



SUBCONTRACT AGREEMENT – JOB NO. SAMPLE

This Subcontract (“Subcontract”) is entered into in Temecula, California 92590 on this (“Contract Date”) by and between **SUBCONTRACTOR** located at **ADDRESS** (“Contractor”), and **Colorado West Construction, Inc.** located at **25780 Washington Avenue , Murrieta, California 92562** (“Subcontractor”).

Contractor has entered into a contract dated (“Contract Date”) (“Prime Contract”) with **Colorado West Construction, Inc.** located at **25780 Washington Avenue , Murrieta, California 92562** (“Owner”), to perform certain construction work described generally as follows: located at (“Project”)

In consideration of the mutual covenants and conditions set forth in this Subcontract, Contractor and Subcontractor agree as follows:

I. Subcontractor certifies it has examined and is fully familiar with all terms and conditions of the Prime Contract, all of its component parts, Including all referenced documents, plans and specifications, the location of the Project, the conditions under which the Project is to be performed; and enters into this Subcontract based upon its own investigation of all such matters, including the securing of all field measurements and specification requirements; and is in no way relying upon any representations or opinions made by Contractor and that this Subcontract represents the entire agreement between Contractor and Subcontractor concerning the Project and supersedes and voids any prior proposals or agreements relating to the Project.

II. Subcontractor agrees to provide all labor, materials, skill and instrumentalities to perform the following portion of the Prime Contract (“Work”):

Furnish and install tax included, all requirements of Prime Contract Specification Section(s): Work shall be in accordance with the “Contract Documents” which include without limitation the Prime Contract, all plans, specifications, general conditions, special conditions and documents referenced therein, as pertinent to Work and the following addenda and alternates, and further defined in Article V below, Scope Notes and Scope of Work. It is further agreed that the Contract Documents are incorporated in this Subcontract by this reference, with the same force and effect as if the same were set forth at length herein, and that Subcontractor and his subcontractors will be and are bound by any and all of said Contract Documents insofar as they relate in any part or in any way, directly or indirectly to the Work. The Work may be indicated throughout different parts of the Contract Documents. Subcontractor is responsible for performance and completion of the Work no matter where in the Contract Documents it is referenced.

III. Contractor agrees to pay and Subcontractor agrees to accept, for Work and subject to the provisions of this Subcontract upon full, faithful and prompt performance, the sum of **(\$0.00) Zero Dollars And Zero Cents** in progress payments upon conditions as follows: (A) Contractor agrees to include in its monthly work estimate to Owner the value of all Work incorporated in the Project; (B) Subcontractor agrees that estimates submitted to Contractor shall be for work actually performed upon the Project and that all such Work, including labor, materials and services has been paid for by Subcontractor; (C) At Contractor’s request and as a condition precedent to payment, Subcontractor shall submit a list of all suppliers of materials and services and shall furnish unconditional releases from them on forms provided by Contractor; (D) If conditional releases are received, Contractor may, at its option, issue a joint check and if Contractor elects to issue a joint checks or if a joint check is required by Subcontractor and/or Subcontractor’s suppliers and/or lower tier subcontractors, it shall be on forms provided by Contractor; Subcontractor acknowledges and agrees that issuance of joint checks shall not be deemed or construed as creating: (i) privity of contract by and between Contractor and any joint check payee; (ii) a relation of guarantor and/or surety between Contractor and joint check payee; or (iii) any other obligation or liability to the joint check payee from Contractor other than as maker of the joint check (Contractor reserves the right to place a restrictive endorsement on any joint check reflecting any or all of the provisions above). (E) The determination of the percentage of Work completed shall rest with Owner and Contractor, and Contractor shall within 10 days upon receipt from Owner pay Subcontractor 90% of such Work, and shall retain the remaining 10% until final completion and acceptance of all Work covered by this Subcontract, and this retainage is not due and owing to the Subcontractor until (45) days after “Notice of Completion” is recorded by Owner, and Contractor has received final payment from Owner. (F) In the event of a good faith dispute between the Contractor and Subcontractor, Contractor may withhold up to 150% of the disputed amount; and (G) As a condition precedent to the payment of retention withheld, Subcontractor shall provide releases on its own behalf, obtain unconditional or conditional final releases form all persons supplying materials, services and/or furnishing labor other than the employees of Subcontractor on the Project, and Subcontractor shall guarantee that all labor and materials furnished under its direction for the Project have been paid for. If conditional releases are provided Contractor may issue joint checks as provided above.

IV. 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 omissions 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.

V. Subcontract Terms and Conditions, Exhibit No(s). 1, 2, 3, 4, 5, A

VI. If Subcontractor is a corporation, the legal name of the corporation shall be set forth, together with the signatures of authorized officers or agents and the document shall bear the corporate seal; if Subcontractor is a partnership, the true name of the firm shall be set forth, together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership; and if Subcontractor is an individual, his/her signature shall be set forth below.

CONTRACTOR
Colorado West Construction, Inc.

SUBCONTRACTOR
Colorado West Construction, Inc.

