



SUBCONTRACT AGREEMENT

Subcontract Code No. 00000
G&S Project No. 000-xx

THIS AGREEMENT, made and entered into at **SAN CARLOS**, California, this _____ day of _____ 2005, by and between **GONSALVES & STRONCK CONSTRUCTION COMPANY, INC.**, hereinafter called **CONTRACTOR**, with its principal office at 1000 Washington Street, San Carlos, California 94070 and **Enter name of Subcontractor** hereinafter called **SUBCONTRACTOR**, with its principal office at: (000) 000-0000 / (000) 000-0000 fax

RECITALS

On or about the _____ day of _____ **CONTRACTOR** entered into a prime contract with _____ hereinafter called **OWNER**, whose address is _____ to perform the following construction work:

Project Title:
Address:

Said work is to be performed in accordance with the prime contract and the plans and specifications. Said plans and specification have been prepared by or on behalf of _____ hereinafter called **ARCHITECT**, whose address is _____

SECTION 1 - ENTIRE CONTRACT

SUBCONTRACTOR certified that it is fully familiar with all of the terms, conditions and obligations of the Contract Documents, as hereinafter defined, the location of the job site, and the conditions under which the work is to be performed, and that it enters into this Agreement based upon its investigation of all of such matters and is in no way relying upon any opinions or representations of CONTRACTOR. This Agreement represents the entire agreement. The Contract Documents are incorporated in this Agreement by this reference, with the same force and effect as if they were set forth at length herein, and that SUBCONTRACTOR and its subcontractors will be and are bound by any and all of the Contract Documents insofar as they relate in any part or in any way, directly or indirectly to the work covered by this Agreement. SUBCONTRACTOR agrees to be bound to CONTRACTOR in the same manner and to the same extent as CONTRACTOR is bound to OWNER under the Contract Documents, to the extent of the work provided for in this Agreement, and that where, in the Contract Documents reference is made to CONTRACTOR and the work or specification therein pertains to SUBCONTRACTOR'S trade, craft, or type of work then such work or specification shall be interpreted to apply to SUBCONTRACTOR instead of CONTRACTOR. In the event of any conflict between the requirements of the prime contract and this Subcontract, the SUBCONTRACTOR shall be governed by the provisions imposing the greater duty on the SUBCONTRACTOR. The phrase "Contract Documents" is defined to mean and include this Agreement, together with any exhibits or addenda thereto, the prime contract, together with its general, supplementary and other conditions, addenda and modifications, plans and specifications and:

- Addendum "A" To Subcontract: Subcontractor Insurance Requirements
- Appendix "B": General Inclusions & Exclusions
- Appendix "C": Contract Drawings
- Appendix "D": Subcontractor Information Sheet
- Appendix "E": Subcontract Addendum for Public Works Projects
- G&S Code of Safe Practices; Safety In Construction; Request for MSDS & Injury & Illness Prevention Program.

SECTION 2 - SCOPE

SUBCONTRACTOR agrees to furnish all labor, services, materials, installation, cartage, hoisting, supplies, insurance, equipment; scaffolding, tools and other facilities of every kind and description required for the prompt and efficient execution of the work described herein and to perform the work necessary or normally performed by SUBCONTRACTOR'S trade or incidental to complete _____ for the project in strict accordance with the Contract Documents and as more particularly, though not exclusively, specified in Section 6 Special Provisions and:

SECTION 3 - CONTRACT PRICE

CONTRACTOR agrees to pay SUBCONTRACTOR for the strict performance of its work, the sum of: _____ dollars and 00/100 \$ _____ subject to additions and deductions for changes in the work as may be agreed upon, and to make payment in accordance with the Payment Schedule, Section 4.

SECTION 4 - PAYMENT SCHEDULE

CONTRACTOR agrees to pay SUBCONTRACTOR in monthly payments of 90% of labor and materials, which have been placed in position and for which the right to payment has been properly documented pursuant to the terms of this agreement. The obligation of CONTRACTOR to make any payment to SUBCONTRACTOR is subject to the express condition precedent to payment by OWNER to CONTRACTOR therefore, except as to payments withheld by the culpable acts or omissions of CONTRACTOR. No payment made prior to completion and acceptance of the work shall be construed as evidence of acceptance of any part of SUBCONTRACTOR'S work.

SECTION 5 - GENERAL SUBCONTRACT PROVISIONS

The General Subcontract Provisions are an integral part of this Agreement.

SECTION 6 - SPECIAL PROVISIONS

CERTIFIED PAYROLL REQUIRED Bid Advertisement Date:

Prior to the start of your work on the said project, your fringe benefit statement and form DAS 140 need to be on file at our office. We also request that certified payroll be submitted to us every week when your employees and/or subcontractors are on the jobsite. Please use the attached Public Works Reporting Form (or a form with equivalent fields). **We may withhold payment until all current and accurate certified payroll forms are submitted.**

THIS CONTRACT INCLUDES BUT IS NOT NECESSARILY LIMITED TO THE FOLLOWING:

1. Product data submittals, coordination and/or shop drawings are due within 10 days of receipt of contract.
2. Clean up of _____ generated debris per article Q of General Subcontract Provisions.
- 3.
- 4.
- 5.
- 6.
- 7.
- 8.
- 9.
- 10.

SAMPLE

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board - 9835 Goethe Road, Sacramento, California

IN WITNESS WHEREOF: The parties hereto have executed this Agreement for themselves, their heirs, executors, successors, administrators, and assignees on the day and year written below.

SUBCONTRACTOR	CONTRACTOR
	Gonsalves & Stronck Construction Company, Inc.
By:	By:
Name & Title	Name & Title:
Date	Date
Contractor's State License No.	Contractor's State License No. 672769

Corporation
 Partnership
 Proprietorship
Corporation
Partnership
Proprietorship

Note: Failure to execute and return this contract within thirty days shall be considered your agreement to perform the work on the terms stated herein.

Gonsalves & Stronck Construction Company, Inc.

GENERAL SUBCONTRACT PROVISIONS

Revised 4/06

A. INSURANCE - SUBCONTRACTOR shall at all times carry on all operations hereunder, such insurance as is set forth on Addendum A to this Agreement, made a part hereof and fully incorporated herein by this reference. The requirements for carrying the insurance as set forth in Addendum A shall not derogate from any provisions for indemnification of CONTRACTOR by SUBCONTRACTOR pursuant to the terms of this Agreement.

B. INDEMNITY PROVISION - All work covered by this Agreement done at the site of construction or in preparing or delivering materials or equipment, or any or all of them, to the site shall be at the risk of SUBCONTRACTOR exclusively. SUBCONTRACTOR shall, with respect to all work which is covered by or incidental to this Agreement, indemnify and hold CONTRACTOR harmless from and against all of the following:

(1) Any claim, liability, loss, damage, costs, expenses, including actual attorneys and consultants fees incurred in good faith, awards, fines or judgments arising by reason of the death or bodily injury to persons, injury to property, design defects (if design originated by SUBCONTRACTOR), SUBCONTRACTOR'S work, SUBCONTRACTOR'S performance or non-performance of any and all of the obligations of this Agreement, or other loss, damage or expense, including any of the same resulting from Contractor's alleged or actual negligent act or omission, regardless of whether such act or omission is active or passive and

(2) Any and all claims, liability, loss, damage, costs, expenses, including actual attorneys and consultants fees incurred in good faith, awards, fines or judgments arising by reason of any obligation or indemnity which CONTRACTOR has to OWNER.

