be bound by proceedings involving CONTRACTOR, including those involving OWNER or other parties. It shall be the responsibility of SUBCONTRACTOR at its sole expense to prepare CONTRACTOR's case, to the extent the proceedings are related to this Agreement.

Nothing herein shall be deemed to waive rights or remedies that by law may not be waived.

S. WARRANTY. SUBCONTRACTOR warrants that all materials furnished shall be new unless otherwise specified and that all work under this Agreement shall be performed in a substantial, good and workmanlike manner, shall be of best quality, free from faults and defects, and in strict conformance with the Contract Documents. Any Work not conforming to such requirements shall be deemed to be defective, at CONTRACTOR's election. This warranty is cumulative with any other warranty or remedy that may exist under applicable law or the Contract Documents. All warranties hereunder shall be deemed to be continuing in nature.

T. CLEANUP. At all times during the course of construction, SUBCONTRACTOR at its own expense shall perform its Work so as to maintain the site in a clean, safe and orderly condition. SUBCONTRACTOR shall remove, as often as directed by CONTRACTOR, all rubbish and surplus material which may accumulate from the prosecution of its Work, and should SUBCONTRACTOR fail to do so, CONTRACTOR may, at its option, remove or remedy the same without further notice at SUBCONTRACTOR's expense.



Upon completion of the Work under this Agreement, at its expense SUBCONTRACTOR shall remove from the site all hazardous materials, temporary structures, debris and waste incident to its operation and clean all surfaces, fixtures, equipment, etc., relative to the performance of this Agreement.

U. ASSIGNMENT. Without first giving written notice and then obtaining CONTRACTOR's written consent, SUBCONTRACTOR shall not assign, hypothecate, transfer or sublet: (1) any portion or part of the Work or the obligations hereunder; (2) payments to SUBCONTRACTOR under this Agreement; or (3) any cause of action related to this Agreement. SUBCONTRACTOR acknowledges and stipulates that its performance constitutes a unique and personal obligation. Any assignment, hypothecation, transfer or subletting by SUBCONTRACTOR without CONTRACTOR's written consent shall be void and invalid, notwithstanding actual or constructive knowledge by CONTRACTOR of the purported assignment, hypothecation, transfer or subletting.

V. USE OF EQUIPMENT. If SUBCONTRACTOR uses CONTRACTOR's equipment, materials, labor, supplies, services, or facilities, SUBCONTRACTOR shall reimburse CONTRACTOR at a predetermined rate, except as otherwise provided herein. SUBCONTRACTOR shall conduct its own independent investigation and hereby assumes all responsibility for any physical damage to CONTRACTOR's equipment, materials, supplies, or facilities. If SUBCONTRACTOR utilizes any of CONTRACTOR's employees, SUBCONTRACTOR shall have full responsibility for all acts and omission of CONTRACTOR's employees with regard to SUBCONTRACTOR's use or employment of them. SUBCONTRACTOR should hold harmless and indemnify CONTRACTOR from any claims or damages. SUBCONTRACTOR accepts any and all of CONTRACTOR's equipment, materials, labor, supplies, services, or facilities "as is."

W. UNION AGREEMENTS

CONTRACTOR IS SIGNATORY TO THE FOLLOWING UNIONS (list): STATUTORY NOTICE:

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

CONTRACTOR NAME:
Bay Cities Paving & Grading, Inc.

SUBCONTRACTOR NAME:

BY: *Ben Rodriguez, Jr, President*

BY:

California License No.: 238650

California License No: _____

DIR Reg No. 1000005981

DIR Reg. No. _____



EXHIBIT A -INSURANCE REQUIREMENTS-ATTACHED



EXHIBIT B Labor Code Sections 1771, 1775, 1776, 1777.5, 1813 and 1815

§ 1771. Requirement of prevailing local rate for work under contract Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

§ 1775. Forfeiture for paying less than prevailing wage rates; Amount of penalty; Payments to workers; Liability of prime contractor; Notification of complaint

(a) (1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2) (A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B) (i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a Page 18 of 23 Current as of 11.2024 stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.



(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

§ 1776. Payroll record of wages paid; Inspection; Forms; Effect of noncompliance; Penalties

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the contractor or subcontractor in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by that person's employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor. Page 19 of 23 Current as of 11.2024 (c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) (1) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labormanagement committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(2) Copies of electronic certified payroll records shall not satisfy payroll records requests made by Taft-Hartley trust funds and joint labormanagement committees. Any copy of records requested by, and made available for inspection by or furnished to, a Taft-Hartley trust fund or joint labor-management committee shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division.

(f) (1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground



Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, the contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause this to be inserted in the contract stipulations to effectuate Page 20 of 23 Current as of 11.2024 this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Division 10 (commencing with Section 7920.000) of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

§ 1777.5. Employment of apprentices on public works.

(a) (1) This chapter does not prevent the employment upon public works of properly registered apprentices who are active participants in an approved apprenticeship program.

(2) For purposes of this chapter, "apprenticeship program" means a program under the jurisdiction of the California Apprenticeship Council established pursuant to Section 3070.

(b) (1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

(1) The apprenticeship standards and apprentice agreements under which he or she is training.

(2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch



of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of Page 21 of 23 Current as of 11.2024 apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body, if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member Page 22 of 23 Current as of 11.2024 contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.



(m) (1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2)(A) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The grant funds shall be distributed as follows:

(i) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(ii) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(iii) All training contributions not distributed under clauses (i) and (ii) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship and preapprenticeship standards and requirements under this code.

(B) An apprenticeship program shall only be eligible to receive grant funds pursuant to this subdivision if the apprenticeship program agrees, prior to the receipt of any grant funds, to keep adequate records that document the expenditure of grant funds and to make all records available to the Department of Industrial Relations so that the Department of Industrial Relations is able to verify that grant funds were used solely for training apprentices. For purposes of this subparagraph, adequate records include, but are not limited to, invoices, receipts, and canceled checks that account for the expenditure of grant funds. This subparagraph shall not be deemed to require an apprenticeship program to provide the Department of Industrial Relations with more documentation than is necessary to verify the appropriate expenditure of grant funds made pursuant to this subdivision.

(C) The Department of Industrial Relations shall verify that grants made pursuant to this subdivision are used solely to fund training apprentices. If an apprenticeship program is unable to demonstrate how grant funds are expended or if an apprenticeship program is found to be using grant funds for purposes other than training apprentices, then the apprenticeship program shall not be eligible to receive any future grant pursuant to this subdivision and the Department of Industrial Relations may initiate the process to rescind the registration of the apprenticeship program.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general Page 23 of 23 Current as of 11.2024 or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

§ 1813. Penalty when workman required to work excess hours; Stipulation in contract; Cognizance and report of violation.

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract and shall report them to the Division of Labor Standards Enforcement.

§ 1815. Work performed in excess of specified hour limitations; Compensation.



Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1½ times the basic rate of pay.