Name: Kevin Fox

Name: _____

Title: President

Title: _____

Signature _____

Signature _____

Date: _____

Date: _____

Subcontractor represents that it is: _____ an individual _____ a partnership _____ a joint venture
a Corporation incorporated under the laws of the State of _____ . (Affix Corporate Seal)

Federal Tax Identification Number is: _____ .

Contractors State License Number is: _____ .



SUBCONTRACT TERMS AND CONDITIONS

1. All Work done at the Project or in preparing or delivering materials or equipment, or any or all of them, to or from the Project shall be at the risk of Subcontractor exclusively. To the fullest extent permitted by law, Subcontractor shall, with respect to all Work which is covered by or incidental to this Subcontract, indemnify, hold harmless and defend Contractor from and against any and all of the following: (A) Any claim, liability, loss, damage, cost, expense, (including costs, expenses, attorney's fee, awards, fines and judgments) arising out of or relating to the death or bodily injury to persons, injury to property, design defects (if design by Subcontractor) 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 (B) Any and all claims liability, loss, damage, costs, including attorney's fees, awards, fines or judgments arising out of or relating to any obligation or indemnity which Contractor has to Owner. Each of the foregoing indemnities is independent and both shall be given effect. Subcontractor's defense obligation is in addition to any indemnity obligation and arises immediately upon tender of a claim. However, Subcontractor shall not be obligated to indemnify Contractor with respect to the sole negligence or willful misconduct of Contractor, its agents, servants or subcontractors who are directly responsible to Contractor, excluding Subcontractor. Subcontractor agrees to obtain and maintain during the term of this Subcontract, broad from public liability and property damage insurance, employer's liability, workers compensation coverage and errors and omissions coverage (if Subcontractor's work includes design services) in such amounts as are set forth in Exhibit No. 2 to this Subcontract. Subcontractor agrees to have Contractor and Owner named as co-insured under all said policies of insurance. Such insurance coverage provided by Subcontractor shall be primary insurance for Contractor and Owner and no insurance otherwise carried or obtained by Contractor shall be deemed to be primary or contributing to insurance provided by Subcontractor. Notwithstanding any provision in the Subcontract regarding insurance to be provided by Subcontractor, Subcontractor's indemnity obligations shall not be limited in any way by the limits of insurance provided by Subcontractor.
2. Time is the essence for performance of Subcontractor's obligations under this Subcontract and it shall be Subcontractor's obligation to begin Work as soon as the Project is ready for such Work or, in any event, within two (2) Calendar days after being notified in writing by Contractor to do so, to complete all Work according to the schedule of Contractor, to coordinate Work with that of all other contractors, subcontractors, and Contractor in manner that will facilitate the efficient completion of the entire Project. Contractor shall have complete control over the sequence in which the various portions of the Project shall be done and may update the schedule as its judgment may dictate. Subcontractor will adjust its Work accordingly with out compensation. No extension of time shall be considered unless written notification is given two (2) calendar days after Subcontractor becomes aware of a delay.
3. Subcontractor agrees to clean up and remove all debris arising out of the performance of its Work and to leave the premises in a broom swept, raked or graded, clean condition. Should it be impossible for Subcontractor to leave the premises in such condition because of continuing work of other subcontractors, Subcontractor agrees to share on a prorated basis with the other subcontractors the cost of cleanup, the portion of such cost to be determined by Contractor. Contractor reserves the right (but shall not have any duty) to perform Subcontractor's duties imposed by this article and to charge to Subcontractor the expense thereof or Subcontractor's share of the expense thereof, and Subcontractor agrees to pay the same to Contractor. Subcontractor will be notified 24 hours prior to cleanup and be allowed to self perform in the allotted time frame.
4. Subcontractor agrees that in the event a dispute should occur between Subcontractor and another subcontractor or Contractor as to who has the responsibility to perform a particular item or items of work or to repair damage to any particular item of work, or as to the cost of the same, the final and absolute determination shall be made by Contractor, and Subcontractor shall abide by the determination and shall perform such item or items of work as directed by Contractor. Subcontractor shall follow all direction by Contractor to perform disputed work. In the event the Subcontractor is directed to perform work which it does not believe it has and obligation to perform, Subcontractor shall track the actual cost of same with Contactor verified time and material tickets ("T&M Tickets"), which shall be turned in daily. Regardless of any language contained on the T&M Tickets, Contractor's signature on any T&M Tickets concerning the Project is for the purpose of verifying hours and material only. Contractor's signature on any T&M Tickets is not an admission the work is extra work, or that Subcontractor is entitled to be paid for the work described in the T&M Tickets. Failure to provide the T&M Tickets to Contractor within two (2) days of the work being performed is a waiver of Subcontractor's claim to be paid for the work.
5. Subcontractor agrees to be bound to Contractor by the terms of the Prime Contract and any additions or changes to it, and to assume all the obligations and responsibilities that Contractor assumes by that contract towards Owner insofar as they are applicable to Work. If Owner terminates the Prime Contract, or any part which includes any portions or all of Subcontractors' Work, Contractor shall notify Subcontractor in writing and Subcontractor shall immediately stop performance of the terminated work, follow Contractor's instructions regarding any shutdown and termination procedures, and mitigate all costs. If Owner's termination partially eliminates Subcontractor's Work in whole or part, Contractor may terminate this Subcontract in its entirety. Contractor's sole liability to Subcontractor for any damages incurred or claims resulting from Owner termination shall be limited to the amount Owner is determined to be liable to Contractor for Subcontractor's damages.
6. Subcontractor agrees not to make any claim for any extras unless the extras have been ordered in writing by an officer of Contractor, as listed with the California Contractors State License Board, and the additional costs have been agreed upon in writing before the work is performed. Any extras furnished by Subcontractor except in accordance with the foregoing will be done so at Subcontractor's sole cost and expense. Contractor shall be entitled to deduct from Work such portions of Work as Contractor may see fit, and in such event the Subcontract price shall be reduced by an amount equal to the reasonable value of such omitted Work. Subcontractor agrees, at no additional cost to Contractor, to make any changes or modifications ordered by Contractor, which do not involve extra costs to Subcontractor. Subcontractor shall immediately provide written notification to an officer of Contractor, as listed with the California Contractors State License Board, of any claims (defined to include any requested adjustment to the Subcontract price or time, or payment of disputed funds) so that Contractor has sufficient time to take actions to minimize any additional costs or time, and has sufficient time to provide notification to the Owner in accordance with the Prime Contract. All such claims shall itemize in a form acceptable to Contractor, and as required by the Prime Contract (including certification by Subcontractor that the claim is not a False Claim), any additional costs or time for performance being sought by Subcontractor. Failure to comply with the above shall constitute a waiver of Subcontractor's claim to be paid for the same.