It is expressly acknowledged and agreed that each of the foregoing indemnities is independent and that both shall be given effect. However, SUBCONTRACTOR shall not be obligated under this Agreement to indemnify CONTRACTOR with respect to the sole negligence or willful misconduct of CONTRACTOR, his agents or servants.

The provisions of this paragraph shall be in addition to any other duties and obligations of SUBCONTRACTOR set forth in this Agreement.

C. BONDING OF SUBCONTRACTORS - Concurrently with the execution of this Agreement, or at any time during its performance, SUBCONTRACTOR shall, if required by CONTRACTOR, execute a Labor and Material Bond and a Faithful Performance Bond in an amount equal to one hundred percent of the Contract Price in Section 3. The bonds shall be executed by a corporate surety acceptable to CONTRACTOR, shall be in a form satisfactory to CONTRACTOR, and shall be provided within ten days. Failure to provide or properly maintain bonds shall be a material breach of contract. CONTRACTOR shall pay the bond premium in an amount not to exceed the National Board of Surety standard bond rate, unless otherwise provided herein or in the Contract Documents.

D. TIME - Time is of the essence of this Agreement. It shall be the SUBCONTRACTOR'S obligation to conform to CONTRACTOR'S progress schedule, subject to CONTRACTOR'S modifications, which are incorporated herein by this reference and made a part hereof. If, in CONTRACTOR'S opinion, SUBCONTRACTOR is not supplying a sufficiency of workers or delivered materials with such promptness as to prevent any delay in the progress of the work, or if in any respect diligently to commence and prosecute the work, or if the work is not commenced, prosecuted, finished, delivered or installed in time, CONTRACTOR shall have the right to direct SUBCONTRACTOR to furnish additional labor and, at SUBCONTRACTOR'S cost and expense, to expedite the delivery of material, or if additional labor shall not be available, SUBCONTRACTOR shall work overtime to such extent as will be sufficient to speed up and complete the work in compliance with the Contract Documents, without any additional charge to CONTRACTOR. SUBCONTRACTOR shall cooperate in any way required by CONTRACTOR to remedy the delay. Failure to comply with the CONTRACTOR'S schedule as required by the Contract Documents shall be a material breach of the contract. SUBCONTRACTOR shall prepare and obtain approval as required by the Contract Documents for all shop drawings, details, samples, and do all other things necessary and incidental to the prosecution of its work in conformance with the progress schedule. Submission of as-built drawings for work performed during the previous progress or final payment period is an express condition precedent to CONTRACTOR'S duty to make any payment for that payment period. SUBCONTRACTOR shall coordinate the work covered by this Agreement and that of all other contractors, subcontractors, and of the CONTRACTOR in a manner which will facilitate the efficient completion of the entire work. CONTRACTOR shall have complete control of the premises on which the work is to be performed and shall have the right to decide the time or order in which the various portions of the work shall be installed or the priority of the work of other subcontractors, and in general, all matters representing the timely and orderly conduct of the work of SUBCONTRACTOR on the premises.

Should SUBCONTRACTOR be delayed in the prosecution or completion of the work by act, neglect or default of OWNER, of ARCHITECT, or of CONTRACTOR, or should SUBCONTRACTOR be delayed by waiting for materials required by this contract to be furnished by OWNER or CONTRACTOR, or by damage caused by fire or other casualty for which SUBCONTRACTOR is not responsible, or by the combined action of the workers, in no way caused by, or resulting from default or collusion on the part of SUBCONTRACTOR, or in the event of a lockout by CONTRACTOR, then the time fixed herein for the completion of the work shall be extended the number of days that SUBCONTRACTOR has thus been delayed, but no allowance or extension shall be made unless a claim therefore is presented in writing to the CONTRACTOR within 48 hours of the commencement of such delay, and under no circumstances shall the time of completion be extended to a date which will prevent CONTRACTOR from completing the entire project within the time that OWNER allows CONTRACTOR for such completion.

No claims for additional compensation or damages for delays, whether in the furnishing of material by CONTRACTOR, or delays by other SUBCONTRACTORS or OWNER, will be allowed by the CONTRACTOR, and an extension of time for the completion shall be the sole remedy of SUBCONTRACTOR; provided, however, that in the event, and in such event only, that CONTRACTOR obtains additional compensation

from OWNER on account of such delays, SUBCONTRACTOR shall be entitled to such portion of the additional compensation so received by CONTRACTOR from OWNER as is equitable under all of the circumstances. Notwithstanding the foregoing, CONTRACTOR shall have the right to suspend work for a reasonable time without payment of additional compensation. Nothing herein contained shall require CONTRACTOR to make any claim against OWNER for such delays, and it is specifically agreed that the failure of CONTRACTOR to prosecute any such claim against OWNER shall not entitle SUBCONTRACTOR to any claim for damages against CONTRACTOR. In the event CONTRACTOR prosecutes such a claim against OWNER, SUBCONTRACTOR agrees to pay its prorata share of all costs and expenses incurred in the prosecution of the claim, including, but not limited to, actual attorneys fees incurred in good faith, and SUBCONTRACTOR shall fully cooperate with CONTRACTOR in the prosecution of the claim.

E. CHANGES IN THE WORK - SUBCONTRACTOR hereby agrees to make any and all changes, furnish the materials and perform the work that CONTRACTOR may require without nullifying this Agreement at a reasonable addition to, or reduction from the Contract Price stated herein, and prorata to the Contract Price. SUBCONTRACTOR shall adhere strictly to the plans and specifications unless a change is authorized in writing. SUBCONTRACTOR shall notify CONTRACTOR within five (5) days, in writing, of any discrepancies in any of the Contract Documents, including without limitation shop drawings. SUBCONTRACTOR shall be deemed to have waived all right to compensation for extra costs incurred unless proper notification of the discrepancy is made pursuant to this paragraph. Under no conditions shall SUBCONTRACTOR make any changes, either as additions or deductions, without the written order of CONTRACTOR and CONTRACTOR shall not pay any extra charges made by SUBCONTRACTOR that have not been agreed upon in writing by CONTRACTOR. If SUBCONTRACTOR makes any changes in the work without written direction from CONTRACTOR, SUBCONTRACTOR thereby agrees it will not be paid for that changed work, even if it received verbal direction from CONTRACTOR or any form of direction, written or otherwise, from OWNER or any other person or entity. In addition, SUBCONTRACTOR shall be liable for any and all losses, costs, expenses, damage fees, and liability of any nature whatsoever associated with or in any way arising out of any such change it makes without written direction from CONTRACTOR. Payment to the CONTRACTOR for authorized extras is an express condition precedent to CONTRACTOR'S duty to pay SUBCONTRACTOR for authorized extras. SUBCONTRACTOR shall immediately submit to the CONTRACTOR written copies of its cost or credit proposal for changes in the work. Disputed work shall be performed as ordered in writing by the CONTRACTOR and the cost or credit breakdowns therefor shall be submitted daily to CONTRACTOR for approval by SUBCONTRACTOR to CONTRACTOR.