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature



SUBCONTRACT TERMS AND CONDITIONS (cont'd)

7. No Bonds are required.
8. Subcontractor agrees to guarantee its work against all defects of material or workmanship as called for in the Prime Contract, or if no guarantee is called for, then a period of one (1) year from the date of final completion and acceptance of the Project by Owner.
9. In the event Subcontractor shall fail to: correct, replace, and/or re-execute faulty or defective work and/or materials, fails to diligently proceed with this Subcontract within the time provided for, or fails to make prompt payment to its suppliers and laborers, Contractor may, at its option after 48 hours written notice, provide any such labor and materials as may be necessary, and deduct the cost thereof from any money then due or thereafter to become due to Subcontractor for work on the Project or any other project. Contractor shall have the right to take possession of all the tools and materials of Subcontractor then on the Project for the purpose of completing the work, Contractor, in addition to other remedies, shall have a lien on such tools and materials to secure payment.
10. Should Subcontractor be in default in the proper performance of its Work, which causes delay to Contractor or any other subcontractor working on the Project, or which causes Contractor to be liable to Owner on the Prime Contract, including the amount of any liquidated damages that may be assessed under the Prime Contract, Subcontractor shall be liable for any and all loss and damages that may be assessed under the Prime Contract and any and all other loss and damages sustained by Contractor, including Contractor's liability to any other subcontractors and Contractor's extended project overhead described in Exhibit 1.
11. Subcontractor agrees to comply with all Federal and State Laws, codes and regulations, and all municipal ordinances and regulations effective where Work is to be performed, and to pay all costs and expenses connected with such compliance; to pay all fees, licenses, permits, deposits and taxes, including sales and use taxes, and also to pay all taxes imposed by any State and Federal law for any employment insurance, pensions, old age retirement funds or any similar purposes, and to hold Contractor, all other subcontractors, and Owner harmless from any and all loss or damage occurred by the failure of subcontractor to comply with the terms of this paragraph.
12. Subcontractor agrees to pay all royalties and license fees, and further agrees to defend all suits or claims for infringement of any patent rights involved in Work of Subcontractor under this Subcontract; and further agrees to save Contractor harmless from loss, cost or expenses on account of such use or infringement by Subcontractor.
13. Subcontractor agrees not to assign or sublet this Subcontract or any portion of Work, nor to assign any of the funds due or to become due hereunder, without the prior written consent of Contractor. In the event there be an assignment, the assignee's rights shall be subject to all the rights and privileges of Contractor and to any right to setoffs Contractor may have against Subcontractor, whether arising under this Subcontract or any other matter, and the surety, if any, writing bonds for this Subcontract consents to all provisions of this Subcontract including this one.
14. It is understood and agreed that no payment to or on account of Subcontractor shall constitute an acceptance or approval of Work performed or furnished by Subcontractor, nor shall any filing of notice of completion or occupancy of the Project in whole or in part constitute an acceptance or approval by Contractor, in whole or in part of Work or constitute a waiver of any claims by Contractor against Subcontractor.
15. Subcontractor's failure to promptly report in writing to Contractor any alleged defects in any work performed by others in, on or adjacent to the area in which Subcontractor is to perform its Work will be deemed acknowledgment by Subcontractor; that such work by others may be asserted by Subcontractor to justify its failure to perform.
16. (A) Subcontractor shall employ labor under conditions that are satisfactory to Contractor. Subcontractor shall keep a representative at the jobsite during all times when Subcontractor's Work is in progress. Such representatives shall be authorized to receive orders and have full authority to make decisions regarding Subcontractor's Work. Before starting Work, Subcontractor shall notify Contractor who Subcontractor's representative shall be. In the event of any change of representative, Subcontractor shall notify Contractor who the new representative is to be before such change. Upon written or verbal request from Contractor, Subcontractor shall immediately provide Contractor in writing with the names and emergency or home telephone numbers of the corporate or company officer, general superintendent, and project superintendent. (B) Prior to commencement of Work, Subcontractor shall notify Contractor of the collective bargaining agreements to which it is signatory, and shall provide a copy of all such agreements within twenty-four (24) hours of a request by Contractor. Subcontractor shall provide Contractor with at least thirty (30)-day's notice of the anticipated expiration of each collective bargaining agreement. If Subcontractor enters into subsequent collective bargaining agreements during the course of the Project, Subcontractor will immediately notify Contractor. Subcontractor warrants that, with respect to any of Work covered by this Subcontract, it and its lower tier-subcontractors, visitors, and suppliers will at all times comply fully with the provisions of any collective bargaining agreement and related trust agreements to which it or they are bound. (C) If any personnel of Subcontractor shall refuse to follow the policies or other directives of Contractor, or fail to have necessary skills required to perform satisfactory Work, Contractor shall have the right to direct Subcontractor to remove such personnel from the Project. (D) Strikes (including sympathy strikes), picketing, or any other stoppage of Work by employees performing work on or for, or delivery of materials to the Project shall not excuse any delay of Subcontractor, regardless whether the strike, picketing, or other work stoppage is attributed to union action or the decision of an individual employee. (E) Strict compliance with Contractor's gate usage procedures shall be required by Subcontractor who shall be responsible for such gate usage by its employees, lower tier-subcontractors, visitors, and suppliers. (G) In addition to any other rights and remedies provided in this Subcontract, Contractor reserves the absolute right to end Subcontract upon twenty-four (24) hours written notice, if due to labor disputes, there is an interruption in Subcontractor's Work performance. Interruption in Subcontractor's work performance includes, but is not limited to: Subcontractor's unwillingness or inability to continue performance of its Work, or if Subcontractor is unwilling or unable to provide sufficient qualified workers. Labor disputes include, but are not limited to: any disputes between a union and any other entity resulting in a work stoppage, work slowdown, or interruption in delivery of materials. Contractor reserves the right to have Work continued and/or completed at Subcontractor's expense as provided for in General Conditions Article 9.
17. All clauses of this Subcontract shall apply to any changes or extras in a like manner and to the same extent as though said changes or extras were incorporated herein. Signature by Subcontractor on any change to this Subcontract constitutes Subcontractor's agreement to the amount of said change as full compensation for all direct and indirect costs arising out of or relating to the change, including without limitation all

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature



SUBCONTRACT TERMS AND CONDITIONS (cont'd)

delay, disruption, acceleration and overhead expenses of any kind. Waiver of any breach, alleged breach, clause, covenant or condition of this Subcontract by Contractor shall not be construed as a waiver of the same, or of any other clause of this Subcontract on any other occasion; nor shall such waiver serve as an estoppel of any other right Contractor may have hereunder. Should any clause in this Subcontract be held or declared void or invalid, all other clauses shall remain in full force and effect.

- 18. Should the parties be required to initiate any legal action or proceedings to enforce this Subcontract or to recover damages for the breach thereof, the non-prevailing party agrees to pay court costs and reasonable attorney's fees incurred by the prevailing party. Should the parties be required to incur attorneys' fees to effectuate the enforcement of the terms of this Subcontract, the non-prevailing party shall pay such fees even though no actual legal action or proceedings are initiated.
- 19. Contractor's equipment shall be available to Subcontractor only at Contractor's discretion and then at a reasonable charge for the use of equipment. In the event Contractor is required to perform work under this Subcontract, whether at the request of Subcontractor or because of the failure of Subcontractor to perform such work; Subcontractor agrees to pay to Contractor the actual cost of the work plus 15% of said cost as an overhead charge and in addition 10% of such cost as profit to Contractor.
- 20. Should Contractor receive notification of any claims made against Subcontractor arising out of or relating to the Project, on account of any actions or failures to act by Subcontractor in the performance of this Subcontract or otherwise; Contractor may, at its discretion, withhold such amounts otherwise due or to become due hereunder to cover said claims and any costs or expenses arising or to arise in connection therewith pending legal settlement of such claims.
- 21. Where a claim resolution procedure is specified in the Prime Contract, Subcontractor is responsible for timely notifying Contractor of its claim for compliance with the same. Claims concerning Work performed under this Subcontract shall be processed under the following terms and conditions: Contractor will present Subcontractor's claim to the first tier of Owner's representatives at the Project. The decision of such representatives will be conveyed to Subcontractor and such decision shall be final unless Subcontractor, within ten (10) days from the receipt of same, shall notify Contractor in writing of its desire to proceed further pursuant to the claim resolution terms of the Prime Contract. Upon receipt of such notice Contractor shall, subject to the approval of Owner, allow Subcontractor to act as its representative and at Subcontractor's own cost to pursue arbitration and/or litigation arising there under. If owner refuses to allow Subcontractor to appear in such proceedings, Contractor will appear on its behalf. However costs, including but not limited to: attorney's fees, court costs and cost of Contractor's personnel employed in perfecting such arbitration will be paid by Subcontractor. No litigation shall be commenced on behalf of Subcontractor unless the same is expressly requested in writing directed to Contractor ten (10) days after receipt of the first determination on the claim by Owner. Nothing contained herein shall prevent Contractor from accepting a unilateral change order from Owner that preserves the rights of Subcontractor to perfect its claim under this paragraph. Subcontractor's sole remedy for claims of the Owner shall be to receive the amount received by the Contractor from the Owner with respect to such claims. If because of Subcontractor's claim owner withholds funds in excess of any sums due Subcontractor, as originally agreed upon at the execution of this