SUBCONTRACTOR shall give written notice of claim relating to any work for which extra compensation is asserted within twenty days, or as defined by the CONTRACTOR'S general conditions, after such work is performed or SUBCONTRACTOR shall be deemed to have abandoned its claim. If SUBCONTRACTOR makes a valid claim, the CONTRACTOR'S duty to the SUBCONTRACTOR is limited to passing on claims in full compliance with the Contract Documents. The SUBCONTRACTOR shall bear its prorata share of any administrative costs, including attorneys and consultant fees, required to process the claim pursuant to the Contract Documents.

If the SUBCONTRACTOR initiates a substitution, deviation or change in the work which affects the scope of the work or the expenses of other trades, SUBCONTRACTOR shall be liable for the resulting expense.

No change, alteration or modification in or deviation from this Agreement or the plans and specifications, whether made in the manner herein provided or not, shall release or exonerate, in whole or in part, any surety on any bond given in connection with this Agreement and neither OWNER nor CONTRACTOR shall be under any obligation to notify the surety or sureties of any such change.

F. DAMAGES CAUSED BY DELAYS - Should SUBCONTRACTOR default in the proper performance of its work, thereby causing delay to the prime contract work, SUBCONTRACTOR shall be liable for any and all loss and damages, including consequential damages and liquidated damages, sustained by CONTRACTOR as a result thereof. SUBCONTRACTOR shall not be liable under this paragraph if such default is caused by strikes, lockouts, or acts of God, so long as notice of occurrence of non-liability shall be given in writing immediately by SUBCONTRACTOR to CONTRACTOR.

G. LIENS - SUBCONTRACTOR shall at all times indemnify and save CONTRACTOR and OWNER harmless against all liability for claims and liens for labor performed or materials used or furnished to be used on the job, including any costs and expenses for actual attorneys and consultants fees incurred in good faith and all incidental or consequential damages resulting to CONTRACTOR or OWNER from such claims or liens. Further, in case legal proceedings on such claim is brought, SUBCONTRACTOR shall defend the suit at its own cost and expense, and will pay and satisfy any such lien or judgment as may be established. SUBCONTRACTOR agrees within ten (10) days after written demand to cause the effect of any legal proceeding or lien to be removed from the premises, and in the event SUBCONTRACTOR shall fail to do so, CONTRACTOR is authorized to use whatever means in its discretion it may deem appropriate to cause the lien or legal proceeding to be removed or dismissed and the costs, together with actual attorneys and consultants fees incurred in good faith, shall be immediately due and payable to CONTRACTOR by SUBCONTRACTOR. SUBCONTRACTOR may litigate any such lien or legal proceeding provided it causes the effect thereof to be removed promptly, in advance, from the premises, and shall further do such things as may be necessary to cause OWNER not to withhold any monies due to CONTRACTOR from OWNER by reason of such liens or legal proceedings.

It is understood and agreed that the full and faithful performance of this Agreement on the part of SUBCONTRACTOR (including the payment of any obligations due from SUBCONTRACTOR to CONTRACTOR, and any amounts due to labor or material suppliers furnishing labor or material for the work) is a condition precedent to

SUBCONTRACTOR'S right to receive payment for the work performed, and any monies paid by CONTRACTOR to SUBCONTRACTOR under the terms of this Agreement shall be impressed with the trust in favor of labor and material suppliers furnishing labor and material to SUBCONTRACTOR on the work covered by this Agreement.

GENERAL SUBCONTRACT PROVISIONS - CONT.

H. RECOURSE BY CONTRACTOR - In the event that SUBCONTRACTOR at any time refuses or neglects to supply a sufficient number of properly skilled workers or a sufficient quantity of materials of proper quality, or be adjudicated a bankrupt, or files an arrangement proceeding, or commits any act of insolvency, or makes an assignment for benefit of creditors without CONTRACTOR'S consent, or fails to make prompt payment to its material suppliers and laborers, or fails in any respect to properly and diligently prosecute the work covered by this agreement, or becomes delinquent with respect to contributions or payments required to be made to any Health and Welfare, Pension, Vacation, Apprenticeship or other employee benefit program or trust, or fails to fulfill any of the provisions of Paragraph J of these General Subcontract Provisions or otherwise fails to perform fully any and all the agreements herein contained, CONTRACTOR may, at its option, after giving forty-eight (48) hours written notice to SUBCONTRACTOR, provide any such labor and materials as may be necessary and deduct the cost thereof, including, without limitation, CONTRACTOR'S profit and overhead, administrative costs, and attorneys and consultants fees actually incurred in good faith, from any money then due or thereafter to become due to the SUBCONTRACTOR under this Agreement, or CONTRACTOR may, at its option, terminate SUBCONTRACTOR'S right to proceed with the work and, in that event, CONTRACTOR shall have the right to enter upon the premises of the Project and take possession, for the purposes of completing the work included under this Agreement, of all materials, tools and machinery and equipment of SUBCONTRACTOR, and may employ any other person(s) or entity(s) to finish the work and provide the materials therefor. In case of such termination of SUBCONTRACTOR'S right to proceed with the work, SUBCONTRACTOR shall not be entitled to receive any further payment under this Agreement until all the work undertaken by CONTRACTOR in its prime contract is completely finished. At that time, if the unpaid balance of the amount to be paid under this Agreement exceeds the expenses incurred by CONTRACTOR in finishing SUBCONTRACTOR'S work, the excess shall be paid by CONTRACTOR to SUBCONTRACTOR, but, if the expenses shall exceed the unpaid balance, then SUBCONTRACTOR shall promptly pay to CONTRACTOR the amount by which the expenses exceeds the unpaid balance. The expenses referred to in the last sentence shall include expenses incurred by CONTRACTOR for furnishing materials, for finishing the work, for actual attorneys and consultants fees incurred in good faith, and for any damages sustained by CONTRACTOR by reason of SUBCONTRACTOR'S default, plus a markup of fifteen percent (15%) General Overhead and ten percent (10%) Profit on any and all such expenses; and CONTRACTOR shall have a lien upon all materials, tools and machinery and equipment taken possession of, as aforesaid, to secure SUBCONTRACTOR'S payment thereof. The notice referred to in this paragraph will be sufficient and complete when mailed to SUBCONTRACTOR at the address shown in this Agreement. In the event of an emergency affecting the safety of persons or property, no notice referred to in this paragraph shall be required.

CONTRACTOR may also terminate this Agreement in the event of any other material breach by SUBCONTRACTOR of this Agreement. In addition to any other material breach, failure to make any payment to the various Employee Fringe Benefit Trusts, including, but not limited to, Health and Welfare, Pension, Vacation, Apprenticeship Trust shall be a material breach. With respect to any and all payments to be made by CONTRACTOR to SUBCONTRACTOR under this Agreement, CONTRACTOR at its option may issue joint checks payable to SUBCONTRACTOR and any trust referred to herein, sub-subcontractor or material supplier to the extent necessary to assure that payments required to be made under this Agreement are paid.