Subcontract or as modified by any accepted change order; then Subcontractor shall pay to Contractor interest on the excessive monies so withheld at the rate of 10% per annum until paid by Owner to Contractor. Interest will accrue at the rate of 10% per annum from the time said monies are expended, or said costs or expenses are incurred, until the same are paid to Contractor by Subcontractor. Nothing herein shall be construed as requiring Contractor to make any such expenditure, advance any such monies, or incur any such expenses. Failure to comply with the above shall constitute a waiver of Subcontractor's claim to be paid for the same.

- 22. Whenever any monies are expended or costs or expenses are incurred by Contractor on behalf of or on account of Subcontractor which Subcontractor should have paid, Subcontractor is required to reimburse Contractor, plus 15% of said amount as an overhead charge and in addition 10% of such cost as profit to Contractor, or, if Contractor continues or completes the work after default by Subcontractor, Subcontractor shall pay to Contractor the amount so spent plus 15% of said amount as an overhead charge and in addition 10% of such cost as profit to Contractor, in excess of the amount due under this Subcontract.
- 23. Contractor may reduce, reject or withhold a Subcontractor payment application or nullify a previously approved Subcontractor payment application, in whole or in part, as may reasonably be necessary to protect Contractor from loss or damage based upon: (A) Subcontractor's failure to perform as required by this Subcontract; (B) Loss or damage to Owner, Contractor or others to whom Contractor may be liable arising out of or relating to this Subcontract and caused by Subcontractor or its lower tier subcontractors or suppliers; (C) Subcontractor's failure to properly pay for labor, materials, equipment or supplies furnished in connection with its Work; (D) Rejected, nonconforming or defective Work which has not been corrected; (E) Reasonable evidence of delay in performance of Subcontractor's Work such that the Work will not be completed within the time allotted by the updated progress schedule, and that the unpaid balance of the Subcontract price is not sufficient to offset the liquidated damages and/or actual damages that may be sustained by Contractor as a result of the anticipated delay caused by Subcontractor; (F) Reasonable evidence demonstrating that the unpaid balance of the Subcontract price is insufficient to cover the cost to complete Subcontractor's work; (G) Third party claims against Subcontractor and/or reasonable evidence demonstrating that third party claims are likely to be filed; (H) Owner's reduction, rejection or nullification of any part of a payment application and; (I) Any other failure to comply with the terms and conditions of this Subcontract. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be made for amounts previously withheld.
- 24. In the event of any default by Subcontractor, under this Subcontract or any other agreement between Subcontractor and Contractor, Contractor shall be entitled to withhold payment of any monies due to Subcontractor, in an amount sufficient to secure performance and/or to compensate Contractor for damages for default under this Subcontract or any other agreement between Subcontractor and Contractor.
- 25. Before commencing with any portion of the Work, Subcontractor shall examine all Contract Documents, and Subcontractor shall promptly notify Contractor, in writing, of any reasonably perceived or alleged inconsistencies, conflicts with any other structures, ambiguity, or lack of detail or explanation in the Contract Documents. Should Subcontractor proceed with Work which it knows or should have known, subsequent to examining the Contract Documents, to be in error, inconsistent, or ambiguous, or not sufficiently detailed or explained, Subcontractor shall bear any and all costs arising from said

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature



SUBCONTRACT TERMS AND CONDITIONS (cont'd)