CONTRACTOR may withhold, or on account of subsequently discovered evidence, nullify the whole or part of any payment under SECTION 4, to the extent, as may be necessary to protect CONTRACTOR from loss, including attorneys fees incurred in good faith, on account of (1) defective work not remedied; (2) claims filed or reasonable evidence indicating probable filing of (3) failure of SUBCONTRACTOR to make payments properly to its sub-subcontractors or for material, labor, or fringe benefits; (4) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (5) damage to another subcontractor; (6) failure of SUBCONTRACTOR to complete the contract in accordance with the Contract Documents; (7) unsatisfactory performance of the work by the SUBCONTRACTOR.

When the above grounds are removed, such amounts as are then due and owing shall be paid or credited to SUBCONTRACTOR.

Should one or more contracts now or hereafter exist between the parties hereto or with any affiliated corporation or company of CONTRACTOR, concerning this or any construction projects, then a breach by the SUBCONTRACTOR of any contract may, at the option of the CONTRACTOR, be considered a breach of all contracts. In such event CONTRACTOR may terminate any or all of the contracts so breached or may withhold monies due or to become due on such contracts and apply the same toward payment of any damages suffered on that or any other contract.

I. TERMINATION OF AGREEMENT - In the event the prime contract is terminated prior to its completion, SUBCONTRACTOR shall be entitled only to payment for the work actually completed by it at the prorate of the price herein set forth unless CONTRACTOR itself receives additional compensation or damages on account of such termination, in which event, SUBCONTRACTOR shall be entitled to such proportion of the additional compensation or damages actually received as is equitable under all of the circumstances. Nothing herein contained shall require CONTRACTOR to make any claim against OWNER for additional compensation or damages in the event of termination before completion, and it is specifically agreed that the failure of CONTRACTOR to prosecute any such claim against OWNER shall not entitle SUBCONTRACTOR to any claim for additional compensation or damages against CONTRACTOR.

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

- (1). Cost of the work actually completed in conformity with this Agreement;
- (2). Plus other costs actually incurred by SUBCONTRACTOR;
- (3). Plus fifteen percent (15%) of costs referred to in paragraph 1 above, for overhead and profit.

There shall be deducted from such sums as provided in this paragraph the amount of any payments made to SUBCONTRACTOR prior to the date of termination of this Agreement. SUBCONTRACTOR shall not be entitled to any claim, or claim of lien,

against CONTRACTOR or against OWNER for any additional compensation or damages in the event of such termination and payment. In the event this Agreement is terminated for cause, SUBCONTRACTOR shall not be entitled to receive any further payment until the work undertaken by CONTRACTOR in its prime contract is completely finished. At that time, if the amounts earned but not paid SUBCONTRACTOR before the termination exceed the expenses incurred by CONTRACTOR in finishing SUBCONTRACTOR'S work, any excess shall be paid by CONTRACTOR to SUBCONTRACTOR; but if the expenses shall exceed the amount earned and unpaid by SUBCONTRACTOR at the time of termination, SUBCONTRACTOR, shall promptly pay to CONTRACTOR the amount by which the expenses exceed the unpaid balance. The expenses incurred by CONTRACTOR shall include costs for furnishing materials, for finishing the work, for actual attorneys and consultants fees incurred in good faith, and for any damages sustained by CONTRACTOR by reason of SUBCONTRACTOR'S default, plus a markup of fifteen percent (15%) general overhead and ten percent (10%) profit on any and all such expenses.

J. LABOR RELATIONS - Employment of labor by SUBCONTRACTOR shall be effected under conditions which are satisfactory to CONTRACTOR. SUBCONTRACTOR shall keep a representative at the jobsite during all times when SUBCONTRACTOR'S work is in progress, and such representative shall be authorized to represent SUBCONTRACTOR as to all phases of the work. Prior to commencement of the work, SUBCONTRACTOR shall notify CONTRACTOR who SUBCONTRACTOR'S representative is to be, and in the event of any change of representative, SUBCONTRACTOR shall notify CONTRACTOR who the new representative is to be prior to such change becoming effective.

SUBCONTRACTOR acknowledges that CONTRACTOR may have entered into labor agreements covering work at its construction jobsites. SUBCONTRACTOR agrees to comply with all of the terms and conditions of those labor agreements set forth above insofar as SUBCONTRACTOR may lawfully do so, and in particular agrees to comply with the terms and provisions of the Agreements setting forth the jurisdiction and the scope of work claimed by each of the crafts and the procedure contained 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, upon request of CONTRACTOR, to take any and all lawful steps to secure a binding and final determination of the jurisdictional dispute by the National Labor Relations Board.

Should there be picketing on the CONTRACTOR'S jobsite, and the CONTRACTOR establishes a picket line for the SUBCONTRACTOR'S purposes, it shall be the obligation of the SUBCONTRACTOR to continue the proper performance of its work without interruption or delay should SUBCONTRACTOR'S presence or activity cause a labor related problem at the construction site, the SUBCONTRACTOR shall bear the full costs thereof. SUBCONTRACTOR shall also promptly obtain, and pay the full costs of any court orders necessary to restrain acts in violation of the law resulting from SUBCONTRACTOR'S presence or activities. SUBCONTRACTOR shall be bound by all relevant local, state and federal laws governing labor relations, and shall fully indemnify and hold CONTRACTOR harmless from and against claims, liability, loss, damage, costs, expenses, including attorneys fees actually incurred in good faith, awards, fines or judgments arising by reason of any violation of such laws, or failure to fulfill the covenants set forth in this paragraph.

SUBCONTRACTOR further promises and agrees that it will bind and require all of its subcontractors and their subcontractors performing jobsite work of the type covered by this Agreement to agree to all of the foregoing promises and undertakings, to the same effect as herein provided with respect to SUBCONTRACTOR.

K. LAYOUT RESPONSIBILITY - CONTRACTOR shall establish principal axis lines and levels whereupon SUBCONTRACTOR shall lay out and shall be strictly responsible for the accuracy of its work and for any loss or damage to other contractors engaged in work on the site by reason of failure of SUBCONTRACTOR to set out or perform its work correctly. SUBCONTRACTOR shall exercise prudence so that actual final conditions and details shall result in perfect alignment of finished surfaces.

L. WORKMANSHIP - Every part of the work herein described shall be executed in strict accordance with the Contract Documents in the most sound, workmanlike and substantial manner. All workmanship shall be the best of its several kinds, and all materials used in the work herein described shall be furnished in ample quantities to facilitate the proper and expeditious execution of the work, and shall be new and the best of their respective kinds, except such materials as may be expressly provided in the Contract Documents to be otherwise.

M. PROVISION FOR INSPECTION - SUBCONTRACTOR shall furnish to CONTRACTOR and its representatives ample facilities at all times for inspecting materials at the site of construction, at the shops, or any place where materials under this Agreement may be in course of preparation, process, manufacture or treatment. SUBCONTRACTOR shall further furnish to CONTRACTOR as often as required, full reports of the progress of the work at any place where materials under this Agreement may be in the course of preparation or manufacture; the reports shall show the progress of such preparation and manufacture in such details as may be required by CONTRACTOR, including any plans, drawings or diagrams in course of preparation. The making or failure to make any inspection of, or payment for or acceptance of, the materials shall not impair CONTRACTOR'S right to later reject non conforming materials, or to avail itself of any other remedy which CONTRACTOR may be entitled, notwithstanding CONTRACTOR'S knowledge of the nonconformity, its substantiality, or the ease of its discovery. SUBCONTRACTOR shall be liable for all inspection, reshipment and return costs on non conforming materials. SUBCONTRACTOR shall not replace returned materials unless so directed by CONTRACTOR in writing. CONTRACTOR shall retain all rights granted herein notwithstanding the provisions of Paragraph N of this Agreement.