- Work, including, but not limited to the cost of correction. Should response from Owner and/or its Architect be insufficient to properly execute Work, Subcontractor shall promptly notify Contractor of same.
- 26. As a condition precedent to Subcontractor filing a lawsuit against Contractor, the parties must mediate the dispute in accordance with the Construction Industry Mediation Procedures of the American Arbitration Association.
 - 27. Subcontractor shall indemnify and hold harmless Contractor and Owner against all liability for liens and stop notices for labor performed or materials used or furnished to be used on the Project, including any costs and expenses for attorney’s fees and all incidental or consequential damages resulting to the Contractor or Owner from such claims of lien or stop notices. Further, in case suit on such claims is brought, Subcontractor shall defend said suit including claims against the Contractor or Owner, at its own cost and expense. Subcontractor agrees, within Ten (10) days after written demand, to cause any such claim of lien or stop notice to be removed from the property upon which the Project is located or to be withdrawn. In the event Subcontractor fails to remove said claim of lien or stop notice, Contractor is authorized to use whatever means in its discretion it may deem appropriate to cause said claim of lien or stop notice to be removed/withdrawn and the costs thereof, with reasonable attorney’s fees, shall be immediately due and payable to Contractor by Subcontractor.
 - 28. Contractor reserves the absolute right to terminate this Subcontract. In the event of termination without cause, Subcontractor shall be entitled to payment only as follows: (1) costs of the work actually completed in conformity with the Subcontract; plus (2) five percent of the costs of the work completed in conformity with the Subcontract for overhead and profit. There shall be deducted from such items provided in this paragraph, the amounts of any payments made to Subcontractor prior to the date of termination of this Subcontract. Subcontractor shall not be entitled to any claim of lien, stop notice or other claim against Contractor or against Owner for any additional compensation in the event of termination and payment pursuant to this paragraph.
 - 29. No Substitution shall be made in the Subcontractor’s Work unless permitted in the Contract Documents, and only then upon the Subcontractor first receiving approvals required under the Contract Documents for substitutions. Subcontractor is responsible for the timeliness, completeness and for securing approval of any substitution request. Should Subcontractor offer substitutions for the products other than those materials referenced in the Contract Documents, Subcontractor shall assume all liability for any delays caused by any request for substitution. The Subcontractor shall defend and indemnify Contractor from any and all costs, damages, and losses incurred as a result of substitutions, whether or not Subcontractor has obtained approval for the substitution. If the Subcontractor initiates a substitution, deviation or change in the Work which affects the scope of Work or the expense of the Contractor or other trades, Subcontractor shall be liable for all costs and expenses incurred.

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature



EXHIBIT No. 1 DESCRIPTION OF WORK

The following provisions are incorporated into the Subcontract. Work referred to in Article II of the Subcontract is clarified as follows:

- 1) Work not included by Subcontractor:

- 2) By way of description and not limitation, the following Work is included by Subcontractor:
 - a. Responsibility for hoisting, scaffolding, delivery, offloading, storage and security of own material and equipment on the Project. Contractor personnel will not accept or sign for any material deliveries. It is Subcontractor's responsibility to coordinate delivery of materials and acceptance of same.
 - b. Work shed, yard and security fence, if required for storage.
 - c. Utility requirements from Contractor provided sources, up to 150 feet. Contractor may at its option provide temporary lighting at work source. Cost of lighting service will be prorated among subcontractors.
 - d. Clean-up of own debris and removal of same from Project.
 - e. Contractor will have a mandatory clean up day on the project. Subcontractor will be required to provide 1 man hour per day while on-site as part of a composite clean-up crew. If Subcontractor does not participate in clean-up, the Contractor may at its option clean areas involving more than one subcontractor trade. The cost of this clean-up effort will be prorated among the affected subcontractors.
 - f. Coordination with other trades.
 - g. Responsibility for submittals including product data, shop drawings, samples, and as-built drawings for Work. (Refer to Sections entitled Submittals and to specification section of Work).
 - h. Responsibility for environmental condition effecting Work.
 - i. Production of Work.
 - j. Layout and field measurements for Work.
 - k. Safety requirements for Work including but not limited to barricades and traffic control.
 - l. Parking as required for Subcontractor's forces.
 - m. Compliance with specified warranty requirements.
 - n. Provide one English speaking foreman for duration of Work on Project.
 - o. Procurement of business license for Work if necessary
 - p. Preparation of finish surfaces to receive Work per Contract Documents.
 - q. Necessary move-ons and manpower to comply with Contractor schedule.
 - r. Protection of existing surfacing surfaces.
 - s. Inspection of surfaces to receive Work.
 - t. All licenses, fees and permits associated with Work.
 - u. Caulking and sealant for Work.
 - v. Access panels and accessories for Work.
 - w. Compliance with Employee Criminal Background Checks as required by Owner (as applies).
 - x. Compliance with SWPPP requirements, as applicable and maintenance of existing SWPPP established by others.
 - y. Compliance with Labor Compliance Program as required by Owner (as applies).
 - z. Subcontractor will provide labor, materials and equipment, **per plans**, specifications, scope of work, and addenda, including, but not limited to:

- 3) The following documents are hereby incorporated as part of the contract documents to this Subcontract

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature



EXHIBIT No. 1 (cont'd)
DESCRIPTION OF WORK

- 3) Subcontractor and Contractor further agree:
- a. Subcontractor agrees to be bound by Contractor's jobsite safety program as established by Contractor. In general Contractor's policy is to strictly observe all OSHA and CAL-OSHA requirements, as applicable. Subcontractor agrees that it has received a copy of Contractor's Subcontractor's Policy and Procedure Manual, which contains an Injury and Illness Protection Plan and agrees to abide by said policies and plans. Subcontractor is responsible for prevention of accidents arising from or relating to its Work. Subcontractor shall comply fully with all federal, state and local laws, orders, citations, rules, regulations, standards and statutes affecting or relating to the Subcontract and its performance. Establishment of a safety program by Contractor shall not relieve Subcontractor of its safety responsibilities. Subcontractor shall establish its own safety program implementing safety measures, policies and standards conforming to those required by governmental authorities having jurisdiction, and by Contractor, and Owner. Subcontractor shall notify Contractor immediately following an accident and promptly confirm the notice in writing. A detailed written report shall be furnished to Contractor. Subcontractor shall indemnify and hold Contractor harmless from all fines, penalties or costs of abatement imposed on Contractor as a result of safety violations caused by Subcontractor's failure to comply with applicable safety requirements. Subcontractor shall notify Contractor of any unsafe condition it discovers or observes and shall stop Work until informed by Contractor that Subcontractor may resume Work. Should Subcontractor encounter any hazardous substances at the Project which are potentially harmful to persons or property, Subcontractor shall take all steps required by this Subcontract and by law to protect persons and property from injury or damage including stopping Subcontractor's Work in the affected areas(s) and promptly notifying Contractor in writing of the conditions encountered. Should Subcontractor be required to stop Work in any area of the Project as a result of hazardous substances located at the site, Subcontractor shall not resume its Work in the affected area(s) until the hazardous substances have been removed or made harmless, all necessary approvals to resume Work are obtained and Contractor gives Subcontractor written direction to resume Work.
 - b. Subcontractor agrees that work shown on the drawings but not included in specification or included in the specifications and not shown on drawings shall be as if included or shown in both for performance purposes of this Subcontract.
 - c. Subcontractor agrees that it has received a complete set of Contract Documents.
 - d. Subcontractor agrees to provide all Certificates, Letters of Certifications or Compliance, Testing, Test Reports, Samples, Shop Drawings, Catalog Cuts and other data required by the Contract Documents or that may be required by Owner. Submittals shall be in compliance with the Contract requirements and shall be forwarded to Contractor for approval processing, within the time required by the Contract Documents or if the Contract Documents do not provide a time, at the time directed by the Contractor.
 - e. Subcontractor agrees that should submittals be incomplete or not comply with the Contract Documents and be returned NOT APPROVED, INCOMPLETE, or ADDITIONAL INFORMATION REQUIRED, the fees for rechecking, if any, will be paid by Subcontractor. Subcontractor will make restitution for any costs incurred by Owner and/or Contractor as a result of reinspection and/or retesting due to failure.
 - f. Any submittal or portion of submittal that does not comply with the Contract Documents shall be submitted individually as a deviation with Owner approval requested. It is understood that Owner approval of substitutions and deviations can take sixty (60) days with no assurance of acceptance, and Subcontractor remains responsible for completing all portions of its Work in accordance with Contractor's schedule.
 - g. Should Subcontractor cause, request, or initiate an action that requires any of Owner's Engineering Consultants to visit the Project, the cost thereof will be paid by Subcontractor. Contractor will not retain consultant services without first discussing it with Subcontractor.
 - h. Should Subcontractor initiate a change order that is not approved by Owner, any fee incurred by Owner's Engineering Consultants will be paid by Subcontractor if Engineering Consultants are employed to review said change.
 - i. Inspection and approval of Subcontractor's material and/or Work by Contractor shall not relieve Subcontractor of the responsibility for full performance in accordance with Contract Documents.
 - j. In the event of Project phasing, should the parties be unable to mutually agree upon a reasonable value for Work in any phase, Contractor may terminate this Subcontract for convenience. Contractor shall notify Subcontractor in writing and Subcontractor shall immediately stop the performance of the terminated Work, follow the Contractor's instructions regarding any shutdown and termination procedures and mitigate all costs. Contractor's liability to Subcontractor for any damages incurred or claims resulting from such a termination shall be limited to the reasonable value for the amount of Work completed and in place at that time, based on Contractor approved schedule of values of the Work.

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature



EXHIBIT No. 2
INSURANCE REQUIREMENTS

The following provisions are incorporated into the Subcontract as additional requirements of Subcontractor.