N. MATERIALS AND EQUIPMENT - In the event the scope of work includes installation of materials or equipment furnished by others, it shall be the responsibility of SUBCONTRACTOR to examine the items provided and handle, store and install the items with such skill and care as to ensure a satisfactory installation. Loss or damage due to acts of SUBCONTRACTOR shall be charged to the account of SUBCONTRACTOR and deducted from monies due under this Agreement.

GENERAL SUBCONTRACT PROVISIONS – CONT.

Title to any goods or material intended to be incorporated into the Project shall pass to CONTRACTOR once the goods or materials are capable of being identified as intended for Project, but SUBCONTRACTOR shall be required to maintain insurance on and bear the risk of loss of or harm to any such goods and materials, as elsewhere set forth in this Agreement, for any and all applicable time periods, but in any event, until completion of the Project, as defined in the Contract Documents. The provisions of this paragraph shall not nullify or modify any other provisions of this Agreement which shall remain in full force and effect.

O. PROTECTION OF WORK - SUBCONTRACTOR shall effectively secure and protect the work done pursuant to this Agreement and assume full responsibility for the condition of its work until final acceptance by ARCHITECT, OWNER and CONTRACTOR. SUBCONTRACTOR further agrees to provide such protection as necessary to protect the work and the workers of the CONTRACTOR and other subcontractors from its operations.

SUBCONTRACTOR shall be liable for any loss or damage to any work in place or to any equipment and materials on the jobsite caused by it or its agents, employees or guests. SUBCONTRACTOR shall promptly repair or replace any damaged work, property or materials.

P. USE OF CONTRACTOR'S EQUIPMENT - The SUBCONTRACTOR, its agents, employees, subcontractors or suppliers shall not use the CONTRACTOR'S equipment without the express written permission of the CONTRACTOR'S designated representative. SUBCONTRACTOR shall be fully responsible for and shall be deemed to have inspected any such equipment and accepts the use of such equipment as is.

If the SUBCONTRACTOR (or any of its agents, employees, suppliers or sub-subcontractors) utilize any machinery, equipment, tools, scaffolding, hoists, lifts or similar items owned, leased or under the control of CONTRACTOR, SUBCONTRACTOR shall act as an independent contractor and shall be primarily liable for any loss or damage (including personal injury or death) which may arise from such use regardless of who is operating any of CONTRACTOR'S equipment under SUBCONTRACTOR'S control, and shall fully indemnify and hold CONTRACTOR harmless, pursuant to the provisions of Paragraph B of this Agreement, from any loss, claim, liability, damage, costs, expenses, including actual attorneys fees incurred in good faith, awards, fines or judgments arising by reason of such use.

Q. CLEAN-UP - During the course of construction, SUBCONTRACTOR shall remove waste materials from the site as often as is necessary to maintain the premises in a clean and orderly condition. Upon completion of the work under this Agreement, SUBCONTRACTOR shall remove from the site all temporary structure, debris and waste incident to his operation and clean all surfaces, fixtures, equipment, etc. relative to the performance of this Agreement. If SUBCONTRACTOR fails to perform a clean-up function within two days after notification from CONTRACTOR to do so, CONTRACTOR may proceed with that function as it judges necessary in the manner it may deem expedient and the cost thereof shall be charged to SUBCONTRACTOR and deducted from monies due under this Agreement.

R. GUARANTEE - SUBCONTRACTOR guarantees all materials and workmanship and agrees to replace at its sole cost and expense, and to the satisfaction of CONTRACTOR, any and all materials adjudged defective or improperly installed, as well as guarantee the OWNER and CONTRACTOR against liability, loss or damage arising from the installation of the work during a period of one year, or the period of guarantee in the Contract Documents exceeds one year, SUBCONTRACTOR shall be bound during the longer period stipulated. SUBCONTRACTOR shall further guarantee the materials and workmanship of all repair work done pursuant to this provision for a period of eighteen (18) months after the repairs are performed.

S. INDEMNIFICATION FROM PATENT RIGHTS - SUBCONTRACTOR shall indemnify and hold CONTRACTOR harmless against any claim, suit or action, or any alleged violation or infringement of patent rights which maybe made against CONTRACTOR by reason of the use in connection with or as a part of the performance of the work or the furnishing of the material hereunder, of anything which is now or may hereafter be covered by patent, copyright or trademark, and also against all expenses, including actual attorneys fees incurred in good faith, which CONTRACTOR may incur in defending or adjusting any claim, suit or action.

T. ASSIGNMENT OF CONTRACT - SUBCONTRACTOR shall not, without written consent of CONTRACTOR, assign, transfer or sublet any portion or part of the work required by this Agreement or assign any payments hereunder to others. If SUBCONTRACTOR is given written consent to assign, transfer or sublet any portion or part of the work, SUBCONTRACTOR shall bind its subcontractors, assignees, or subletors to all of the terms and provisions of this Agreement. No assignment, subcontract, or sublet shall be valid unless SUBCONTRACTOR has fully complied with the provisions of this paragraph. CONTRACTOR may assign or transfer the whole or part of this Agreement, and its rights hereunder, to any corporation, individual or partnership.

U. INDEPENDENT CONTRACTOR - SUBCONTRACTOR is an independent contractor and shall, at its sole cost and expense, and without increase in the Contract Price, comply with all laws, rules, ordinances, codes and regulations of all governing bodies having jurisdiction over the work, obtain all necessary permits and licenses for its work, pay all manufacturers' taxes, all taxes, use taxes, processing taxes, and all federal and state taxes, insurance and contributions for Social Security and Unemployment which are measured by wages, salaries, or others remunerations paid to SUBCONTRACTOR'S employees, whether levied under existing or subsequently enacted laws, rules, or regulations. SUBCONTRACTOR, upon request, shall furnish evidence satisfactory to CONTRACTOR that any or all of the foregoing obligations have been fulfilled.

V. WAIVER - Any act or omission of CONTRACTOR which SUBCONTRACTOR might claim as an excuse for its own failure to perform shall be deemed waived by SUBCONTRACTOR unless it shall notify CONTRACTOR in writing of its intention to assert such excuse within ten (10) days after the occurrence of any such act or omission. No delay or omission on the part of CONTRACTOR in exercising any of its rights hereunder, nor the acquiescence in or waiver by CONTRACTOR of a breach of any term or condition of this Agreement shall be deemed or construed to operate as a waiver

of such rights or acquiescence thereto except in the specific instance for which given. SUBCONTRACTOR waives any right it might have to assert the provisions of CALIFORNIA CIVIL CODE 1654 against CONTRACTOR.

W. ATTORNEYS FEES - In the event either CONTRACTOR or SUBCONTRACTOR institutes legal proceedings, whether by court action, arbitration, or otherwise, against the other party, or against the surety of the other party, in connection with any dispute or matter arising under this Agreement, the party prevailing in that proceeding shall be entitled to recover from the other its actual attorneys fees incurred in good faith.

X. DISPUTES - If at any time any controversy shall arise between CONTRACTOR and SUBCONTRACTOR regarding anything pertaining to this Agreement which the parties hereto do not promptly adjust and determine, or which the OWNER'S representative or ARCHITECT cannot decide to the satisfaction of both parties, then the written orders of CONTRACTOR to SUBCONTRACTOR shall be followed.

In the event that the CONTRACTOR and OWNER arbitrate a controversy that, in CONTRACTOR'S opinion, involves SUBCONTRACTOR'S performance, Subcontract requirements and/or claims arising thereunder, then CONTRACTOR may join SUBCONTRACTOR as a party to the arbitration. SUBCONTRACTOR agrees and consents to such joinder. In the event SUBCONTRACTOR is so joined, SUBCONTRACTOR shall be bound and abide by the terms, administration, conditions and rules of arbitration, and the award of the arbitrators shall be final and binding with respect to all claims and issues presented or which were capable of presentation in the proceedings.

If the SUBCONTRACTOR does not participate as a party to the CONTRACTOR and OWNER arbitration, SUBCONTRACTOR agrees to fully fulfill its duties and obligations under Paragraph B above and cooperate with CONTRACTOR in presenting and defending claims in arbitration. SUBCONTRACTOR hereby agrees to be bound by the arbitration award, and to accept as its full compensation for any claim its prorata share of the arbitration award.

Y. INDEMNITY CLAUSE RE: SAFETY AND EMPLOYMENT - SUBCONTRACTOR shall, at its own expense, comply with CONTRACTOR'S project safety program and all specific safety requirements, laws, regulations, rules or ordinances, promulgated by any government authority, whether state, federal, or local, now existing or subsequently enacted. SUBCONTRACTOR shall be fully responsible for compliance with the provisions of this paragraph by itself, its agents, employees, material suppliers, and sub-subcontractors with respect to its portion of its work, and shall pay, respond to, or defend any citation, assessment, fine or penalty relating to the failure of any person or entity listed hereunder to so comply.

SUBCONTRACTOR shall conform to the Equal Employment Opportunity policies of the CONTRACTOR, and all state, federal and local laws, rules, regulations, plans, programs, and orders and regulations now existing or subsequently enacted. SUBCONTRACTOR shall be fully responsible for compliance hereunder by itself, its agents, employees, material suppliers and sub-subcontractors with respect to its portion of the work, and shall pay, respond to, or defend any citation, assessment, fine, penalty, order, claim, charge or criminal or civil action, arising by reason of the failure of any party named hereunder to so comply.

SUBCONTRACTOR shall indemnify and hold harmless CONTRACTOR from and against any liability, loss, including any loss of profits or prospective advantage occasioned by the suspension, cancellation or termination of any contract, or CONTRACTOR'S eligibility therefor, damage, costs, claims, awards, judgments, fines, expenses, including attorneys fees actually incurred in good faith, claims or liability for harm to persons or property, expenses incurred pursuant to or attendant to any hearing or meeting or other applicable costs which may be incurred by CONTRACTOR resulting from SUBCONTRACTOR'S failure to fulfill the covenants set forth in this paragraph.

SUBCONTRACTOR'S responsibility to receive, respond to, and defend any citation, order, claim, charge or action arising from failure to comply with the provisions of this paragraph, regardless of whether such non-compliance results from its active or passive acts or omissions of whether such non-compliance is the sole or contributing cause of any of those matters against which SUBCONTRACTOR is obligated hereunder to indemnify and hold harmless CONTRACTOR.

CONTRACTOR may, in its discretion, exercise the rights and remedies provided under the terms of this Agreement, including, but not limited to, the rights and remedies provided in Paragraph H of this Agreement for failure to comply with any citation, rule, law, regulation, standard, ordinance, program or plan.

Gonsalves & Stronck Construction Company, Inc.

ADDENDUM "A" TO SUBCONTRACT

SUBCONTRACT INSURANCE REQUIREMENTS

In addition to the requirements contained in Section A Insurance, Subcontractor shall, at its expense, carry and maintain insurance on all its operations, in companies having at least an AM Best A-VII financial rating and in forms acceptable to the Contractor as follows:

1. Workers' Compensation Insurance as required by any applicable law, regulation or statute including:
 - a. \$1,000,000 each accident for bodily injury by accident;
\$1,000,000 each employee for bodily injury by disease;
\$1,000,000 policy limit for bodily injury by disease;
 - b. Longshoreman's & Harbor Workers' Act coverage on any employees under this jurisdiction;
 - c. Coverage for Jones Act exposure on any maritime exposure;
 - d. Waiver of Subrogation endorsement.
2. General Liability Insurance, either Comprehensive General Liability or Commercial General Liability, at least as broad as Commercial General Liability, Insurance Service Office form CG 0001 10 01("Occurrence" form) including coverage for:
 - a. Premises and Operations;
 - b. Broad Form Property Damage including Completed Operations, shall be maintained for any appropriate Statute of Repose;
 - c. Explosion, Collapse, Underground Hazards;
 - d. Contractual Liability insuring obligations assumed in this subcontract;
 - e. Contractors' Protective Liability
 - f. Personal Injury Liability;
 - g. Severability of Interest Clause;
 - h. Aggregate Limits of Insurance shall apply separately to the project.

There shall be no coverage exclusions or restrictions for any of the following: a) residential construction, including, but not limited to apartments or other types of multi-family housing, b) for mold, fungus or other microbial matter, unless the subcontractor also carries Pollution Liability insurance which shall specifically include coverage for mold, fungus or other microbial matter with limits not less than \$1,000,000 each claim and \$2,000,000 aggregate, c) for subsidence or any other type of earth movement and d) for EFIS (Exterior Finish & Insulation Systems).

3. Limits of Liability
 - a. \$2,000,000 each occurrence Bodily Injury and Property Damage combined;
 - b. \$2,000,000 for Personal Injury Liability;
 - c. \$2,000,000 aggregate on Products-&-Completed Operations;
 - d. \$2,000,000 general aggregate;
 - e. If either defense costs are included in the General Aggregate limit or if the General Aggregate limit does not apply separately to this project, then the required General Aggregate limit is to be \$5,000,000.
 - f. Higher limits of liability may be required of subcontractor due to the nature of the work being performed. Such additional limits may be provided by an Umbrella liability policy

Excess Liability: If excess/umbrella policies are used to meet the limits of liability requirement said policies shall be "following" form of the underlying primary policy and meet the additional insured requirements.

4. Automobile Liability Insurance, including:
 - a. Coverage on all owned, non-owned and hired automobiles;
 - b. Limit of liability shall not be less than \$1,000,000 Combined Single Limit;
 - c. Severability of Interest Clause.

5. A "Modified Occurrence" form is not acceptable.

6. The "Claims Made" form of policy is only acceptable with prior approval.

7. Aircraft Insurance:

If the Subcontractor or his Subcontractors use any owned, leased, chartered or hired aircraft of any type in the performance of this contract, they shall maintain aircraft liability insurance in an amount of not less than \$10,000,000 per occurrence including Passenger Liability. Evidence of coverage in the form of a certificate of insurance shall be provided prior to the start of the project.