1. Insurance requirements. Subcontractor agrees to obtain and maintain during the term of the Subcontract the following minimum insurance and such additional requirements of the Prime Contract. Subcontractor shall pay the premiums for such insurance.
 - a) Comprehensive General Liability or equivalent Commercial General Liability coverage (either the commercial general liability or the comprehensive general liability policy must cover contractual liability), Broad Form Property Damage coverage, including coverage for liability assumed by contract for explosion, fire, collapse, and underground coverage as well as Products and Completed Operations coverage. The limits of coverage shall be no less than the combined single limit of \$2,000,000.00 bodily injury/property damage per occurrence. This requirement shall be achieved either by providing primary coverage of \$2,000,000.00, or a combination of primary, excess or umbrella coverages totaling \$2,000,000.00.
 - b) Comprehensive Automobile, Bodily Injury and Property Damage Insurance covering all vehicles moving under their own power and engaged in the Work under contract as well as all Contractor’s mobile equipment. Limits are to be any auto, combined single limit, \$1,000,000.00. As respects “any auto,” a combination of all owned autos, hired autos and non-owned autos, or scheduled autos, hired autos and non-owned autos, is acceptable.
 - c) Workman’s Compensation Insurance in statutory form with a limit not less than \$500,000.00 each accident, \$500,000.00 disease – policy limit, \$500,000.00 disease – each employee, or as otherwise required by law.
 - d) Any subcontractor involved with Design Work will be required to carry Professional Liability Insurance (Errors and Omissions). The limit can not be less than \$1,000,000.00.
2. Subcontractor agrees to furnish to Contractor before commencement of the Work, evidence of the insurance coverage set forth above, together with a commitment by the insurance company or companies to notify Contractor (Colorado West Construction, Inc., 25780 Washington. Ave., Murrieta, CA 92562) thirty (30) days prior to the expiration, cancellation or any material change to any of the insurance policies required hereunder. In the event Subcontractor fails to obtain and maintain such insurance coverage, Contractor may, at its option, obtain and maintain the same for and on behalf of Subcontractor or terminate the Subcontract for default. All premiums plus twenty-five (25%) percent for overhead will be deducted from any amounts due Subcontractor from the complete and absolute responsibility of obtaining and maintaining insurance coverage as specified.
3. Subcontractor agrees to name Contractor (Colorado West Construction, Inc.), Owner (Per Page 1) as additional insured on all insurance policies. The additional insured must be listed on separate endorsement.
4. Subcontractor agrees to ensure that all vendors and subcontractors provide and adhere to the substance and requirements of this Exhibit.
5. Subcontractor shall be responsible for the deductible on any claim made against the project’s Builder’s Risk Policy, for a loss related to this Subcontractor’s scope of work.
6. Certificates shall be issued specifically for the following and this description should appear on the face of all certificates:

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7. Contractor (Colorado West Construction, Inc., 25780 Washington Avenue, Murrieta, California 92562), shall be named as certificate holder as well as additional insured.
8. Subcontractor agrees it is aware of the provisions of Section 3700 of the Labor Code, which requires every employer to be insured against liability for worker’s compensation, or to undertake self-insurance in accordance with the provisions of that Code, and will comply with such provisions before commencing the performance of any work of the Subcontract Agreement.

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature



EXHIBIT No. 3
CHANGE ORDER POLICY

This exhibit provides for the advanced written notification by Colorado West Construction to all subcontractors that all requests for funding on extra work not included in their approved contract amount, requires approval from a representative from Colorado West Construction **before proceeding with work**. The approval must be either written signed approval or in the case of an urgent issue, an approval consisting of a verbal approval documented by the Colorado West Construction’s employee name, date, and time of approval on the extra work. Immediately after the approval is given to the subcontractor, you are required to submit the details and cost of the extra work (**broken down by Labor: Man hours times hourly rate; Materials: List all materials and equipment with associated costs, OH&P etc.**) and the required approval information to the Colorado West Construction project manager. This information **must be in the Colorado West Construction office within 72 HOURS**.

The Owner’s authorized percentage of OH&P on this project is .

If the subcontractor does not follow this process, the extra work will be done at his or her own expense.

Please acknowledge your approval and understanding of this requirement by signing below. If you do not sign this **Exhibit “3”** Colorado West Construction reserves the right to select another subcontractor to perform the work

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature



EXHIBIT No. 4
PROJECT TEAM INFORMATION

Provide the following contact information for project specific personnel information listed below that will be associated to this project.

1. Estimator
Name: _____
E-Mail: _____
Phone/Cell Number: _____

2. Project Manager
Name: _____
E-Mail: _____
Phone/Cell Number: _____

3. Contract Administrator
Name: _____
E-Mail: _____
Phone/Cell Number: _____

4. Accounting Manager
Name: _____
E-Mail: _____
Phone/Cell Number: _____

5. Site Forman
Name: _____
E-Mail: _____
Phone/Cell Number: _____

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature



Exhibit No. 5
PROCORE POLICY

This exhibit provides for the process of unifying the efforts of all project stakeholders which is heavily dependent on increased transparency, communication, and collaboration. As such, Procore Construction Management software will be utilized by Colorado West Construction throughout the construction process. All subcontractors will be required to utilize this software to submit and approve subcontract agreements, applications for payment, and requests for change orders. Access will be provided to the subcontractor for a specific project at no charge. Utilizing Procore Construction Management software, in the capacity detailed herein, does **not** require any costs/fees to be paid by the subcontractor. Nor does it require any special computer programs. Access is 100% online and training videos are available for free.

If the subcontractor does not follow this process, the extra work will be done at his or her own expense.

Please acknowledge your approval and understanding of this requirement by signing below. If you do not sign this **Exhibit "5"** Colorado West Construction reserves the right to select another subcontractor to perform the work.

Colorado West Construction, Inc.

Colorado West Construction, Inc.

Signature

Signature