8. Change in Limits or Requirements:

If higher limits or other forms of insurance are required by either the Owner or the Contractor, the Subcontractor will comply with such requirements.

9. Certificates of Insurance:

Certificates of Insurance shall be furnished by the Subcontractor to Contractor before any work is commenced hereunder by the Subcontractor. The Certificates of Insurance shall provide that there will be no cancellation or reduction of coverage without thirty days prior written notice to Contractor, except in 10 days in the event of nonpayment of premium. In the event Subcontractor does not comply with the requirements of this section, Contractor, at its option, may provide insurance coverage to protect its interests and charge the Subcontractor for the cost of that insurance or Contractor may terminate this Agreement. The required insurance shall be subject to approval of Contractor, but any acceptance of insurance certificates by the Contractor shall in no way limit or relieve the Subcontractor of the duties and responsibilities assumed by the Subcontractor in this Contract. Allowance of any additional exclusions or coverage limiting endorsements is at the discretion of contractor, and subcontractors bid shall be subject to adjust to compensate for the existence of such exclusions. Payment may be withheld, at the option of the contractor, until such certificates have been furnished, or if upon receipt of a cancellation notice on a policy, until withdrawal of the notice or the reinstatement of the cancelled policy. Copies of policies shall be furnished upon request.

10. Subcontractors requirements for Sub-Subcontractors, Truckers, Vendors and Suppliers:

Subcontractor shall ensure that all tiers of his Subcontractors shall maintain insurance in like form and amounts, including the Additional Insured requirements set forth in Paragraph "14." Copies of Certificates of Insurance shall be provided by each Sub-subcontractor prior to the start of their work on this project.

11. Professional Liability Exposure:

A \$1,000,000 Professional Liability Insurance Policy shall be carried by Subcontractor or his Sub-subcontractor if work under this subcontract includes professional and/or design-build services. Evidence of coverage in the form of a Certificate of Insurance shall be provided prior to the start of the project. Coverage must allow for the reporting of claims for 2 years following completion of the work.

12. Maintenance of Certificates of Insurance:

No work shall be performed at the project site until said certificates have been furnished and approved. Payment may be withheld, at the option of the Contractor, until such certificates have been furnished, or if upon receipt of a cancellation notice on a policy, until withdrawal of the notice or the reinstatement of the canceled policy.

13. Builders Risk Insurance:

Subcontractor shall insure, secure and protect his work and materials from damage until final acceptance by owner. All deductibles on builders risk policies, if coverage is applicable, shall be the responsibility of Subcontractor. If neither the Owner nor the Contractor provides builders risk insurance on the subcontractor's work then the sub-contractor shall purchase the appropriate insurance coverage to protect his work.

14. Additional Insured Endorsement:

Under the General Liability policy the subcontractor shall add the Contractor, its officers, directors and employees and the Owner as additional insureds using form CG 2010 11/85 or equivalent. The policy shall stipulate that the insurance afforded the contractor, its officers, directors and the employees and the Owner as additional insureds shall apply as primary insurance and that any other insurance carried by the contractor, its officers, directors and employees or the Owner will be excess only and will not contribute with this insurance.

15. Hazardous Materials and Pollution Liability

If Subcontractors or their Subcontractors are either required to perform remediation of hazardous materials such as asbestos containing materials, contaminated soil etc. or if their operations create an exposure to hazardous materials, they must, in addition to the above requirements, carry a "Contractor's Pollution Liability" policy with limits not less than \$2,000,000 per occurrence and not less than \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage, naming Contractor as additional Insured.

If Subcontractor or their subcontractors haul hazardous waste they must carry Automobile Liability Insurance with a \$2,000,000 combined single limit per occurrence for Bodily Injury and Property Damage applicable to all hazardous waste hauling vehicles and include MCS 90.

Gonsalves & Stronck Construction Company, Inc.
APPENDIX "B" to SUBCONTRACT
GENERAL INCLUSIONS & PROVISIONS:

- A. Shop drawings and all submittals, in a state of preparedness, complete and ready for approval, shall be submitted to Gonsalves & Stronck Construction Company within **14 days** but in no event shall the submittals be turned in later than the date required to insure on schedule material deliveries.
- B. Your firm hereby agrees to assist Gonsalves & Stronck Construction Company in the preparation of a project schedule and to complete its work in the sequence indicated and within the time duration's of each work activity for which your crews will be performing work. (Reference Job Schedule).
- C. A subcontractor will not be paid more than 90% of its contract value until all "As-Builts" and other close-out items are complete.
- D. Due to the recent changes in the Federal and California O.S.H.A. regulations, the project must be kept clean and safe at all times. With this in mind, the subcontractor agrees that its work area will be cleaned-up (per O.S.H.A. and industry standards) by the conclusion of each work day.

The jobsite must be maintained in a clean and safe condition at all times, therefore, if the General Contractor is required to perform this subcontractor's clean-up work, then all charges associated with the clean-up will be charged to the subcontractor's account. These charges include, but are not limited to , labor at the rate of \$55.00 per hour, equipment costs, material costs, fees, etc.

It is agreed between the parties that the 48 hour written notice requirement referenced in the GENERAL SUBCONTRACT PROVISIONS, paragraph "H" is reduced to 8 hours written notice for any safety/clean-up issue.

- E. The subcontractor agrees to be bound to Gonsalves & Stronck Construction Company by the terms of the contract and to assume toward Gonsalves & Stronck all the obligations and responsibilities which Gonsalves & Stronck, by these documents, assumes toward the Owner and Architect. The only exception to this obligation is in regards to disputes between Gonsalves & Stronck and the subcontractor. All of which will be resolved in accordance with the GENERAL SUBCONTRACT PROVISIONS, Paragraph "X" (Or as amended herein).
- F. All subcontractors submitting subcontract bonds to Gonsalves & Stronck Construction Company, must comply with the following requirements.
 - 1. A separate 100% performance bond and a separate 100% labor and material bond must be executed on the forms provided.
 - 2. The surety company executing the bonds must be listed in the latest Treasury Department Federal Registry of companies holding certificates of Authority as acceptable sureties of Federal Bonds.
 - 3. The limit on the surety bond must not be in excess of the amount stated for that surety company in the above referenced Treasury list.
 - 4. The surety company must be admitted to do business in the State of California.
- G. The following wording shall be inserted in Section 1 of the Subcontract Agreement after the words "covered by this Agreement": except to the extent that the contract documents may include any arbitration requirement in which case CONTRACTOR and SUBCONTRACTOR agree that said arbitration shall not apply hereunder. Except as noted, SUBCONTRACTOR agrees...
- H. Section B of the General Subcontract Provisions shall expand the Subcontractor's indemnity to include the owner as well as the Contractor. Therefore, the words "and the OWNER" shall be inserted after the word CONTRACTOR each time used in Section B except in Paragraph B(2).
- I. If a dispute arises between the parties relating to this Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:
 - a. A meeting shall be held promptly between the parties attended by individuals with decision-making authority regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute.
 - b. If, within thirty (30) days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will jointly appoint a mutually acceptable neutral person not affiliated with either of the parties (the "Neutral"), seeking assistance in such regard from the Judicial Arbitration and Mediation Services (JAMS) if they have been unable to agree upon such appointment within forty (40) days from the initial meeting. The fees of the neutral shall be shared equally by the parties.
 - c. In consultation with the Neutral, the parties will select or devise an alternative dispute resolution procedure ("ADR"), by which they will attempt to resolve the dispute, and establish a time and place for the ADR to be held. If the parties have been unable to agree upon the procedural manners within 20 days after initial consultation with the Neutral then the Neutral will make the decision as to the procedure, and/or place and time. The ADR will take place not later that sixty (60) days after selection of the Neutral (unless circumstances require otherwise).
 - d. The parties agree to participate in good faith in the ADR until resolution of the dispute or until deadlock, which in no event shall occur more than 30 days from the date when the type of ADR has been agreed upon or determined, unless extended by agreement of the parties. If deadlock is reached, either party may initiate litigation or such other dispute resolution procedure as may be provided under this Contract; however, no litigation shall be instituted until such time as the ADR process including ADR before the Neutral, described herein has been completed.

Gonsalves & Stronck Construction Company, Inc.

APPENDIX 'C' TO SUBCONTRACT

CONTRACT DRAWINGS

<u>TITLE</u>	<u>DRAWING NUMBER</u>	<u>DATE</u>
TITLE SHEET	SO.O	9-17
GENERAL NOTES		
TYPICAL DETAILS		
SITE PLAN W/FOUNDATIONS		
FOUNDATION PLAN		
SECOND LEVEL PLAN		
THIRD LEVEL PLAN		
FOURTH LEVEL PLAN		
ROOF LEVEL PLAN		
ELEVATIONS A & B		
ELEVATIONS C & D		
ELEVATIONS E & F		
ELEVATIONS G & H		
ELEVATIONS J & K		
CONCRETE DETAILS		
CONCRETE DETAILS		
CONCRETE DETAILS		
CONCRETE & ROCK ANCHOR DETAILS		
STEEL DETAILS		
ARCHITECTURAL		
GENERAL NOTES, LEGEND, & SPECIFICATIONS		
GROUND LEVEL PLAN		
SECOND LEVEL PLAN		
THIRD LEVEL PLAN		
FOURTH LEVEL PLAN		
ROOF LEVEL PLAN		
EXTERIOR ELEVATIONS		
EXTERIOR ELEVATIONS		
ENLARGED PLANS & DETAILS		
ELECTRICAL		
GROUND LEVEL – LIGHTING PLAN		

9/00 Edition Contractor Initials ____
Date Reviewed _____

PREVAILING WAGE INFORMATION SHEET

Project Name: _____

Company Name: _____

Wage Determination No: _____

Labor Classification: _____

Base Rate: Foreman: \$ _____ **Overtime Rate:** _____

Journeyman: \$ _____ **Overtime Rate:** _____

Apprentice: \$ _____ **Overtime Rate:** _____

_____ : \$ _____ **Overtime Rate:** _____

_____ : \$ _____ **Overtime Rate:** _____

_____ : \$ _____ **Overtime Rate:** _____

_____ : \$ _____ **Overtime Rate:** _____

Name & Address of all Plans, Funds or Programs:

Acknowledgement:

Signature

Date: _____

Gonsalves & Stronck Construction Company, Inc.

Appendix "E"

SUBCONTRACT ADDENDUM FOR PUBLIC WORKS PROJECTS

1. The attached California Labor Code Sections 1771, 1775, 1776, 1777.5, 1813, and 1815 are incorporated into this subcontract. The subcontractor agrees to comply with all of the above-referenced Labor Code Sections applicable to the performance of its work on this project. The subcontractor further agrees to comply with all the above referenced Labor Code Sections for offsite fabrication of items produced specially for the public works project and not for sale on the general market pursuant to the March 4, 2003 DIR Director's coverage determination letter. In order to read the full text of the Director's determination that provides coverage for offsite fabrication and prefabrication work for public works projects, log on to www.dir.ca.gov.
Specifically, the subcontractor agrees to:
 - a. Pay all workers 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.
 - b. Pay all workers not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter.
 - c. Adhere to the compliance measures outlined in LC 1775(b) for any second tier subcontractor that the subcontractor chooses to use on this project.
 - d. Submit certified payroll records to the contractor on a weekly basis. Records shall be provided no later than three (3) working days after labor has been paid.
 - e. Submit to the contractor within three (3) working days of a written request all payroll records as defined by the California Code of Regulations Section 16000, "Payroll Records".
 - f. Comply with the applicable requirements and joint apprenticeship standards as required by LC 1777.5.
2. The subcontractor prior to receiving final payment for work performed on this project shall sign an affidavit under penalty of perjury that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees for the proper craft needed to fulfill the obligations of the subcontract. (The attached affidavit is incorporated into this subcontract.)
3. The subcontractor agrees to indemnify and hold harmless the contractor for any violations of the above-referenced Labor Code provisions, which were caused by the subcontractor's failure to comply with said provisions.

EXCERPTS FROM LABOR CODE

1771. 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. 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 fifty dollars (\$50) 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 ten dollars (\$10) 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 twenty dollars (\$20) 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 thirty dollars (\$30) 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) When 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 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 Sections 1771, 1775, 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

Sub-Contractor Initials _____
Date Reviewed _____

EXCERPTS FROM LABOR CODE

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. (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 him or her 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 his or her 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 his or her 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, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards 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, the Division of Apprenticeship Standards, 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.

(c) 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) 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, the Division of Apprenticeship Standards, 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 joint labor-management 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 name and social security number. A joint labor management committee may maintain an action in a court of competent jurisdiction against an employer who fails to comply with Section 1774. The court may award restitution to an employee for unpaid wages and may award the joint labor management committee reasonable attorney's fees and costs incurred in maintaining the action. An action under this subdivision may not be based on the employer's misclassification of the craft of a worker on its certified payroll records. Nothing in this subdivision limits any other available remedies for a violation of this chapter.

(f) 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.

(g) 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

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within the 10-day period, he or she 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 calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or 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.

(h) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(i) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 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. a) Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works.

(b) 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.

(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) When 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) Prior to 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 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 that can supply 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 where the contractor agrees to be bound by those standards, but, except as otherwise provided in

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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. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Chief of the Division of Apprenticeship Standards, 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 that has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or that 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 Chief of the Division of Apprenticeship Standards 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) When 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 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) 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 Division of Apprenticeship Standards for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The funds shall be distributed as follows:

(A) 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.

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

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(C) All training contributions not distributed under subparagraphs (A) and (B) shall be used to defray the future expenses of the Division of Apprenticeship Standards.

(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. Notwithstanding Section 13340 of the Government Code, all money in the Apprenticeship Training Contribution Fund is hereby continuously appropriated for the purpose of carrying out this subdivision and to pay the expenses of the Division of Apprenticeship Standards.

(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 or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) All decisions of an apprenticeship program under this section are subject to Section 3081

1813. 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. 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 1 1/2 times the basic rate of pay

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